

	GAITHERSBURG POLICE DEPARTMENT		
	Interviews, Interrogations, & Access to Counsel		
	GENERAL ORDER 801.1	Related CALEA Standards: <u>1.2.3, 44.2.3</u>	
	Effective Date: 04/03/2026		
AUTHORIZED BY:	Shawn Eastman CHIEF OF POLICE	SIGNATURE:	

1. PURPOSE

The purpose of this directive is to establish clear Department policy and procedure to protect the civil rights of persons accused of, suspected of, or believed to be involved in criminal activity or other violations. It provides uniform, lawful, and professional guidelines for the use of Department facilities in interviews, interrogations, and related investigative activities.

2. POLICY

Members of the Gaithersburg Police Department shall conduct all interviews and interrogations, regardless of location or setting, in a manner that preserves rights guaranteed by the United States Constitution and the laws of the State of Maryland. When an interview transitions to an interrogation, officers shall provide advice of rights and access to counsel consistent with the individual's changed custody status and applicable law. For juvenile subjects, additional statutory requirements apply (see Section 4.4 and 4.5).

3. DEFINITIONS

3.1. Officer: For purposes of this directive, "officer" is used interchangeably with investigator or detective to refer to a sworn police officer, and applies to both uniformed and plainclothes personnel.

3.2. Interview: For the purpose of this directive, "interview" refers to a non-custodial, consensual conversation with an individual. Examples include pre-employment interviews and assessments (e.g., Computer Voice Stress Analysis), Internal Affairs interviews of officers, and interviews of victims or witnesses.

3.3. Interrogation: For the purpose of this directive, "interrogation" refers to custodial questioning of an individual concerning a crime or suspected crime. Examples include questioning a suspect under arrest or a suspect temporarily detained at the Gaithersburg Police Station for investigative purposes. This definition does not include compelled interviews of employees conducted as part of an administrative internal affairs investigation.

3.4. Interviewee: For the purpose of this directive, "interviewee" refers to any person subjected to an interview, interrogation, or truth-verification examination, regardless of custody status.

4. PROCEDURE

4.1. General Provisions

4.1.1. Interviews and interrogations may be conducted by sworn personnel in the field or at appropriate police facilities.

4.1.1.1. At the Gaithersburg Police Station, interviews and interrogations shall be conducted only in the designated rooms:

- Interviews: “Soft” Interview Rooms 203B and 203C.
- Interrogations: “Hard” Interrogation Rooms located in the Temporary Detention Area (TDA), Rooms 134 and 135.

4.1.1.2. When using a facility operated by another agency, officers shall comply with this Department’s policy and the procedures of the host agency.

4.1.1.3. Officers shall consider the needs of persons requiring special accommodations due to illness, injury, or disability.

4.1.1.3.1. Officers shall use training, best judgment, and discretion to determine whether special accommodation is required.

4.1.1.3.2. Officers should recognize that certain injuries or disabilities may preclude conventional restraints.

4.1.1.3.3. Facilities and techniques used shall ensure the person does not suffer greater injury or indignity than any other person would under similar circumstances.

4.1.1.4. Matters involving juveniles require additional legal procedures. In addition to this directive, interactions involving juveniles shall comply with General Orders 900.1 (Juvenile Matters & Delinquency Prevention), 900.2 (Investigations Involving Juveniles), 901.1 (Charging Juveniles), and the Child Interrogation Protection Act ([Courts & Judicial Proceedings § 3-8A-14.2](#)).

4.1.1.5. Custodial interrogations conducted in the TDA shall be audio and video recorded, controlled from the monitor room in the prisoner processing area.

4.1.1.6. Interviews conducted in Rooms 203B or 203C shall be audio and video recorded, controlled via the wall-mounted touch panel outside each interview room.

4.1.2. If, during a non-custodial interview, sufficient information is developed to charge the interviewee, the interview need not stop for advisement of rights provided the interviewee remains free to end the encounter and depart at any time. If the person’s freedom to leave is restricted, follow Section 4.1.4.

4.1.3. Officers shall remain cognizant that the number of officers present, positioning, environmental conditions, and setting may influence the interviewee's perception of freedom to end the encounter.

4.1.4. If at any time the interviewing officer, or the totality of circumstances, gives the interviewee reason to believe they are not free to leave, the officer shall advise the person of their rights before further questioning.

4.1.5. When advising rights, officers shall use Department forms whenever possible:

- Advice of Rights (GPD-50) – English
- Advice of Rights (GPD-50S) – Spanish
- Advice of Rights (GPD-50J) – Juvenile

4.2. Use of Interrogation and Interview Rooms

4.2.1. The Department maintains rooms at the City Police facility specifically designed for interviews, interrogations, and truth-verification examinations.

4.2.2. Before using designated rooms or monitoring equipment, sworn personnel shall receive training on room use, safety measures, and monitoring equipment. Refresher training shall occur at least once every three years.

4.2.3. Sworn personnel shall notify the on-duty patrol supervisor before and after any use of the designated interrogation rooms for investigative purposes (custodial interrogations).

4.2.4. Prior to entering the TDA interrogation rooms, officers shall secure all firearms and weapons in the designated gun lockers located in an adjacent secure area. No firearms are permitted inside TDA interview rooms.

4.2.5. The designated rooms contain the following fixtures and devices, which shall be inspected for proper functioning before use:

4.2.5.1. Audio and video recording/observation devices; use is governed by law and Department policy. Recordings of custodial interrogations are exempt from the Maryland Wiretapping and Electronic Surveillance Act ([Criminal Procedure § 2-403](#)).

4.2.5.2. A room-in-use indicator above the entrance, which shall be illuminated any time the rooms are in use.

4.2.5.3. A panic/duress alarm inside the rooms to activate the building alarm and summon emergency aid.

4.2.5.4. In interrogation rooms, officers should use the fixed, anchored table and seating designed to secure a subject in custody, when authorized.

4.2.6. Officers using interrogation rooms shall carry issued handcuffs and a properly functioning police radio. The unit assigned to the radio shall be logged into CAD and held at the City Police station, so the radio's emergency identifier can be recognized.

4.2.7. A log shall be maintained for all individuals in police custody placed in an interrogation room. The log shall document the reason for placement, date and time of entry/exit, and any meals, comfort breaks, or other activities involving the interviewee, including the custody status of juveniles. This information shall also be included in the event report narrative.

4.2.8. An Interrogation Room Detention Record (GPD-810) shall be completed and placed on the designated clipboard for any use involving persons in police custody.

4.2.9. For safety, supervision, and escape prevention, at least one officer shall actively monitor the interrogation rooms in addition to the interviewing officers:

- One Officer Interrogation → Second officer monitoring outside the room.
- Two Officers Interrogating → Third officer monitoring outside the room.

4.2.10. For custodial interrogations, the individual shall be searched for weapons and contraband prior to use of the interrogation room. Searches should be conducted by the interrogating officer in the presence of another officer.

4.2.11. If a non-custodial interview transitions to a custodial arrest and further questioning is required, the interviewing officer shall move the detainee to an interrogation room. To minimize disruption, officers should consider using an interrogation room from the outset when a non-custodial interview may become custodial.

4.2.12. A person in custodial interrogation shall not be left unattended unless all of the following are met:

4.2.12.1. The detainee has been thoroughly searched;

4.2.12.2. The detainee is handcuffed and secured in appropriate restraints;

4.2.12.3. The interrogation room door is closed and locked;

4.2.12.4. Audio/video monitoring equipment is activated and recording, and an officer is actively monitoring the detainee; and

4.2.12.5. The detainee's welfare is checked every 30 minutes via face-to-face contact by an officer participating in the investigation, and each check is logged in the detention record.

4.2.13. During any use of interrogation or interview rooms for investigative purposes, breaks shall be provided as appropriate for restroom use, water or drink, and consultation with counsel, if applicable.

4.2.14. Administrative Bureau Commander, or designee, shall conduct a monthly inspection of interrogation and interview rooms and related equipment and document the inspection in the log.

Any deficiencies shall be reported to the Assistant Chief of Police, and the room may not be used again until corrective actions have taken place.

4.2.15. A fire prevention, evacuation, and suppression plan is in place for all interrogation and interview rooms.

4.2.15.1. Smoking or the use of any burning material is prohibited in the interview rooms and throughout the police facility.

4.2.15.2. The building is equipped with a fire alarm, sprinkler system, and fire extinguishers.

4.2.15.3. Evacuation routes are posted outside interrogation and interview rooms and comply with the Department's Emergency Evacuation Plan, which is available to all employees.

4.2.16. An administrative review of these procedures shall be conducted every three years, in conjunction with the Department's staff inspection.

4.2.17. Use of designated interrogation and interview rooms by other agencies shall be in accordance with this Department's policy and procedures.

4.3. Interviews

4.3.1. Interviews are non-custodial and consensual. The person must reasonably believe they may end the interview or walk away at any time.

4.3.2. When conducting an interview, officers shall ensure the number of personnel present does not create the impression that the interviewee is not free to leave.

4.3.3. When an interview is conducted in a room, officers shall ensure the door remains unlocked and is not blocked by other officers.

4.4. Interrogations

4.4.1. Interrogations are custodial questioning involving criminal investigations. Any questioning concerning a crime or suspected crime for which the subject is in custody must be preceded by advice of rights (Miranda).

4.4.1.1. This requirement applies to any questioning that may lead the person in custody to provide evidence against themselves.

4.4.1.2. If an advisement was given but questioning was significantly interrupted, a second advisement is required before resuming.

4.4.1.3. Advice of rights also applies to post-test questioning of a subject arrested for DWI/DUI following a chemical test for blood alcohol content.

4.4.1.4. Miranda does not apply to routine biographical questions (e.g., name, date of birth, address).

4.4.2. Juvenile custodial interrogations shall be conducted in accordance with General Order 900.2 and the Child Interrogation Protection Act, which requires attorney consultation before custodial interrogation of a child and prohibits waivers of that consultation requirement.

4.4.3. When an arrest involves an investigation to be handled by detectives, the arresting or transporting officer should not advise rights or initiate questioning; detectives will conduct any custodial interrogation.

4.4.4. Electronic Recording of Custodial Interrogations (Maryland Law): Maryland law establishes that it is state public policy to make reasonable efforts to create an electronic (audio-visual or audio) recording of custodial interrogations in connection with serious offenses (murder, rape, sexual offense in the first or second degree), whenever practicable. Recordings made by law enforcement of custodial interrogations are exempt from the Maryland Wiretapping and Electronic Surveillance Act. Accordingly, the Department shall record custodial interrogations and interviews as set forth in Sections 4.1.1.5–4.1.1.6 and 4.2.5, and in compliance with Maryland Criminal Procedure §§ [2-402 \(Custodial Interrogation\)](#) and [2-403 \(Exemption from Maryland Wiretapping and Electronic Surveillance Act\)](#).

4.4.4.1. At the start of each recording, prior to questioning, the interviewer shall audibly state: the date, time, and location; the case number; the identity of all people present; and that the interview/interrogation is being recorded.

4.4.4.2. All recordings shall be maintained in secure digital storage as Department property in accordance with records-management requirements until prosecution is barred by law or relevant appeals (including habeas corpus) are exhausted. (Departments are encouraged to maintain recordings consistent with the Subtitle 4 framework and any applicable local retention schedules.)

4.5. Access to Counsel

4.5.1. If a subject invokes the right to counsel during a custodial interrogation, questioning shall cease regarding any offense until the subject has consulted with an attorney.

4.5.2. If there will be no further questioning, the Department need not provide resources to contact counsel.

4.5.3. Attorney-client communications are privileged and shall not be monitored. The investigating officer shall disable audio recording during any attorney–client conversation.

4.5.4. A defendant is entitled to counsel at any police-conducted lineup held after formal charging.

4.5.5. If a suspect or defendant speaks with an attorney and subsequently waives rights and agrees to answer questions, the officer shall re-advise using the advice of rights form before further questioning. The circumstances of the waiver shall be audio/video recorded and documented in the event report narrative.

4.5.6. Juveniles. Access to counsel for juveniles in custody shall comply with General Order 900.2 (Investigations Involving Juveniles) and the [Child Interrogation Protection Act \(Courts & Judicial Proceedings § 3-8A-14.2\)](#).