

Arizona Peace Officer Standards and Training

Basic Curriculum Model Lesson Plan

LESSON TITLE: INTERVIEWING AND QUESTIONING 5.4

SUBJECT: Interviewing and Questioning

AZ POST DESIGNATION: 5.4

HOURS: 12

COURSE CONTENT: A description of proper interviewing and questioning techniques, proper officer attitude, the rights of the person interviewed and legal restrictions concerning oral statements, admissions and confessions are addressed.

PERFORMANCE OBJECTIVES: Upon completion of this course of instruction, students using notes, handouts and other support materials as references, within the allotted time, will:

5.4.1 Identify the following steps for preparing for an interview:

- A. Review any information about the case and the person to be interviewed.
- B. Select an appropriate setting to conduct the interview.
- C. Assess whether Miranda warnings are required.
- D. Develop a basic strategy for conducting the interview.
- E. Make arrangements to record the interview, if appropriate.

5.4.2 Identify the following principles for conducting custodial interviews:

- A. Adopt a comfortable interview style.
- B. Avoid coercive acts that would cause an otherwise innocent person to confess (A.R.S. §13-3902).
- C. Ensure that a valid Miranda waiver is obtained prior to beginning the interview.
- D. Cease questioning if the suspect requests his/her attorney.

- 5.4.3 Given a written, verbal or visual description of a person waving his/her “Miranda Warnings,” identify if the waiver is lawful as per case law.
- 5.4.4 Given a written, verbal or visual description of an officer’s actions in advising a suspect of his/her “Miranda Warnings,” identify if the officer acted lawfully, and if not, the nature of the error(s) made by the officer.
- 5.4.5 Given a written, verbal or visual description of possible criminal activity, conduct a field interview consistent with the following:
 - A. The Terry case decision.
 - B. Recognized officer safety practices.
 - C. Lawful continued detention/release of a questioned person.
- 5.4.6 Given a written, verbal or visual description of an encounter between an officer and a suspect, identify the circumstances of the encounter and require the officer to provide the suspect with his/her “Miranda Warnings”
- 5.4.7 Identify the following as practices that should be observed in order to increase the likelihood that the results of an “in-the-field” identification (show up) will be admissible in court:
 - A. Obtain and record a description of the suspect from the witness before the show up. Distinguishing characteristics such as scars, moles and tattoos are especially important.
 - B. Avoid handcuffing the suspect or placing him/her in a patrol car prior to the show up unless officer safety considerations require otherwise.
 - C. Transport the witness to the suspect, if possible (i.e., do not take the suspect to the witness if it can be avoided).
 - D. Do not make any suggestions or “lead” the witness in any way (e.g., do not refer to the suspect as a “suspect” in the presence of the witness).
 - E. Say nothing about the suspect in the presence of the witness (e.g., “When we caught him, he still had your wallet”).

- F. Tell the witness to keep an open mind and that the person he/she will confront may not be the perpetrator.
- G. Do not allow multiple witnesses to discuss the suspect or the crime.
- H. Never allow multiple witnesses to view or show up at the same time.
- I. Do not make comments to the witness of the identification after the show up.
- J. Document everything that occurs and tell the witness what information you are putting in your report which is based on what the witness said.
- K. Conduct the one-on-one show up within two (2) hours of the commission of the crime.
- L. Document the distance of the viewing and describe the lighting conditions.

5.4.8 Identify the following with regard to interviewing juvenile suspects:

- A. Prior to the interview, the juvenile must be advised of, and understand, his/her Miranda rights.
- B. The juvenile's parents may be present during the interview.
- C. If there is a possibility that the matter may be adjudicated in adult court, this must be explained and understood by the juvenile.

5.4.9 Identify the following as factors that are considered by the courts in determining the admissibility of information obtained from juvenile suspects:

- A. The juvenile's chronological age.
- B. The juvenile's mental age.
- C. The juvenile's level of education.
- D. Previous dealings with the criminal justice system.

- E. Whether the juvenile's rights were explained to him/her.
- F. Whether there was a language barrier.
- G. The juvenile's physical condition.
- H. Method of interrogation.
- I. Length of interrogation.
- J. Length of time in custody.
- K. Whether or not the juvenile was properly detained (sight/sound separation).
- L. Whether the juvenile was given the opportunity to consult with an adult.
- M. The juvenile's understanding of the charge.
- N. Whether or not the juvenile was warned.
- O. Whether or not the juvenile later tried to repudiate prior statements.

5.4.10 Identify the following procedures for verifying the reliability and credibility of persons being interviewed:

- A. Gather information from other sources before and after the interview.
- B. Keep persons being interviewed separated.
- C. Explore relationships between witnesses, suspects and victims.

5.4.11 Identify a lawful confession as being an incriminating statement, voluntarily given, without coercion or improper inducement.

DATE FIRST PREPARED:

August 1995

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DATE: December 1999

REVIEWED – REVISED:

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DATE: March 2001

REVIEWED – **REVISED**:

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Law and Legal SME Committee

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DATE: July 2023

INSTRUCTOR REFERENCES:

Criminal Interrogation and Confessions, by Inbau and Reid
Non-Verbal Communication, by Knapp.

CLASS LEVEL:

Student

TRAINING AIDS:

White board, PowerPoint and handouts.

INSTRUCTIONAL STRATEGY:

Instructional objectives will be obtained through the use of
lecture, reading, assignments, group discussion and practical
exercises.

SUCCESS CRITERIA:

70% or higher on a written, multiple-choice examination.

COMPUTER FILE NAME:

5.4 Interviewing and Questioning

DATE RELEASED TO THE SHARE FILE:

August 2023

I. INTRODUCTION

- A. Instructor introduction.
- B. Preview of performance objectives.

PART 1 – LEGAL ASPECTS OF INTERVIEWING AND QUESTIONING**II. DEFINITIONS**

- A. Interview:
 - 1. An attempt to gain information from a person that may be relevant to an investigation. Usually an exchange of information. **INSTRUCTOR NOTE:** *Rhode Island V. Innis, 446 U.S. 291 (1980)*
- B. Interrogation:
 - 1. Generally, an attempt by the government to elicit an incriminating response from a subject. Interrogation includes direct questioning and conduct intended to elicit an incriminating response.
 - 2. Tends to be a one-way flow of information.
- C. Statement; Incriminating statement;
 - 1. A declaration of a matter of fact. May be made by a suspect, victim or witness.
- D. Admission: An incriminating statement that includes admissions of guilt or involvement in criminal activity (an admission of one or more elements of the crime), but is not complete and full confessions (all elements of the crime).
- E. Confession.
 - 1. A statement that provides evidence or proof of a person's involvement in crime, including all elements of the crime. **P. O. 5.4.11**

III. CONSTITUTIONAL RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS

- A. The admissibility of a suspect's statements in court is determined by an officer's compliance with the suspect's Constitutional rights under the Fifth and Sixth Amendments.
 - 1. Fifth Amendment.
 - a. The Fifth Amendment to the Constitution provides, among other rights, the right of a person not to be a witness against him or herself. This right is known as the

right against self incrimination.

- b. The U.S. Supreme Court has determined that the right against self incrimination means that a person in the custody of the police who is going to be interrogated is entitled to be warned of the right to remain silent and the right to an attorney prior to police questioning. These are known as the Miranda warnings.
INSTRUCTOR NOTE: *Miranda v. Arizona 384 U.S. 436 (1966)*
- c. A person has the right to make a voluntary choice whether to talk to the police, and may not be forced to talk to the police or to confess to a crime. It is the State's burden to prove that a confession was made voluntarily.
- d. The purpose of the Miranda warnings is to counter the coercive atmosphere that is inherent in a custodial interrogation.

2. Sixth Amendment

- a. The Sixth Amendment to the Constitution provides, among other rights, a person's right to have the assistance of an attorney whenever a person is charged with an offense that may result in jail time (a loss of liberty).
- b. This right to an attorney begins when a person is indicted for a criminal offense or has an initial appearance in a criminal case.
- c. A person may waive the right to the presence or assistance of the person's attorney.

IV. MIRANDA WARNINGS MUST BE PROVIDED PRIOR TO QUESTIONING WHEN REQUIRED BY LAW.

- A. An officer is required to provide Miranda warnings to a person when a person is both in custody and being interrogated.
 - 1. Custody: custody means formal arrest or circumstances which would lead a reasonable person to believe he or she was in custody. The determination of whether a person is in custody for purposes of Miranda depends on the totality of the circumstances. The intention of the officer is irrelevant to the determination of custody. A person is in custody for Miranda purposes when: **P. O. 5.4.6**
 - a. The person has been actually placed under arrest; **or**
 - b. The person's freedom of movement has been restrained to the degree associated with a formal arrest (e.g., handcuffs, guns, lockups, etc.)
 - 2. The Arizona Supreme Court has indicated that there are four factors that it considers "strongly indicative of custody" for purposes of Miranda: **P. O. 5.4.6**

- a. Whether the objective indicia of arrest are present;
INSTRUCTOR NOTE: *Brewer v. Williams, 430 U.S. 387 (1977) (Christian burial speech)*
 - b. The site of the interrogation;
 - c. The length and form of the investigation; and,
 - d. Whether the investigation had focused on the accused.
- B. Interrogation.
1. Interrogation occurs when an officer:
 - a. Asks direct questions which are likely to elicit an incriminating response, or
 - b. Says something or performs some action that is reasonably likely to elicit an incriminating response. (known as the functional equivalent of interrogation). **INSTRUCTOR NOTE:** *Miranda warnings are not required where the questions asked are prompted by concern for public safety. New York v. Quarles, 467 U.S. 649 (1984)*
- C. Miranda warnings are not required to be read in the following situations:
1. When public safety is paramount. The public safety exception is limited and applies only when public safety is paramount and it is necessary for the officer to act as quickly as possible. When an officer arrives at the scene of a violent crime, for example, he may ask those on scene if there is anyone who needed immediate medical assistance without first reading Miranda. Similarly, the officer who chases a suspect known to be armed through a public area, but finds the person to be unarmed upon arrest, may immediately ask what happened to the gun. Officers must be aware that this exception is permitted only when absolutely necessary – once the danger is eliminated, no further questions may be asked. **INSTRUCTOR NOTE:** *Berkemer v. McCarty, 468 U.S. 420 (1984)*
 2. The stop evolves into an investigation for a criminal case, such as a DUI. When it becomes apparent that an arrest may result, the person should be read their Miranda warnings.
 3. When a person voluntarily enters a police station, or telephones a police officer, and makes a statement or confession. Until the person is taken into police custody, Miranda rights are not required.
 4. When a person who is in custody makes voluntary or spontaneous statements. Such statements are admissible as evidence even though Miranda warnings have not been

provided or read, even if the person is in police custody. Officers may not ask clarifying questions about volunteered or spontaneous statements in the absence of a valid waiver of Miranda rights. If rights have not been read, or if the person has invoked his or her rights, the officer should simply document the statements made without asking any follow-up questions.

5. During investigative detentions (Terry stops). Even though a person subject to a Terry stop is not free to leave, the courts have held that Miranda does not apply until an arrest is made or the person's freedom of movement is limited to a degree commonly associated with an arrest. For example, if an officer handcuffs a person and places them in the back of a patrol car, usually Miranda warnings should be read prior to further questioning. **INSTRUCTOR NOTE:** *A statement by the defendant during the booking process that his attorney had "got him off" on self defense before and would do it again was admissible as it was voluntary and not in response to police questioning.*
6. When asking routine booking questions. Miranda warnings are required only when a person is being interrogated about a crime. Routine booking questions are not considered interrogation. **INSTRUCTOR NOTE:** *State v. Londo, 158 P. 3d 201 (Ariz App. 2006)*
7. When collecting handwriting, voice samples and/or other physical evidence. Miranda only applies to testimonial communication; it does not apply to physical evidence. As long as the officer does not interrogate the person while collecting the physical evidence, Miranda warnings are not required.
8. When a person's life is in danger. This exception is limited to a situation in which there is: 1) an urgent need (no other course of action promises relief); 2) the possibility of saving a human life by rescuing a person in danger; and 3) rescue is the primary purpose and motive of the interrogator.

V. THE MIRANDA WARNINGS

P. O. 5.4.4

- A. When Miranda warnings are required, they should be read directly from the officer's rights card, as follows: **INSTRUCTOR NOTE:** *While the courts have held that it is not necessary to use specific words to give Miranda warnings, California v. Prysock, 453 U.S. 355, (1981), officers should read them directly from the rights card, as doing so makes it easy to testify to the exact rights that were read.*
 1. *You have the right to remain silent.*
 2. *Anything you say may be used against you in a court of law.*
 3. *You have the right to the presence of an attorney to assist you prior to and during questioning, if you so desire.*
 4. *If you cannot afford an attorney, you have the right to have an attorney appointed for*

you prior to questioning.

5. *Do you understand these rights?*

P. O. 5.4.2C and P. O. 5.4.3

- B. Once the suspect has waived their rights under Miranda, an officer may proceed with the interrogation. **INSTRUCTOR NOTE:** *Berghuis v. Thompkins, 130 S. Ct. 2250 (2010)*
- C. A person may waive their rights either with a verbal waiver, or through conduct which indicates a waiver.
1. A person may waive their rights by clearly stating that they understand their rights and waive their rights. At that point, an officer may begin asking questions.
 2. A person may waive their rights by simply answering questions once the rights have been read. An officer is not required to ask the person for a waiver of Miranda.
 3. A person may make a conditional waiver – “Depends on the question,” for example. At that point, an officer may begin asking questions. If the person indicates they do not wish to answer a question, the officer may continue with other questions, until the person states they do not want to answer any questions or requests an attorney.
 4. A person may respond by saying something that is unclear or equivocal. Such statements should be clarified before questioning begins (or continues). A person might say, for example, “I don’t know, do you think I need a lawyer?” or “Maybe I should just wait and talk to you later,” or “Hey, I don’t have to answer your questions if I don’t want to.” These types of statements should be clarified by the interrogating officers. Officers should ask whether the person wishes to answer questions or not. Officers should not offer advice about whether an attorney is needed.

VI. INVOCATION OF THE RIGHT TO SILENCE OR THE RIGHT TO AN ATTORNEY UNDER THE FIFTH AMENDMENT.

- A. Right to silence. If a suspect invokes the right to silence, the interrogation must immediately stop. No further questioning may take place unless the person changes their mind, either on their own or after a later request by the officer. **P. O. 5.4.2D**
1. A person may change their mind about invoking their right to silence. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person but should first reread the Miranda warnings to the person and obtain a waiver of their rights.
 2. If a person invokes their right to silence, an officer may approach the person after a reasonable break in questioning (at least two hours), reread Miranda, and seek a waiver from the person. **INSTRUCTOR NOTE:** “*I ain’t got nothing to say*” is an invocation of the right to silence that requires no clarification. *State v. Szpyrka, 202 P.3d 524 (Ariz. App. 2008)*

3. The right to silence is not offense specific. The right to silence, once invoked, applies to questioning about all crimes, not just the one the person has been charged with committing.
 4. The invocation must be unambiguous. If the request is unclear, the officer should ask questions to clarify the suspect's intent. **P. O. 5.4.11**
- B. Right to an attorney. If a person invokes their right to an attorney, the interrogation must immediately stop. No further questioning may take place until an attorney is present or the person waives their right to an attorney. **INSTRUCTOR NOTE:** *Edwards v. Arizona, 451 U.S. 2250 (2010) Maryland v. Shatzer (USSCt 2010) (a convicted inmate's release from police questioning into the general prison population is considered a break in custody for purposes of the 14 day rule)*
1. A person may change their mind about invoking their right to an attorney. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person but should first reread the Miranda warnings to the person and obtain a waiver of rights.
 2. An officer may NOT seek to reinitiate questioning. If a person invokes their right to attorney, an officer may not approach the person to try to get the person to change their mind unless there is a break in custody lasting at least 14 days.
 3. The right to counsel IS NOT offense specific. Once a person invokes the right to counsel under the Fifth Amendment, the person may not be questioned about any crimes.
 4. The invocation must be unambiguous. If the request is unclear, the officer should ask questions to clarify the suspect's intent.
 5. Once the right to counsel is invoked, further questioning is prohibited unless:
 - a. An attorney is present, or
 - b. The person initiates the conversation and waives the right previously invoked, or
 - c. The person is released from custody for at least 14 days, or
 - d. The person has been sentenced on the crime that was charged. **INSTRUCTOR NOTE:** *Interrogating a hospitalized subject who is in pain and in and out of consciousness will be treated the same as physical abuse. Mincey v. Arizona, 437 U.S. 385 (1978).*

VII. VOLUNTARINESS

- A. Confessions are presumed to be involuntary. The officer must be able to demonstrate that the

- confession was not coerced, that it was freely given and that it was not the result of duress.
- B. Officers may not use coercion, threats or promises to elicit confessions or admissions.
1. Physical abuse, or threats of physical abuse, will always render a statement involuntary and inadmissible. **INSTRUCTOR NOTE:** *State v. Walton, 769 P.2d 1017 (1989)*
 2. Officers should provide for the person's physical needs: food, water, use of restroom facilities. Failing to meet a person's basic physical needs can result in a finding that the confession was involuntary. **P. O. 5.4.2B**
 3. Promising the suspect favorable treatment, a more lenient sentence, a particular jail facility, probation, etc., may result in the statement being found to be involuntary and therefore inadmissible.
 4. Threats of harm other than physical abuse – CPS removing a suspect's children from her care, for example – will likely result in the statement being found to be involuntary.
- C. Interrogation techniques should take into consideration the person's age, mental capacity, and general health. A mentally disabled person can confess to a crime, but the officer must be careful to conduct the interrogation in a manner that reflects the person's limited mental capacities.
- D. Self-induced difficulties, such as intoxication, will not invalidate an otherwise admissible confession.
- E. Encouraging the suspect to do the right thing or tell the truth, or lying to the suspect, does not amount to coercion, threats or promises. The following statements to suspects were found by the court to be acceptable statements to make during an interrogation:
1. "Give yourself a chance."
 2. "To lie is not going to help."
 3. "It is nothing that cannot be worked out" (this is not a promise, because it does not contain a promise to do something in exchange for the suspect's statement).
 4. "How do you answer to God?"
 5. "I don't believe you," or "you are lying" or "you are a dirty dog."
 6. "It is better to tell the truth."
- F. Officers may be permitted to lie to the suspect and to misrepresent the evidence.

VIII. SIXTH AMENDMENT RIGHT TO COUNSEL

- A. In addition to the right to an attorney under the Fifth Amendment, there is also a right to an attorney under the Sixth Amendment. Once formal adversary proceedings have begun - the person has been indicted or has had an initial appearance - a person is entitled to an attorney to represent them.
- B. Prior to attempting to question a person who has been indicted or had an initial appearance an officer must determine whether the person has previously invoked his or her right to counsel under Miranda. If the person has done so, the officer may NOT approach the person and seek to question the person.
- C. If the person has not invoked the right to counsel, or has invoked the right to counsel but has been released from custody for at least 14 days, the officer MAY seek to question the person. This is true even if the person has had an attorney appointed to represent them or has hired an attorney. An officer may approach the person, advise the person of his/her Miranda rights (if the person is in custody) and obtain a waiver of those rights. **INSTRUCTOR NOTE:** *Montejo v. Louisiana, 129 S.Ct. 2079 (2010)*
- D. If the person invokes the right to silence or the right to counsel, the interrogation must cease. Further efforts to question the person should not be made, unless initiated by the person. **INSTRUCTOR NOTE:** *J.D.B. v North Carolina, S.Ct (2011)*

IX. JUVENILE SUSPECTS

- A. Juveniles have the same rights under Miranda as adults. When it appears to the officer that the person is a juvenile, the officer should consider the age of the juvenile when determining whether the juvenile is in custody for purposes of Miranda.
- B. In certain circumstances, a parent may invoke a juvenile's rights under Miranda.
- C. The law does not require a parent to be present at the interview of a juvenile. However, the courts will consider the absence of a parent when determining whether statements made by the juvenile are voluntary and admissible. Unless the parent is a suspect or a co-defendant, an officer should:
 - P. O. 5.4.8A**
 - 1. Make a reasonable effort to notify parents of the arrest of a juvenile.
 - P. O. 5.4.8B**
 - 2. Permit an in-custody juvenile who asks to call a parent to do so.
 - 3. Ask, prior to the start of any questioning, if the juvenile wants a parent, guardian or custodian present during the interview and, unless time is of the essence, delay a reasonable period of time for the person to arrive.
 - a) If a parent refuses or is unable to respond in a reasonable time, inform the juvenile and clarify whether they are willing to answer questions without the

parent being present.

- b) If a parent is being disruptive during the interview, the parent may be asked to leave the interview. The officer must then clarify with the juvenile whether they are willing to answer questions without the parent being present.
- c) If the juvenile does not want the parent to be present during questioning, and the juvenile appears to have the maturity and experience to reasonably make such a decision, the parent may be excluded from the interview.

P. O. 5.4.8C

D. Officers must read an in-custody juvenile Miranda warning prior to an interrogation, and have an obligation to ensure that the juvenile understands his or her Miranda rights and waives those rights voluntarily. The courts have a heightened concern with the voluntariness of confessions by juveniles. An officer should not interrogate a juvenile if the officer believes the juvenile is incapable of intelligently understanding their rights. Officers should:

1. Use or complete the form required by the prosecuting attorney or court for juvenile Miranda, if a specific form is required by the local prosecution office or court., If none, advise a juvenile of Miranda rights following the same guidelines for an adult interview or interrogation.
2. If further explanation of the rights is necessary, the explanation that is provided will be thoroughly documented in the officer's report, or electronically recorded.
3. Advise the juvenile, when applicable, that the juvenile may be, or will be, tried as an adult.
4. Limit the duration of the interview to a reasonable period of time.
5. Limit the number of officers present during the interview.

E. The courts may consider a number of factors in determining whether a juvenile's confession is voluntary, including the following:

P. O. 5.4.9

1. Chronological age. **P. O. 5.4.9A**
2. Mental age. **P. O. 5.4.9B**
3. Level of education. **P. O. 5.4.9C**
4. Previous dealings with the criminal justice system. **P. O. 5.4.9D**
5. Whether the juvenile's rights were explained. **P. O. 5.4.9E**
6. Any language barrier. **P. O. 5.4.9F**

7. Physical condition. **P. O. 5.4.9G**
8. Method of interrogation. **P. O. 5.4.9H**
9. Length of interrogation. **P. O. 5.4.9I**
10. Time in custody. **P. O. 5.4.9J**
11. Whether there was proper sight/sound separation. **P. O. 5.4.9K**
12. Whether the juvenile had an opportunity to consult with an adult. **P. O. 5.4.9L**
13. Understanding of the charges. **P. O. 5.4.9M**
14. Whether or not the juvenile was warned about the case being remanded to adult court. **P. O. 5.4.9N**
15. Whether the juvenile later tried to repudiate prior statements. **P. O. 5.4.9O**

X. INVESTIGATIVE DETENTION**P. O. 5.4.5**

- A. Definition: The temporary stop and seizure of a person for the purpose of investigation based on reasonable suspicion to believe the person has committed, is committing or is about to commit a crime.
- B. Reasonable suspicion: More than a hunch and less than probable cause; articulable facts to suspect that criminal activity has, is, or is about to will, occur and that the person stopped is involved in that criminal activity.
- C. The United States Supreme Court has established the right of a police officer, under the Fourth Amendment, to stop a person based on reasonable suspicion of criminal activity in order to investigate that activity:
“. . . a police officer with a reasonable and articulable suspicion that a person is involved in criminal activity may make a limited investigatory stop.”
“The police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” **INSTRUCTOR NOTE: *Terry v. Ohio, 392 U.S. 1 (1968)*** **P. O. 5.4.5A**

1. An investigative detention is not considered an arrest. It is a temporary seizure for investigative purposes.
2. An investigative detention may last as long as necessary to effectuate the purpose of the stop. There is no set maximum time limit within which an investigatory stop must be completed. **P. O. 5.4.5B**

3. "An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity . . . the totality of the circumstances, the whole picture, must be taken into account." **INSTRUCTOR NOTE:** *U.S. v. Cortez, 449 U.S. 411 (1981)*
4. Officers may use the force reasonably necessary to detain a person during an investigative detention. Handcuffing a person does not automatically convert the investigative detention to an arrest. As in all situations involving the use of force, courts will consider all of the circumstances in determining whether the force used was reasonable. **INSTRUCTOR NOTE:** *U.S. v. Glenna, 878 F.2d 967 (7th Cir, 1989)*
P. O. 5.4.5C
5. Once the officer has completed the investigation, the officer must either make an arrest or permit the person to leave.
6. Miranda warnings are not required at the scene of an investigative detention until the point at which the person has been actually placed under arrest or the person's freedom of movement has been restrained to the degree associated with a formal arrest (e.g., handcuffs, guns, lockups, etc.)

Part II – PRACTICAL ASPECTS OF INTERVIEWING AND QUESTIONING

XI. PREPARING FOR THE INTERVIEW/INTERROGATION

- A. Review information about the case and the person to be interviewed/interrogated.
P. O. 5.4.1A
- B. Select an appropriate setting to conduct the interview/interrogation.
P. O. 5.4.1B
- C. Assess the need to give Miranda warning to the person prior to beginning the questioning.
P. O. 5.4.1C
- D. Develop a basic strategy for conducting the interview / interrogation.
P. O. 5.4.1D
- E. Make arrangements to record the interview/interrogation, if appropriate.
P. O. 5.4.1E
- F. Adopt a comfortable interview style.
P. O. 5.4.2A

XII. BEGINNING THE INTERVIEW/INTERROGATION

- A. When to begin.
 1. Consider how much rapport has been established with the person being interrogated.
 2. Consider the officer's ability.
 - a. Type of crime.

- b. Officer's knowledge.
- c. Consider any time factors.
- d. Is there an urgent need to interrogate?

B. Documenting the interview/interrogation.

P. O. 5.4.1E

1. Audio/video recording.

- a. May be used with, or without, the suspect's knowledge.
- b. If the tapes are to be transcribed, the officer may simply note that fact in the DR. Otherwise, the statements must be summarized accurately and in detail in the DR.

2. Note taking.

P. O. 5.4.1D

- a. Psychological aspects.
 - i. Ink – “cast in stone.”
 - ii. Pencil – not permanent, erasable.
- b. Do you want to write as you listen or listen first, then write while reviewing the statement?

C. Develop rapport.

- 1. Decrease your police, punitive and authority image.
- 2. Increase your humane and understanding image.
- 3. Use “soft” words.
 - a. Took – instead of stole.
 - b. Sex with – instead of rape.
 - c. Entered – instead of burglarized.
- 4. Avoid confrontations; do not argue with the suspect.

D. Field Interviews during investigative detentions.

P. O. 5.4.5

INSTRUCTOR NOTE: Field problems- practical's

1. The Terry case decision. **P. O. 5.4.5A**
 2. Recognized officer safety practices should be maintained at all times. **P. O. 5.4.5B**
 3. Lawful continued detention/release of a questioned person. **P. O. 5.4.5C**
- E. One-on-one identification (“show up”). **P. O. 5.4.7**
1. Obtain and record a description of the suspect from the witness before a show up; distinguishing characteristics, such as scars, moles and tattoos are especially important. **P. O. 5.4.7A**
 2. Avoid handcuffing the suspect or placing him/her in a patrol car prior to showing up, unless officer safety considerations require otherwise. **P. O. 5.4.7B**
 3. Transport the witness to the suspect, if possible (i.e., do not take the suspect to the witness if it can be avoided). **P. O. 5.4.7C**
 4. Do not make any suggestions or “lead” the witness in any way (e.g., do not refer to the suspect as a “suspect” in the presence of the witness). **P. O. 5.4.7D**
 5. Say nothing about the suspect in the presence of the witness (e.g., “When we caught him, he still had your wallet”). **P. O. 5.4.7E**
 6. Tell the witness to keep an open mind and that the person he/she will confront may not be the perpetrator. **P. O. 5.4.7F**
 7. Do not allow multiple witnesses to discuss the suspect or the crime. **P. O. 5.4.7G**
 8. Never allow multiple witnesses to view the line up at the same time. **P. O. 5.4.7H**
 9. Do not comment to the witness of the identification after the show up. **P. O. 5.4.7I**
 10. Document everything that occurs and tell the witness what information you are putting in your report which is based on what the witness said. Document the witness verbiage precisely. **P. O. 5.4.7J**
 11. Conduct the one-on-one show up within two (2) hours of the commission of the crime. **P. O. 5.4.7K**
 12. Document the distance of the viewing and the lighting conditions. **P. O. 5.4.7L**
- F. Verifying the reliability and credibility of persons being interviewed/interrogated. **P. O. 5.4.10**
1. Gather information from other sources before and after the interview.

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| 2. | Keep witnesses, suspects, and victims separated. | P. O. 5.4.10A |
| | | P. O. 5.4.10B |
| 3. | Explore relationships between witnesses, suspects and victims. | P. O. 5.4.10C |

XIII. RATIONALIZE, PROJECT AND MINIMIZE (RPM) FORMULA

A. The psychology of interrogation and how it applies through:

R.P.M.

1. Nobody likes to admit that they did something wrong.
 - a. From birth, we rarely admit guilt without first giving some reason, either good or bad, to justify our actions.
 - b. He hit me first!
 - c. She started it!
2. As adults, we have not changed.
3. Most of us will not admit to doing wrong without giving some type of reason.
4. R.P.M. is used in every interrogation.

B. Rationalize.

C. Give the person a reasonable explanation that is socially acceptable for what he/she did.

1. Try and justify the act.
2. Dampen the consequences.
3. Supply a reason for the act.

D. Projection.

E. Project the blame on something else.

1. Victim did not pay enough (theft).
2. Victim's style of dress (rape).
3. Victim started it and you defended yourself.

- F. Minimize.
- G. Downplay the incident in comparison to other things that people do.
 - 1. You only exposed yourself; others have attacked and raped girls.
 - 2. Lost your job, you had to eat.
 - 3. Only had the gun to scare the clerk.
- H. R.P.M. will only work on a subject whose guilt is known or reasonably suspected.
- I. If you are not sure that the person is guilty, interview until you have reason to believe they are innocent or guilty.
- J. Post interrogation interview.
 - 1. Provides a method to determine technique effectiveness.
 - 2. Keeps guilty suspects in the proper frame of mind during typing of formal statements.
 - 3. Allows interrogators and possible innocent suspects to calm down.

XIV. ENDING THE INTERROGATION

- A. Make sure you have all the information.
- B. "Is there anything else you want to talk about?"
- C. Leave the door open for future contact.

XV. CONCLUSION

- A. Review of performance objectives.
- B. Final questions and answers.
- C. Instructor closing comment(s).