

	<b>ROSENBERG POLICE DEPARTMENT</b>	
	<b>General Order 7.40 Criminal Investigations</b>	
	<b>Effective Date: 1-11-2019</b>	<b>Replaces: G.O. 600, 610, 620</b>
	<b>Approved:</b>  Chief of Police	
<b>Reference: TBP: 7.04, 7.05, 7.09 and 7.10</b>		

## I. POLICY

The primary purpose of an investigation is to collect facts leading to the identification, arrest, and conviction of an offender and to organize and present the facts for a successful prosecution. The single most important criterion which determines a successful investigation is correctly obtaining and handling information supplied by a victim or witness immediately after the crime. The department expects officers to treat investigations as a skill developed through training and experience, a skill that demands intelligence, logic, and discipline.

Not every preliminary investigation will result in the identification of a suspect, an arrest, or the recovery of property. The solution of crimes often is a function of the physical evidence left at the scene or information provided by victims and witnesses. Follow up investigations are therefore necessary. Because our resources are limited, prioritization of investigative resources is an unfortunate necessity. The department will therefore strive to investigate those crimes that are the most serious in nature and those that have the highest likelihood of solution.

## II. PURPOSE

To establish guidelines for the general conduct of preliminary and follow-up investigations.

## III. PROCEDURES - PRELIMINARY INVESTIGATIONS

### A. General

The preliminary investigation begins when the first officer arrives at the scene of a crime (or a citizen requests help) and continues until a specialized investigator arrives and assumes responsibility. Patrol officers are responsible for the preliminary offense report in all cases unless specifically directed by a supervisor.

### B. Caution

Officers who first arrive at a possible crime scene must take care not to enter hastily. The crime scene may pose a threat to the officer: an armed suspect may still be at the scene; toxic chemicals or infectious materials may be present; or evidence may be destroyed if the officer enters. When practicable, officers shall first note the total environment of the scene including, for example, whether doors and windows are open or closed, lights on or off, presence of odors, and the condition and circumstances of the victim.

C. After forming an impression of the entire scene and ensuring that no threat exists, the officer shall proceed with the preliminary investigation which consists of, but is not limited to, the following activities:

1. Providing aid to the injured.
2. Defining the boundaries of and protecting the crime scene to ensure that evidence is not lost or contaminated. Erect barricade tape, rope, or cordon off the immediate crime scene. Record any alterations to the crime scene because of emergency assistance, the immediate necessity to handle evidence, or the actions of witnesses, victims, or suspects at the scene.
3. Determining if an offense has actually been committed and, if so, the exact nature of the offense.
4. Determining the identity of the suspect or suspects and making an arrest if it can be accomplished either at the scene or through immediate pursuit.
5. Furnishing other officers with descriptions, method, and direction of flight of suspects, and other relevant information concerning wanted suspects or vehicles.
6. Determining the identity of all witnesses.
7. Collecting evidence. Patrol officers who have been trained in collecting evidence will collect physical evidence to the limit of their ability and training. When additional evidence requires collection, is beyond the capabilities or training of the officer, or is evidence in a serious crime, the patrol officer shall contact appropriate Crime Scene Investigation officers.
8. Obtaining statements and/or photographs of any injuries from the victim, witnesses, and suspects, as well as statements captured by portable audio/video recording devices. The entire episode shall be captured on the primary recording device. Officers shall have a secondary portable audio/video device on their person to gather all formal statements and for use when conducting evidentiary interviews under controlled conditions. The additional portable secondary audio/video device will also serve as a backup to be used when the primary device is inoperable. The secondary device will be supplied by the department and each officer will be

responsible for its custody, care, and control. Any damage to the portable audio/video device other than normal use shall be the responsibility of the assigned officer to replace or repair the damaged device.

9. Arranging for follow-up surveillance of the crime scene, if appropriate.
10. Accurately and completely recording all pertinent information on the prescribed report forms.
11. Officers and Supervisors who arrive at a scene, other than the primary officer, shall produce a supplemental report detailing their involvement or actions if information of evidentiary value has been obtained. Involvement or actions may include but are not limited to the following: neighborhood canvasses, interviewing witnesses, victims, or suspects, vehicle searches where evidence is found, assistance with transport or evidence collection, and any uses of force. Supplemental reports must be completed by Officers or Supervisors by the end of duty. Supervisors may approve exceptions to the completion of supplemental reports by the end of duty with notification to the follow-up unit.

#### D. Follow-up

1. The initial stages of all preliminary investigations, including crime scene processing in some cases, shall be conducted by patrol officers.
2. Patrol officers will conduct follow-up investigations in most misdemeanor crimes. In certain serious crimes as defined in Section IV below, investigators shall assume responsibility for completion of the investigation.

#### E. Supervisory responsibilities

1. The on-duty supervisor shall ensure that an adequate and complete preliminary investigation has been made and shall review, screen, and approve the officer's preliminary report. Screening shall include a review of facts to ensure that all essential information is included, along with legibility, clarity, and completeness. Supervisors shall review, approve, and sign crime reports.
2. Supervisors shall limit access to crime scenes to those persons immediately and directly connected with the investigation. This rule applies to other officers of the department, other agencies, or members of the community, regardless of rank or position.
3. The supervisor shall authorize the call-out of a trained evidence technician or detective, if appropriate.

4. The supervisor may enlarge the preliminary crime scene if necessary by assigning officers to canvass the area for possible witnesses or suspects.

#### **IV. ASSIGNMENT OF FOLLOW-UP INVESTIGATIONS**

- A. All felony offenses, all sex crimes, all crimes involving juveniles as victims, all criminal mischiefs, and all domestic violence and hate crimes shall be followed up by an investigator. Officers who conduct preliminary investigations of these offenses shall contact an investigator as soon as practicable. The initial responding officer is responsible for completing the original offense report with all details of the preliminary investigation included in the report. If the investigator is unable to respond to the scene, the report will be forwarded to the investigator at the end of shift.
- B. All other offenses will be investigated by the responding officer unless otherwise directed by the on-duty supervisor. Should the responding officer believe the follow-up investigation is either beyond their ability (either because of lack of expertise, shift assignment, or other reason) they will contact their supervisor for direction.
- C. The Supervisor and Investigations supervisor shall confer to determine follow up responsibility.

#### **V. PROCEDURES: FOLLOW-UP INVESTIGATIONS**

- A. Occasionally, additional investigation will be required at the end of the tour of duty of the assigned officer. In these cases, the on-duty supervisor shall determine whether the investigation should be discontinued until the assigned officer's next tour of duty, assigned to the next available officer or an investigator, or overtime authorized.
- B. Except where the investigation might be jeopardized by its temporary discontinuance, the original assigned officer shall handle the case.
- C. A supplemental report must be prepared by each officer who works on the case, but not necessarily for each occasion that he or she works on it. A supplement recording the investigating officer's activity, information developed, and case status shall be updated periodically as directed by the Investigations Supervisor. The officer or investigator shall maintain a case file to include supplemental reports.
  1. All assigned cases shall be reviewed and supplemented.
  2. Investigative follow ups shall include but are not limited to, reviewing the original offense report, contacting victims/complainants, locating and interviewing witnesses and suspects.
  3. A supplemental report documenting case activity shall be completed as soon as practical, but no later than 72 business hours after case assignment.

- D. Officers and investigators conducting follow-up investigations shall continue the investigation of criminal offenses until conclusion or until there are no additional workable leads that would likely result in the identification of a suspect or recovery of property. If the officer's time is limited, follow-up of cases will be prioritized by seriousness of the crime and likelihood of identifying a suspect. Officers and Investigators shall consult with their supervisors for additional assistance if cases with workable leads are unable to be completed.
- E. Victims will be kept informed of the status of the case periodically and when the case is closed or inactive.
- F. Supervisors, both patrol and investigative, shall maintain a log of cases being worked by officers under their command. This log will be updated periodically when status supplements are received or when the case is closed or listed as inactive. Officers, Investigators, and supervisors will keep the Chief of Police informed of the status of significant criminal cases.
- G. A follow-up investigation consists of, but is not limited to, the following activities:
  - 1. For most non-criminal cases:
    - a. Interviewing complainants and witnesses.
    - b. Locating missing persons.
    - c. Determining if information or suspicious activity relates to criminal activity.
    - d. Distributing information to the proper persons or agencies.
    - e. Locating lost property and returning same to the owner.
    - f. Investigating deaths, overdoses, suicides, and injuries to determine if a crime was committed.
    - g. Making necessary notifications or conducting necessary inspections.
    - h. Recording information.
  - 2. For most Criminal Cases
    - a. Reviewing and analyzing reports of preliminary investigations.
    - b. Recording information.
    - c. Reviewing departmental records for investigative leads.
    - d. Seeking additional information (from other officers, informants, contacts in community, and other investigators/agencies).
    - e. Interviewing victims and witnesses.
    - f. Interrogating suspects.
    - g. Monitoring Social Media sites of potential suspects, victims, and witnesses for information related to the case.
    - h. Monitoring posted comments to on-line news stories about an offense.
    - i. Arranging for the dissemination of information as appropriate.
    - j. Planning, organizing, and conducting searches.
    - k. Collecting physical evidence.

- l. Recovering stolen property.
- m. Arranging for the analysis and evaluation of evidence.
- n. Reviewing results from laboratory examinations.
- o. Identifying and apprehending the offender.
- p. Checking the suspect's criminal history.
- q. Consulting with the District attorney in preparing cases for court presentation and assisting in the prosecution.
- r. Notifying victims and witnesses when their presence is required in court.
- s. Testifying in court.
- t. Arranging for polygraph examinations, if necessary.

## **VI. REPORT WRITING**

### **A. Formal reports shall include the following information:**

1. Date, time of arrival at the scene.
2. Relevant weather or situational conditions at the scene upon arrival (e.g., a fire, crowd).
3. Circumstances of how the crime was discovered and reported.
4. Identity of other officers or emergency personnel at the scene.
5. Physical evidence present at the scene and the officers responsible for its collection.
6. Names, addresses, telephone numbers of victims or witnesses.
7. Results of interviews with the complainant, victim, or witnesses to include the identity or description of suspects.
8. Diagrams, sketches, photographs, or videotape taken at the scene, and the identity of the photographer or artist.
9. Recommendations for further investigation.

## **VII. SOURCES OF INFORMATION**

### **A. Informants**

Information is available from many sources, e.g., members of the community who wish to remain anonymous, criminals who have firsthand knowledge of illegal activity, and relatives or friends of those involved in crime. These sources shall be kept in mind when conducting investigations and interviews. Officers are cautioned to determine the motivation of people who provide information in order to evaluate it. For guidance on handling informants, consult Policy 7.43.

### **B. Interviews and interrogation**

1. Field interviews

Field interviews are a productive tool and source of information for the department. They shall be used only in the pursuit of legitimate enforcement goals. When used properly they can discourage criminal activity, identify suspects, and add intelligence information to the files of known criminals.

2. Victim/witness interviews

- a. Officers must recognize the trauma/stress to which the victim or witness has been subjected and shall conduct the interview in such a manner as to reduce stress.
- b. The age, physical limitations, and credibility of witnesses shall also be considered when evaluating their information.

C. Interrogation of suspects

1. Custodial Statements and Confessions.

- a. *Miranda* warnings are required and shall be administered prior to “custodial interrogation.”
- b. The following represent examples of situations that are not “custodial” and do not require issuance of *Miranda* warnings.
  - i. Investigatory stop and frisk.
  - ii. Questioning during a routine traffic stop or for a minor violation; to include driving while intoxicated (DWI) stops until a custodial interrogation begins. During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.
  - iii. During voluntary appearances at the police facility.
  - iv. When information or statements are made spontaneously, voluntarily and without prompting by police. (Note: Follow-up questions that exceed simple requests for clarification of initial statements may require *Miranda* warnings.)

2. Administering *Miranda* warning.

- a. *Miranda* warnings shall be read by officers from the official agency provided card containing this information to all persons subjected to custodial interrogation.
- b. Freelancing, recitation from memory or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.

- c. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. Suspects may be interrogated only when they have knowingly and intelligently waived their rights. Threats, false promises or coercion to induce suspect statements is prohibited.
- d. Waivers of one or both of the Miranda rights must be performed affirmatively. Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the appropriate agency form.
- e. Officers arresting deaf suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.
- f. Officers arresting suspects who they believe may have limited English proficiency shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.

### 3. Invoking the Right to Silence

- a. When a suspect invokes his right to remain silent, all interrogation shall terminate immediately.
- b. Officers may interrogate a suspect who has previously invoked his right to silence, if, after the passage of time, the suspect initiates communication with officers. However, prior to questioning Miranda warnings shall be re-administered and a waiver obtained.

### 4. Invoking the Right to Counsel

- a. If a suspect waives his right to counsel, a written waiver shall be obtained prior to questioning. When a suspect makes reference to counsel but his intentions are unclear, officers may question the suspect further to clarify his intentions. When a suspect invokes his right to counsel, all interrogation shall cease immediately.
- b. The suspect may not again be interrogated about the crime for which he is charged, other crimes, or by other officers (from this or other agencies) unless the suspect's attorney is present at the questioning; or
- c. There has been a break in custody of more than 14 days and the individual is re-advised of his Miranda rights and indicates he is waiving his right to counsel (written waiver), or

- d. The suspect initiates new contact with the police. In this later case, Miranda rights must again be administered and a waiver obtained before any questioning may take place. Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication.
- e. Officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.

#### 5. Other Interrogation Requirement

- a. Parents or guardians shall be notified whenever a juvenile is interrogated, taken into custody, or charged. Officers will take care when advising juveniles of their rights to ensure that the rights are understood before obtaining a waiver. Officers should honor a child's request to speak to a parent or guardian before waiving his or her rights. Whenever possible, the child's parents should be present while the child's rights are explained and the waiver obtained
- b. The number of officers engaged in the interrogation shall be kept to a minimum. The interrogation shall be as short as possible.

#### D. Recording of Statements and Confessions

1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to:
  - a. Location, date, time of day and duration of interrogation;
  - b. The identities of officers or others present;
  - c. Miranda warnings given, suspect responses and waivers provided, if any; and
  - d. The nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories, or for other purposes.
2. With the exception of certain cases where confidentiality or safety is paramount, Officers shall electronically record all custodial interrogations conducted in a place of detention involving major crimes as defined by this department. Officers are not required to record noncustodial interviews with suspects, witnesses, or victims during the initial interview phase of an investigation but may do so where deemed necessary, in accordance with law and departmental policy.
3. Electronic recording of juveniles shall be conducted if at the time the crime was committed, the juvenile suspect could be charged with a major crime as an adult.

4. If electronic recordings cannot be conducted due to equipment failure, lack of suspect cooperation, or for other reasons deemed pertinent to successful interrogation by the case manager, the basis for such occurrences shall be documented. This includes but is not limited to spontaneous declarations or other statements not elicited by police questioning.
5. Transporting officers need not refrain from questioning a suspect who has indicated a willingness to talk either at the scene or en route to the place of detention. However, officers shall not purposefully engage in custodial interrogations involving major crimes as defined by this policy in order to avoid this department's requirement for electronic recording.
6. Recording Protocol
  - a. Suspects do not have to be informed that they are being recorded unless required by law.
  - b. The office of the prosecutor, the investigative case manager, or other authorized department official may direct that specific interrogations be recorded that do not meet the criteria of major crimes as defined by departmental policy.
  - c. The primary interrogator shall, where possible, obtain a signed waiver from the suspect before beginning interrogation. If the suspect elects not to be recorded or refuses to engage in the interrogation, the suspect's rejection shall be recorded when reasonably possible.
  - d. Interrogations and confessions shall be recorded in their entirety starting with the interrogator's entrance into the interview room and concluding upon departure of the interrogator and suspect.
  - e. The video equipment should be positioned to ensure that both the suspect and the interrogating officer(s) are being recorded.
  - f. When commencing the recording, the primary interrogator shall ensure that voice identification is made of officers, suspect, and any others present, and that the date, time, and location of the interrogation is verbally recorded.
  - g. When beginning a new recording, the interviewer shall announce the date and time that the interrogation is being resumed.
  - h. An authorized member of the department shall be assigned to monitor recording time to ensure the recording does not run out.
  - i. Each recording shall include the following:

- i. Declaration of the time the recording began.
  - ii. Declaration of the start of the interrogation.
  - iii. Concurrence by the suspect that the interrogation has begun.
  - iv. Administration of Miranda warnings, even if the recording is a follow up to a prior interview or the suspect has been previously Mirandized.
  - v. Notation of the time the interrogation ends.
  - vi. Any lapse in the recording for comfort breaks or other reasons shall be accounted for on the recording. As an alternative, during a short recess, the recording may continue without interruption. Recording attorney-client conversations is prohibited.
  - vii. At the conclusion of the interrogation, the interrogator shall state that the interrogation is concluded and note the date and time of termination. The recording shall continue until all parties have left the interrogation room.
- j. Recordings of interviews are considered evidence and shall be logged into evidence storage and retained for use in related judicial proceedings. In addition, the following shall apply:
- i. Unused recording media shall always be used for interrogations.
  - ii. Both the original and copies of all recording media shall be protected from re-recording.
  - iii. Only one interrogation shall be recorded on each recording media.
  - iv. Before submitting the original recording to a secure evidence storage area a copy of the recording shall be made. Copies shall be maintained in the investigative unit.
  - v. The identifying information items supplied on the recording label shall be completed and the recording marked either as an original or a copy.
  - vi. The reporting detective's follow-up report shall note if and how the interview was recorded.
  - vii. All recordings shall be governed by this department's policy and procedures for the handling and preservation of evidence.
- k. Recordings of interviews will be kept until all appeals are exhausted.

#### E. Collection, preservation, and use of physical evidence

1. Physical evidence is of major importance in all cases, particularly those without witnesses. The successful prosecution of a case often hinges on the quality of the physical evidence collected and preserved.

2. All officers are responsible for the preservation of evidence, and for maintaining and documenting the chain of custody of all evidence that is in their charge.

## **VIII. CONSTITUTIONAL REQUIREMENTS: GENERAL**

### **A. Compliance with constitutional requirements during criminal investigations**

1. All officers when conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:
  2. All statements or confessions are voluntary and non-coercive.
  3. All persons are advised of their rights in accordance with this general order.
  4. All arrested persons are taken promptly before a magistrate for formal charging.
  5. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.
  6. Prejudicial pre-trial publicity of the accused is avoided so as not to interfere with a defendant's right to a fair and impartial trial.

## **IX. RELATIONSHIP WITH DISTRICT ATTORNEY**

- A. All personnel shall respond to requests for appointments from the District Attorney, be on time, and have the subject for discussion ready.
- B. During any investigation (or during planning for arrest or pretrial stages), any questions of law or criminal procedure shall be addressed to the District attorney. Questions on law-enforcement procedures shall be addressed to the Chief of Police.
- C. The District attorney may advise the Chief of Police of any cases where a decision was made not to prosecute or where the case was dismissed because of mishandling or error by an officer.

## **X. DISPOSITION OF CASES**

- A. The officer or investigator shall maintain files of all cases assigned to him or her. All case files shall be appropriately labeled with the date of incident, name of victim, or name of suspect or arrested person. The file shall contain the original incident report, any supplementary reports, statements, photographs, lab reports, reports of disposition of any property stolen, confiscated, recovered, or otherwise pertinent to the case, arrest reports, and anything else the investigator deems pertinent.

- B. When the investigation is complete, the investigator shall close the case under (and include in the file a statement giving) one of the following labels:
1. Cleared - An arrest has been made in this case.
  2. Exceptional Clearance - The identity and address or exact location of the culprit is known and sufficient evidence to obtain a warrant exists. However, due to some reason outside the control of the police, no arrest will be made. Examples: Complainant will not prosecute; District attorney will not prosecute; perpetrator is dead; subject arrested by another jurisdiction and no charges will be placed by the department.
  3. Unfounded - The offense did not really occur in the first place, although at the time of the original report, it was believed to have occurred. If the investigation has exhausted all leads, yet the possibility remains that new facts may come to light given future inquiry, the case shall remain open.
  4. Inactive- All leads have been exhausted. No further investigation is possible or practical until new leads develop.
- C. The officer's or investigator's supervisor shall approve the case closure.