
**Section: THREE
Chapter: FIVE**

SUBJECT: Interview and Interrogation Procedures
ISSUE DATE: 08-15-16
REFERENCE: NYSA 50.2

I. POLICY

It is the policy of the Palmyra Police Department to comply with constitutional guarantees governing custodial interrogation and to document the compliance on forms provided for that purpose.

II. PROCEDURES

A. Notification and Waiver ("Miranda Warnings"):

1. At the beginning of any custodial interrogation (questioning initiated by a law enforcement officer 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/her rights exactly as printed on the warning card. A copy of the actual card used should be made a part of the voluntary statement form.
2. Miranda warnings are NOT required:
 - a) When an officer questions a motorist during a vehicle stop for a traffic infraction, however, if the motorist is in custody for a traffic misdemeanor or felony, such as DWI, the warnings are required before interrogation.
 - b) When an officer conducts a brief interview of a person temporarily detained in a "stop and frisk" situation, based upon reasonable suspicion, pursuant to New York Criminal Procedure Law section 140.50.
3. After the notification, the person to be interviewed may waive his/her rights but must do so voluntarily, knowingly, and intelligently.
4. The request to waive will be made in the wording provided on the warning card; the time of waiver and the person's exact response will be recorded in the officer's notes, and any appropriate reports.
5. A defendant need only be notified of the Miranda warnings once. It is not necessary for each officer who has contact with the defendant to repeat the warnings.

B. Voluntary Statement Form

1. All written statements received by Department personnel will be prepared using the Palmyra Police Department Voluntary Statement Form
2. The body of the statement shall include:
 - a) Start and end time, and location of statement.
 - b) A transcript of the defendant's account of the crime in his/her words. Extreme caution should be used not to shorten a defendant's statement through the use of the interviewer's terminology.
 - c) Each page shall be numbered (e.g., page ____ of ____).
3. Officers should read the statement aloud to the defendant, or have the defendant read it aloud.

4. After the statement is read aloud, the officer shall have the defendant correct any mistakes in the statement and give him/her the opportunity to make any changes desired. The defendant should be requested to initial any corrections or changes.
5. The defendant's signature (specific location not provided) will appear at the end of the statement as determined by the defendant. Officers shall request that defendant cross out any blank space between the signature and the body of the statement.
6. Witness' signature(s) will be entered and labeled as such after the defendant's signature.
7. If a defendant offers a verbal statement but refuses to give a written statement, the verbal statement (i.e., a synopsis by the interviewing officer) shall be recorded and kept on file. 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.
8. Whenever a defendant gives a statement of any kind, whether oral or written, it must be noted in the accusatory instrument, and a 710.30 notice must be completed, and a copy given to the defendant.

NOTE: The prosecutor must give advance notice to the defense attorney any time a statement by a defendant is used in court. If proper notice is not given, the statement will be inadmissible. It is critical that officers note the existence of any statement.

III. JUVENILE PROCEDURES

A. When interviewing/interrogating juveniles, certain conditions must be complied with:

1. Interviewing of juveniles will only be conducted:
 - a) In a facility approved by the Wayne County Family Court.
 - b) In the juvenile's residence.
2. The consent of the juvenile is required. In addition, the consent and presence, if at all possible, of the juvenile's parent(s) or person legally responsible for the juvenile.
 - a) Reasonable efforts must be made to notify a parent or the person legally responsible prior to the interview and have that person present. Officers involved with the interview must document the effort made to contact the parent, etc. and the reason (if any) for the non-appearance by said parent(s), etc.
 - b) In the event the officer is unable to locate or contact a parent, or person legally responsible, the interview may begin.
 - c) If a parent or a person legally responsible for the juvenile grants permission for an interview but is unable or unwilling to be present for same, a supporting deposition should be obtained (granting such permission and signed by the person).
3. Prior to beginning the interview, the juvenile must be read his/her constitutional rights.
 - a) After the notification, the juvenile may waive his/her rights.
 - b) If a parent or person legally responsible is present, that person must also agree to allow the juvenile to waive his/her rights.
 - c) In all cases, the waiver must be voluntarily, knowingly, and intelligently made.
4. A Rights/Waiver card must be used with juveniles.
 - a) The request to waive will be made in the wording provided on the rights/waiver card and the juvenile's exact response recorded.

B. Juvenile Statements

1. Juvenile statements will follow the procedure outlined above for adult statements.
2. The juvenile's parent or person legally responsible will be used as witnesses when possible.

3. All statements taken will be placed in the case file for filing and distribution.

By the Order of:

David B. Smith
Chief of Police