


TEXARKANA POLICE DEPARTMENT

GENERAL ORDERS MANUAL

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| SUBJECT | Constitutional Requirements During Criminal Investigations | | |
| NUMBER | 1106.02 | EFFECTIVE DATE | May 18, 2011 |
| Scheduled Review Date | August 30, 2018 | ISSUE DATE | May 18, 2011 |
| Date Reviewed | June 27, 2017 | REVISION DATE | June 27, 2017 |
| APPROVED BY |  | ALEAP Standards | 7.06, 7.07 |

I. Purpose and Scope

- A. The purpose of this policy is to define the constitutional requirements that all sworn members of the Texarkana Police Department are mandated to follow during the course of all criminal investigations and during those instances when officers interact with individuals during law enforcement encounters.

II. Policy

- A. It shall remain the policy of the Texarkana Police Department to require sworn members of the Department who are engaging in criminal investigations or other law enforcement actions to make every effort to ensure all persons involved in the criminal investigation or other law enforcement action are afforded the rights, privileges and protections guaranteed by the Constitution of the United States. Officers assigned to positions that require the interview and interrogation of suspects on a regular basis will receive advanced internal and external training within a reasonable time of assuming such position.
- B. All members of the Texarkana Police Department shall recognize and adhere to the guidelines set forth within this policy.

III. Procedure

A. Compliance with Constitutional Requirements ^{ALEAP 7.06}

1. While conducting interviews and interrogations during criminal investigations, all officers of the Texarkana Police Department will take all necessary precautions that ensure all persons involved are afforded their constitutional safeguards. Officers will ensure that all statements or confessions are of a voluntary nature and that all coercive efforts, plans, tactics and actions are avoided.
2. Texarkana Police Department officers shall not cause any unnecessary delay in arraignment.
3. Texarkana Police Department officers shall in every instance of a custodial interview or interrogation, ensure all defendants are informed of their constitutional rights against self-incrimination, and all officers are prohibited from depriving any person of counsel, unless such counsel has been voluntarily waived by the defendant.
4. Texarkana Police Department officers shall not contribute to any pretrial publicity that would tend to prejudice a fair trial.

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5. Whenever an officer of the Texarkana Police Department initiates the process of custodial interrogation of those persons who are suspected of any crime, the individual shall immediately be read the "Miranda Warning" from either the Department issued Miranda Card or from the Department's *Statement of Rights Form*. The language on both the Miranda Card and the Statement of Right's Form includes the following:
 - a. *"You have the right to remain silent."*
 - b. *"Anything you say can and will be used against you in Court."*
 - c. *"You have the right to talk to a lawyer for advice before I ask you any questions and to have him with you during questioning."*
 - d. *"If you cannot afford a lawyer, one will be appointed by a Court for you without cost to you before any questioning, if you wish."*
 - e. *"If you decide to answer questions now without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer."*

6. In addition to the statement of rights indicated above, the "Waiver of Rights" section located near the bottom of the Statement of Rights Form shall be read to the individual who is the target of the interrogation. The language located within the "Waiver of Rights" section includes the following:
 - a. *"I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not have a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me."*

7. Should the suspect indicate that he/she **will not** answer any questions without an attorney, all questioning of the suspect shall cease immediately, and the custodial interrogation process shall be terminated.
 - a. Any request made by a suspect which involves the presence of an attorney during questioning, must be clear and unequivocal.

8. Should the suspect agree to answer questions, but also indicate or elect to talk to an attorney or have an attorney present during the interview, the officer conducting the interrogation shall adhere to the following guidelines:
 - a. All questioning of the suspect shall cease immediately, and the custodial interrogation process shall be terminated.
 - b. The suspect is afforded the opportunity to access an attorney at the time of interview or interrogation if the defendant is so prepared.
 - c. Unless otherwise available, the defendant shall be appointed an attorney when he/she makes their first appearance in court.

B. Authority to Request Cooperation

1. In accordance with the *Rules of Criminal Procedure, Rule 2.2*, an officer may request any person to furnish information or otherwise cooperate in the investigation or prevention of a crime. Officers may request the person to respond to questions, to appear at the nearest appropriate police facility, or comply with a reasonable request.

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2. In making such a request, no officer shall indicate that a person is legally obligated to furnish information or to otherwise cooperate if no such legal obligation exists. Compliance with the request for information or other cooperation shall not be regarded as involuntary or coerced solely on the ground that such a request was made by a law enforcement officer.
3. Officers requesting any person to come to or to remain at the nearest appropriate police facility, Prosecuting Attorney's Office or other similar place, shall take such steps as are reasonable to make it clear that there is no legal obligation to comply with such a request.

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