

318 Detentions, Field Interviews & Field Photographs

318.5 FIELD INTERVIEWS, STATEMENTS AND CONFESSIONS

318.5.1 MIRANDA WARNING AND ADMISSIBILITY

No statement or confession made by an adult as a result of custodial interrogation is admissible as evidence unless the person has first been administered the Miranda warning and knowingly, intelligently and voluntarily waives those rights.

- (a) Officers will administer the Miranda Warning to a subject during a custodial interview/interrogation. A custodial interrogation occurs when questioning begins to focus on the person ~~stopped~~in custody, becoming accusatory regarding a specific offense.
- (b) The Miranda Warning will be recorded by audio/video recording (e.g., in-car Mobile Audio Video Recording system, Body-Worn Cameras) using the following process:
 - 1. Read the Miranda card to the subject in its entirety; and
 - 2. Ensure the subject acknowledges, understands, and voluntarily waives their rights. ~~by:~~
- (c) Officers shall take the following actions with respect to the Miranda card:
 - ~~(a)~~ 1. Write the officer's name, ~~and the~~ date, time, and incident number on the face of the card; ~~and~~
 - ~~(b)~~ 2. If practical, request the ~~subject~~ person in custody ~~to~~ initial next to each Miranda right and sign the card. If the subject, while being audio/video recorded, has verbally acknowledged understanding and waiving their rights but does not sign the card, the interview/interrogation may still continue.
 - 3. If the Miranda card is signed by the suspect, it will become part of the original case jacket. Miranda cards not initialed or signed by the subject do not need to be retained.
 - ~~3-4.~~ 4. Officer safety should not be compromised during a field interview/interrogation in order to record acknowledgment of rights.
- (d) Once the person requests to speak with an attorney or indicates a desire for legal representation, the interrogation will be discontinued at that point. This shall be documented in the offense report.
 - 1. Should the person request to continue the interrogation after requesting legal representation, the Miranda rights will be administered again.
- (e) Guidelines on admissibility of statements and confessions of a person accused of an offense as evidence is outlined in Tex. Code of Crim. Pro. art. 38.22.