

	STANDARD OPERATING PROCEDURE State Form 39870(R/S-06)	Reference Number INV-001
	Subject Custodial Interrogation	
	Special Instructions Replaces INV-016 dated May February 1, 2012	Effective Date January 15, 2015

I. PURPOSE

Establish guidelines and procedural safeguards for the taking of statements in situations involving custodial interrogation.

II. POLICY

The employees of the Department shall actively guard against the deprivation of any suspect's constitutional rights.

III. DEFINITIONS

A. Custodial Interrogation – Questioning, express or implied, initiated by a law enforcement officer after a person has been deprived of freedom of action in a significant way.

B. Waiver – An express indication, written or verbal, of a desire to voluntarily, knowingly, and intelligently make a statement.

C. Warning – A procedural safeguard utilizing the steps outlined below, permitting a person in a custodial interrogation situation, to make a voluntary, knowing, and intelligent waiver of certain constitutional rights.

IV. PROCEDURE

A. Custodial Interrogations for investigation of a felony shall require audio and visual recordings, if conducted in a place of detention. A Place of detention is defined as: a jail, a law enforcement agency station house, or any other stationary or mobile building owned or operated by a law enforcement agency.

1. Custodial interrogations involving a felony arrest(s) shall be conducted (by order of preference) at:

- a. The nearest properly equipped Department district or facility;
- b. A properly equipped non-department law enforcement facility (police station, jail, etc); or
- c. Through the use of authorized portable audio/visual equipment in a location that is conducive to obtaining a proper quality recording.

2. The interrogation shall be recorded in an audio/video format and must include the image and voice of the suspect and, at least, the voice of the interviewer.

3. Audio/visual recordings of custodial interrogations shall be maintained and entered into evidence within 72 hours of the completion of the interrogation. The submission should be otherwise in accordance with the Department's Rules and SOPs.

B. Custodial Interrogation Process.

1. Read, word for word, the Indiana State Police “Advice of Rights – Interrogation” form (Stock #510-A/State Form #39329/R) or similar form or card, advising the person facing custodial interrogation of the rights provided by the US and Indiana Constitutions.
2. Read, word for word, the “Waiver of Rights” section appearing on the form or card used.
3. Clearly and plainly, without promise, threat or force of any type, offer the person the opportunity to sign the waiver.

C. Special circumstances.

1. Prior to custodial interrogation of a juvenile, the Department’s procedures regarding juvenile interrogation and form #510 A shall be explained to the juvenile’s parent(s) or legal guardian(s) and the juvenile to be interrogated.
2. A juvenile’s rights may only be waived after a voluntary, knowing, and intelligent decision is made by both the juvenile and the juvenile’s parent(s) or legal guardian(s), after sufficient opportunity for them to discuss the matter outside the presence of law enforcement (see Stock #510-A).
3. Non-English speaking persons – A person may only waive rights of which the person has knowledge. Prior to custodial interrogation, a person who does not read or speak the English language must be advised of constitutional rights in a familiar language.
4. Illiterate or handicapped persons – A person may only waive rights of which the person has knowledge. Prior to custodial interrogation, a person must be advised of constitutional rights in such a manner that permits a valid waiver.
5. When no printed Advice of Rights – Interrogation form for Miranda or a pocket card is available, the officer shall:
 - a. Advise the person in substantially the same language as follows:
 - (1) “Before we ask you any questions, you must understand your rights.”
 - (2) “You have the right to remain silent.”
 - (3) “Anything you say can and will be used against you in court.”
 - (4) “You have the right to talk to a lawyer for advice before we ask you any questions and to have the lawyer with you during questioning.”
 - (5) “If you cannot afford a lawyer, one will be appointed for you before questioning if you wish.”
 - (6) “If you decide to answer questions now without a lawyer present, you will 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.”
 - (7) (If a juvenile) “You have the right to talk with your parent(s) or guardian(s) before any questioning and to have them with you during such questioning.” (See section C 2 above).

b. Secure a waiver by asking in summary the following:

- (1) “Did you hear this statement of your rights?”
- (2) “Do you understand what your rights are?”
- (3) “Are you willing to answer questions and to make a statement at this time?”

c. If a juvenile is facing custodial interrogation, the Miranda warning should be read to the parent(s) or legal guardian(s) and a waiver secured, after providing the juvenile and the parents(s) or legal guardian(s) an opportunity for a private discussion.

d. If possible, tape or digitally record the verbal “Warning” and the “Waiver of Rights.”

E. Make a written record of each warning given, including time, date, and location without regard to whether a waiver or subsequent statement was secured. Include such record in the report of the investigation.

F. Interrogation.

1. During the interrogation, the officer’s conduct should be of a professional demeanor. No threats or promises should be made to the suspect.

2. The interrogation should be of a reasonable time frame; allowing for toilet breaks, rest periods, food, and drink, if appropriate.

3. While in the interrogation room, there should be no more than two officers present while interrogating a suspect.

G. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies, and procedures.