

# CITY OF BARSTOW

CALIFORNIA

POLICIES and PROCEDURES MANUAL:

POLICE

Subject: MIRANDA RIGHTS

## INTRODUCTION

It is the intent of this policy to define the proper procedure to be used when advising suspects of their constitutional rights per the Miranda decision of the United States Supreme Court.

## ADULTS

Adult suspects will be admonished of their Miranda rights; and if a valid waiver of those rights is obtained, they will be questioned appropriately concerning the particular case. If a suspect is taken into custody and it is necessary for an investigator to interview the arrestee, the arresting officer shall not give the Miranda Admonishment. The advisal of Miranda Rights will be the responsibility of the investigator assigned.

## JUVENILES

Juvenile suspects taken into custody by officers of this Department shall, in all cases, be admonished of their Miranda Rights as soon as practical after physical custody takes place.

## DOCUMENTATION OF MIRANDA ADVISEMENT

In all cases where a suspect is admonished of his/her constitutional rights, such fact shall be documented in the police report indicating the actual manner of admonishment (i.e., Miranda Card, memory). The exact quotes indicating whether or not the suspect invoked his/her rights shall be listed. If the suspect chooses to waive his/her rights in a clear and concise manner, all subsequent statements concerning the crime shall be indicated in the body of the police report.

## REFUSAL TO WAIVE MIRANDA RIGHTS

If a suspect refuses to waive his Miranda Rights, any subsequent statements during this interview are inadmissible as direct evidence in trial. Additionally, any other evidence obtained as a result of an interview in violation of Miranda will be inadmissible.

The only value of an admission or confession obtained without a valid waiver of Miranda is that it may be used for impeachment, should the suspect take the stand in trial (federal standard proposition 115).

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Officers are advised to use extreme caution when obtaining a statement in violation of Miranda. If the court should find that the officer's behavior was a flagrant violation of the suspect's constitutional rights, sanctions will result. A "due process" violation by officers could result in a dismissal of charges and/or criminal civil rights charge.

## FOLLOW-UP INTERVIEWS

Should a suspect refuse to waive his rights, but at a later time changes his mind and wishes to be interviewed, he or she must initiate the second interview. If this happens, the suspect should be re-admonished, then interviewed.

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