

**SENECA FALLS POLICE DEPARTMENT  
GENERAL ORDER**

<b>General Order:</b> 411	<b>Rescinds:</b> New Issue
<b>Subject:</b> Interview and Interrogation Procedures	<b>NYS Accreditation:</b> 50.1
<b>Effective Date:</b> 07/01/13 <b>By Order Of:</b> Stuart W. Peenstra, Chief of Police	

**I. PURPOSE**

- A. To establish interview and interrogation procedures that assures compliance with Constitutional protections during criminal investigations.
- B. To establish policy and procedures regarding videotaping.

**II. POLICY**

It is the policy of the Seneca Falls Police Department to comply with all legal mandates governing custodial interrogation and to document such compliance on the appropriate Seneca Falls Police Department forms provided for that purpose.

**III. PROCEDURE**

**A. Notification and Waiver Form**

- 1. At the beginning of any custodial interrogation (questioning initiated by law enforcement officers after a person has been taken into custody or deprived of his freedom of action in any significant way), the person to be interviewed must be read his rights exactly as printed on the waiver form.
- 2. Miranda Warnings are NOT required when:
  - a. An officer questions a motorist during a vehicle stop for a traffic infraction. If the motorist is in custody for a traffic misdemeanor or felony, such as DWI, the warnings are required.
  - b. An officer conducts a brief interview of a person temporarily detained in a "stop & frisk" situation, based upon reasonable suspicion, pursuant to New York Criminal Procedure Law 140.50.
- 3. After the notification, the person to be interviewed may waive his rights but he must do so voluntarily, knowingly, and intelligently. (The burden of proof that a waiver was made within the meaning of the law rests upon the government).
- 4. The request to waive will be made in the wording provided on the waiver form and the person's exact response entered.
- 5. A defendant need only be read Miranda warnings once. It is not necessary for each officer, who has contact with the defendant, to repeat the warnings.
- 6. When the notification and waiver card is completed, it will become a part of the District Attorney file.

**B. Voluntary Statement**

1. Officers should read the statement out loud to the defendant, or have the defendant read it out loud himself.
2. Officers shall have the defendant correct any mistakes in the statement and give him the opportunity to make any changes he desires after the statement is read out loud. The defendant should be requested to initial any corrections or changes.
3. The defendant's signature will appear at the end of the statement, after being advised of punishment for making a false written statement. Officers shall request that defendant cross out any blank space between the signature and the body of the statement, or sign his name or initials at the end of the last line of the statement.
4. Witness' signature(s), if any, will be entered and labeled as such along with the defendant's signature.
5. If a defendant offers a verbal statement but refuses to sign a formal statement, that statement (i.e., an oral synopsis by the interviewing officer) shall be recorded on the interviewing officer's report and made a part of the District Attorney Package. If a defendant assists in the preparation of a written statement, but refuses to sign it, the unsigned statement will be made a part of the case package.
6. Any time a defendant gives a statement of any kind, whether verbal or written, it must be noted on the accusatory instrument, investigating officer's report, 710.30 notice and the District Attorney file.

\*NOTE: The prosecutor must give advance notice to the defense attorney any time he desires to use a statement by the defendant in Court. If the proper notice is not given, then the statement will be inadmissible. It is, therefore, critical that officers note the existence of any statement.

**C. Student/In-School Interviews**

1. Police have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police investigations. Police officers may enter school property or a school function to question or search a student, or to conduct a formal investigation if they have reasonable suspicion to believe a crime has been committed on school property or at a school function, provided they have:
  - a. A search or arrest warrant; or
  - b. Been requested by, or sought approval from appropriate school officials.
2. Police officers shall be mindful of school official's role as loco parentis of enrolled students. The building principal, or his or her designee, will first try to notify the

student's parent/guardian to give the parent the opportunity to be present during police questioning or search, absent any urgent / exigent circumstance. The principal or designee may not allow any non-urgent interviews if the student's parent/guardian cannot first be contacted. The principal or designee will be present during any police questioning or search of a student on school property or at a school function.

3. Officers should conduct interrogatory interviews of students outside of the school. Such interviews are best held either at the student's home or at the police department. Any juvenile interviews will be conducted in adherence to guidelines as indicated under General Order 345.

**D. Video Recording of Interviews**

1. Only those properly trained are allowed the use of the Video Recording System.
2. All interviews of individuals considered as targets of homicide investigations or serious felony offenses, should, if practicable, be video recorded in accordance with the following guidelines.
3. All recorded interviews will occur in designated interview rooms containing a clock. Officer's conducting interviews are reminded to check the clock to make sure it is working properly and reflects the correct time.
4. Recording shall begin as soon as the suspect is taken into the interview room and should include the advisement of Miranda Warnings, when such warnings are given in the interview room. Where Miranda warnings have been given, and a valid waiver obtained, prior to the suspect being brought to the station, officers are strongly encouraged to attempt to have the suspect reiterate the waiver on tape at some point during or at the conclusion of the interview.
5. Recordings must continue without interruption for the entirety of the interview. If a suspect asks to leave the interview room (i.e., to use the restroom) and the interview is expected to continue once the suspect returns, the recording should continue throughout the period of the suspect's absence.
6. The suspect does not need to be advised of the fact that the interview is being recorded, even if the suspect asks whether the interview is being recorded. If the suspect refuses to be interviewed on tape, the recording may be suspended or continued covertly.
7. During the interview, the investigating officer should appear on the video, prior to stopping the recording, and state his name, department, the suspect name, and the name and rank of any others who entered the room during the recording.
8. This policy does recognize that video recording may not always be possible or practical. There are situations in which interviews are conducted such as field interviews, questioning at hospitals, jails, inside police vehicles and other locations where video recording is not practicable or possible. This policy also recognizes that video recording may not be possible due to malfunction of recording equipment.

Officers should document in their report their reason for not video recording the interview.

9. At the conclusion of the video recording three DVD copies of the video recording must be made. Copies must be made on non-rewritable DVDs. One DVD will be placed into property as evidence. The second DVD will be made part of the case file and the third copy will be giving to the DA. The video interview file will be deleted from the computer once it has been saved to DVD.

Reviewed: 05/22/2019