

BATON ROUGE POLICE DEPARTMENT

General Order
No.311

Effective Date
11-01-1994

Revised Date
02-01-2001

Subject: Miranda Warnings

Reviewed 9/1/16

POLICY

It is the policy of this department to conform to applicable State law and current case law with respect to Miranda warnings.

Whether a subject is in custody or merely being questioned and is actually free to leave (i.e. probable cause does not exist to make an arrest) determines when the warnings will be given. These situations will be addressed separately.

PROCEDURES

I. Subject in Custody

- A. Article 1, Section 13 of the Louisiana Constitution requires: "When a person has been arrested or detained in connection with the investigation or commission of any offense, he shall be advised fully of the reason for his arrest or detention, his right to remain silent, his right against self-incrimination, his right to the assistance of counsel and, if indigent, his right to court appointed counsel."
- B. Every arrested person will be advised of his rights as soon as practical after his arrest. This fact will be documented in the standard arrest form to include the officer's name and ID number who gave the advice of rights. If possible, the advice of rights will be in written form signed by the arrestee.

II. Subject Not In Custody

- A. During the course of an investigation, an officer may question one or more subjects. When asking informational questions, no advice of rights need be given. However, when the questioning becomes accusatory, Miranda warnings must be given.
- B. It is the investigating officer's responsibility to fully document the interview so the court may determine whether the information derived will be admissible or not.
- C. It is preferable to advise a subject of his rights prematurely, rather than to have crucial evidence excluded because the investigating officer failed to give Miranda warnings.