

# Truro Police Department

## CRIMINAL INVESTIGATION

*Policy Number: OPS-6.02*

*REFERENCE: TPDM Policy OPS-6.02.1*

*Effective Date: June 1, 2000*

*Revised Date: October 20, 2004*

*Accreditation Standards:*

*Mass. Gen. Law: Chap. 90, Sec.22B, MRCP 14(a)(1)(A)(viii)*

*Other: Comm. v. DiGiambattista, District Attorney's Guidelines on Identification Procedures*

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### **POLICY:**

It shall be the policy of the Truro Police Department to conduct criminal investigations for the purpose of clearing crimes by arrest and/or complaint; to prosecute lawbreakers; and to recover stolen property.

Whenever members of this department conduct an investigation, which requires the interrogation of a suspect, or an interview, connected therewith, all constitutional and statutory rights guaranteed under the law shall be afforded to the individual.

The Truro Police Department will ensure that there is a screening of all reported offenses to assure adequate follow-up investigation whenever appropriate.

Whenever possible, the District Attorney's Guidelines on Identification Procedures with attached forms and checklists will be used when dealing with photo line ups, arrays, show ups and taped interrogations and identifications. *(Revised October 20, 2004)*

### **PROCEDURES:**

- 1. UNIFORM PATROLMEN CONDUCT PRELIMINARY INVESTIGATIONS:** Most preliminary investigations will be conducted by members of the patrol force since they are usually the first to arrive at the scene and can start the investigation without delay. Patrolmen should pursue the initial investigation at the scene until such time that it seems unlikely to produce additional benefits.

It may frequently be possible and desirable for patrolmen to conduct limited follow-up investigations of some crimes. Many times the name of a perpetrator may be known and an interrogation, while the incident is still fresh and before evidence of a crime can be destroyed, may be advantageous. Minor larcenies and assaults, and other misdemeanors not requiring specialized expertise, are examples of crimes that may be followed up by preliminary investigating officers.

**A. GUIDELINES FOR CONDUCTING PRELIMINARY INVESTIGATIONS:**

All officers assigned to conduct a preliminary investigation shall make every effort to obtain as much information as possible during this stage of the investigation. It will frequently be possible to bring an investigation to a satisfactory conclusion at this point, thus obviating the need for a follow-up investigation.

The first officer assigned to a *preliminary* investigation shall:

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|-------------------------------------------------------------|----------|
| 1. Ascertain if the suspect is still in area and armed;     | <b>A</b> |
| 2. Proceed to the scene promptly and safely;                | <b>P</b> |
| 3. Render assistance to the injured;                        | <b>R</b> |
| 4. Effect the arrest of the criminal;                       | <b>E</b> |
| 5. Locate and identify witnesses;                           | <b>L</b> |
| 6. Interview the complainant and witness;                   | <b>I</b> |
| 7. Maintain crime scene and protect the evidence;           | <b>M</b> |
| 8. Interrogate the suspect;                                 | <b>I</b> |
| 9. Note all conditions, events, and remarks;                | <b>N</b> |
| 10. Arrange for the collection of evidence;                 | <b>A</b> |
| 11. Report the incident fully and accurately;               | <b>R</b> |
| 12. Yield the responsibility to the follow-up investigator. | <b>Y</b> |

**B. CRIMINAL INVESTIGATION PROCEDURES:** Whenever practicable, members of the department shall follow the below listed procedures when investigating a crime committed, or an incident which has taken place requiring police action:

- 1. INFORMATION DEVELOPMENT:** The primary purpose of a preliminary or follow-up criminal investigation is to identify and arrest the offender, when appropriate and consistent with law. This is usually accomplished by the gathering of information. Information may be obtained from physical evidence as well as from people or testimonial evidence. Both sources should be used. An investigating officer should always conduct an investigation within the bounds of the law and with all due respect to the persons and the property with whom he comes in contact.

Investigating officers shall maintain a notebook and, at a minimum, take the following information:

- a. Time of assignment/arrival;
- b. Weather conditions, when pertinent to the investigation;
- c. Approximate time of crime, and by whom and when it was discovered;
- d. Identity of other officers present;
- e. Name, address, telephone numbers of the victim(s) and/or witnesses;
- f. Hour, date, and location of the interview;
- g. Description of the suspect, particularly unusual characteristics;

- h.** Brief statements as to what a witness saw or heard;
  - i.** Important measurements and a crime scene sketch, when warranted;
  - j.** List of property and valuables taken or destroyed, if known;
  - k.** Any other information the officer believes may be useful in apprehending the criminal.
  
- 2. MAJOR CRIME OCCURRENCES:** Patrolmen responding to a major crime occurrence shall immediately notify the shift commander, who shall notify the Police Chief, or his designee, and notify necessary investigative personnel.
  
- 3. SUDDEN DEATH OR HOMICIDE:** In cases of suspicious sudden death or homicide, the shift commander shall notify the Chief of Police, the Office of the District Attorney, and the Office of the Medical Examiner. The C.P.A.C Unit will also be advised. In some instances a family member may request a member of the clergy or a particular funeral home. Every effort should be made to accommodate this request.
  
- 4. RAPE AND SEX-RELATED CRIMES:** In cases of rape and sex-related crimes, the shift commander shall notify the State Police Rape Unit for assistance

## **2. CASE MANAGEMENT AND CONTROLS:**

- A. ASSIGNING OF CASE INVESTIGATIONS:** When assigning case investigations to personnel, the Chief of Police will consider any specialized skill, knowledge, or ability that may be needed in the investigation of such case, and assign the case to the appropriate investigator. Such specialized skills may include, but are not limited to: fingerprint technology, photography, rape and sexual abuse investigation, juvenile offenders, check and credit card fraud, and crime scene forensics.
  
- B. CASE STATUS:** The sergeant in charge of the case management function shall supervise the status of case assignments, utilizing the administrative designations appearing on all Investigative Reports.
  - 1.** Open: Shall indicate that the case is assigned to a detective and that investigative efforts are active.
  
  - 2.** Suspended: Shall indicate that all available leads have been exhausted but the case has not been brought to a satisfactory conclusion and investigative efforts may be resumed.
  
  - 3.** Closed: Shall indicate the case has been satisfactorily concluded.

**C. CRITERIA FOR SUSPENDING INVESTIGATIVE EFFORTS:** A designation of suspended shall not be made without an evaluation by the case officer of the following:

- 1.** Absence of further leads or solvability factors.
- 2.** Unavailability of investigative resources.
- 3.** Negative interviews with victims/witnesses.
- 4.** Inconclusive physical evidence found at the scene of the crime/incident.
- 5.** The exhaustion of all other information sources.
- 6.** The degree of seriousness of the offense/incident.

**D. CRIME VICTIM NOTIFICATION OF STATUS:** It shall be the responsibility of the assigned investigator to personally notify the victim of a crime of any changes in the status of a case. An official notification shall be made in person, by mail, or by telephone. The notification to the victim shall be made whenever the case changes from OPEN to SUSPENDED or CLOSED. Adequate explanation of the reason for the change shall be made to the victim by the assigned investigator. The investigator making the victim contact shall note this on his report.

**E. CASE FILE MAINTENANCE:** All investigative case files shall be maintained in the case file drawer, located in the records room, unless the case is designated confidential, sensitive. Cases may be removed from the case file drawer by the case officer, by department prosecutors, or by other personnel for any legitimate purpose. The assigned incident number shall be the case number assigned to the file at the time it is originated. The case file shall contain, but not be limited to, copies of preliminary investigation reports; statements of victims/witnesses and perpetrators; examination results; photos; status reports; all other records needed for investigative purposes. **These files shall not be made public.**

Confidential cases involving rape and sexual assaults shall be maintained in a separate limited access file cabinet. This file cabinet shall be kept locked at all times when not in actual use and access to the keys shall be limited to rape investigation officers. All other cases, when closed or suspended, shall be periodically consolidated into the central records system.

**F. CASE-SCREENING SYSTEM/SOLVABILITY FACTORS:** Cases to be followed up will be determined by the Chief of Police, or his designee, who shall base such determination on factors such as past experience and research of our own department, as well as degree of seriousness and solvability factors.

**G. CASE FILES TYPES AND PURGE PROCESS:**

1. **Case Files:** Case files will be maintained in the case file drawer cabinet, located in the records room. Cases will be filed in the Truro Police Department Archives, or consolidated into the central records system. The files destruction shall be conducted under the direction of the Chief of Police, the Administrative Assistant, and in accordance with all applicable Mass. Gen. Laws.

- 3. FOLLOW-UP INVESTIGATIONS:** Follow-up investigations are usually the result of the report review process. The criteria used to determine if a follow-up investigation will be conducted includes, but is not limited to, the nature and seriousness of the offense, solvability factors, and the availability of department resources.

Renewable resources, such as photographic supplies, fingerprint equipment, videotapes, and other equipment and supplies, may be used during the course of the investigation at the discretion of the individual investigator.

- A. PRINCIPAL INVESTIGATOR:** The first officer at the scene of any crime or incident is the Principal Investigator/Case Officer. This may be changed by the Chief of Police, especially at the follow up stage.

- B. GUIDELINES FOR CONDUCTING FOLLOW-UP INVESTIGATIONS:** The following listed procedures should be used as a guide when conducting complicated investigations. Investigators shall conduct as thorough an investigation as possible, including as many of the following steps as appropriate, although all of the steps may not be necessary in every investigation:

- 1.** Review and analyze all previous reports prepared in the preliminary phase;
- 2.** Conduct additional interviews with victims, witnesses, reporting parties, and preliminary investigating officers, if necessary;
- 3.** Conduct interrogations of all suspects;
- 4.** Review departmental records for incidents of a similar nature for the purpose of developing a suspect;
- 5.** Review results from laboratory examinations;
- 6.** Seek additional information from informants, or from officers from this and neighboring police agencies;
- 7.** Plan, organize, and conduct crime scene searches for the purposes of gathering additional physical evidence;
- 8.** Check criminal records of potential suspects;

- 9.** Identify and apprehend suspects;
- 10.** Interview apprehended suspects in order to determine involvement in, and clearance of, other crimes;
- 11.** Arrange for dissemination of pertinent information obtained to other components and agencies, as appropriate;
- 12.** Assist department prosecutors and/or Assistant District Attorneys in preparing cases for court presentation;
- 13.** Assist in prosecution of cases in District or Superior Court.

**C. FIELD REPORT/INVESTIGATIVE CHECKLIST:** To ensure that critical factors are not overlooked, an investigative checklist listing the above steps will be available for the investigator.

**D. SECOND CONTACT/VICTIMS, WITNESSES, COMPLAINANTS:** Investigators shall maintain a policy of a "second contact" with principals involved in a case requiring a follow-up investigation whenever possible. The contact should be timely to ensure the building of public confidence in the department, as well as indicating a genuine concern about the welfare of the victim and others involved in the case. This procedure may result in the receipt of information leading to the clearance in a case.

**E. INVESTIGATIVE TASK FORCES:** Whenever it is necessary to form a task force to deal with a particular crime, type of crime, or series of incidents, a memorandum shall be issued explaining the activities of the task force.

The memorandum will identify: the purpose of the unit; the commanding officer; its responsibility and authority; personnel and resources to be assigned; a starting and ending date; and the requirement that the commanding officer of the task force submit a report to the at the conclusion of the assignment evaluating its results and giving recommendations.

These procedures will apply for multi-jurisdiction task forces as well.

An exception to this procedure shall be whenever the assignment of personnel to a task force is of a confidential nature.

**F. BACKGROUND INVESTIGATIONS:** Background investigations may be used for either criminal investigations or licensing purposes. Investigations of this nature shall be conducted discretely and with special precautions.

The use of information and the purging of records shall be the responsibility of the Chief of Police, unless the background check was made as a result of the request of another licensing agency, i.e: Firearms, Traffic, Patrol Division, etc.

The use of information obtained shall be limited to legitimate law enforcement functions, and shall only be disseminated on a need-to-know basis within the department. Approval for dissemination of background investigation information to an agency outside the police department shall be obtained from the Chief of Police, or his designee. Upon conclusion of an investigation, only that information specific to a criminal case shall be kept, and such information will be maintained in a secure fashion.

#### **4. INTERVIEWS/INTERROGATIONS:**

- A. INTERROGATIONS:** All officers shall strictly adhere to the policy of the department prior to any interrogation of suspects. Miranda warnings shall be given in an unhurried manner to assure that the suspect has heard and understood what constitutional and statutory rights he or she is entitled to. Miranda warnings shall be read from an approved Miranda Card or from a Truro Police Department Miranda Form. A suspect who requests the aid or presence of an attorney shall not be questioned until the attorney is present, regardless of when the request is made. A suspect's right to summon, meet with, or speak to his attorney shall not be delayed or denied.

It should be remembered that a waiver of Miranda warnings may be suppressed because of language understanding difficulties, youthful age of the suspect, mental condition, drug or alcohol consumption by the suspect, wounds, shock or other medical impairment, and the lack of a clear, understanding, intelligent, and competent waiver.

No coercion, threats, or promises shall be used under any condition to obtain a confession, statement, or admission from any individual.

Voluntary statements may be taken by the officer after a valid waiver of Miranda warnings, or whenever a voluntary statement is made when the Miranda warnings are not a prerequisite for admissibility in court.

When a suspect voluntarily makes a statement, officers do not have to prevent him from continuing to talk. Voluntary statements:

- 1.** Are those not made in response to questioning by an officer;
- 2.** Are statements made by a suspect of his or her own free will;

May be taken after a suspect is in custody and before or after actual interrogation, so long as the statements are clearly voluntary.

- B. INTERVIEW TECHNIQUES:** To promote the success of the interview, the investigator should remember that peculiar characteristics of witnesses may affect their statements (for example: hysteria, belligerence, evasiveness, age, etc.), and that

the officer's own demeanor - the use of tact, patience, reassurance, etc. - is very important. When conducting an interview or an interrogation, officers shall do so in an area in which distractions are limited or eliminated. Officers shall utilize the conference room whenever practical. The following minimum standards for interviewing will be maintained:

- a. Questions should be simple and in plain language.
- b. Only one question at a time should be asked.
- c. Avoid questions that imply an answer.
- d. Avoid sarcasm, rudeness, or antagonism.
- e. Avoid interruptions.

**C. TECHNICAL AIDS FOR THE DETECTION OF DECEPTION:** Technical aids for the detection of deception may be used in an investigation if appropriate. The Truro Police Department will seek assistance from other law enforcement agencies who have detection of deception devices, and investigators trained and certified for operation of such devices as necessary. No unauthorized personnel shall be allowed to use such technical aids for investigations.

**D. INTERVIEWING WITNESSES:**

- 1.** Witnesses should be interviewed as soon as possible after the incident under investigation.
  - a. An officer should not hesitate to instruct a witness to remain at the scene until interviewed.
  - b. It is important at the onset to obtain the names, addresses, and telephone numbers of all persons present. This will ensure that they can be located during any follow-up investigation. Record the place, time, and date of the interview.
  - c. As soon as possible, witnesses should be separated to ensure independent statements.
  - d. It should be carefully noted that eyewitness identification is not considered the most reliable form of evidence and will be closely scrutinized by the court. Mistaken identifications are not uncommon occurrences.
    - 1.** Eyewitness identifications must be made under strict legal requirements and must avoid any suggestiveness by the police on impressionable witnesses.
    - 2.** An officer interviewing a victim or witness should immediately identify himself or show his credentials if he is not in uniform.



- 3.** Considerations should be given to the physical and emotional needs of witnesses.
  - e.** Calm the excited and emotionally upset witness (if necessary, delay the interview until the witness has regained composure).
  - f.** Create a favorable atmosphere for the witness to talk freely.
  - g.** Conduct the interview in a quiet area, if available.
  - h.** Maintain privacy to the greatest degree possible.
  - i.** Do not distract the witness or interrupt his story unnecessarily.
  - j.** Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.
- 2.** The immediate objective of the interviewing officer should be to establish a cooperative relationship. To this objective, an officer should:
  - a.** Display a sincere interest;
  - b.** Be patient and tactful;
  - c.** Be respectful;
  - d.** Control personal feelings;
  - e.** Provide reassurance; and
  - f.** Encourage an un-talkative witness by asking appropriate questions.
- 3.** Encourage witnesses to give a full description of everything that occurred with a minimum of interruption.
  - a.** At times it may be necessary to ask a question or to make a brief comment in order to keep a witness talking or to keep the interview confined to the subject under investigation.
  - b.** When the conversation lags or stops, be patient and wait for the witness to volunteer additional information.
  - c.** Do not take anything for granted and do not jump to conclusions.

- d. Listen for and note any obvious omissions or gaps in the statements made by a witness, or for any conflicting or inconsistent statements.
  - e. Note any extreme nervousness or unusual behavior on the part of a witness, or for any unguarded or spontaneous remarks made by a witness.
  - f. Do not exhibit surprise or dismay at anything said by a witness.
- 4.** Withhold any direct questioning until after the witnesses have given a complete account; then ask specific questions to clarify earlier statements or to fill in any omissions.
- a. Questions should be clear, definite, and in plain language.
  - b. Ask only one question at a time, and wait for a complete reply.
  - c. Avoid leading questions that imply or suggest a particular answer.
  - d. Avoid rapid-fire questions that can confuse or bewilder the witness.
  - e. Avoid questions that can be answered by "yes" or "no," which limit response.
  - f. Do not ask questions in a critical or derisive manner which could deter previously cooperative witnesses.
  - g. Do not correct the grammar or the language of the witness, which could cause resentment.
  - h. Do not permit your own emotions, attitude, or opinions to distract the witnesses or to interfere with your evaluation of their response to your questions.
- 5.** It is important to not only listen to what is said but also to know how it is said. Emotional outbursts and inflections of the voice may give a clue to sensitive areas of the interview. Sudden silence, uncertainty or confusion, or the shifting of conversation to an unrelated subject may indicate that information is being withheld. Nervous bodily reaction or facial characteristics may also signal a sensitive area has been reached. Noting these things, an officer will know what portions of the statements may require further probing or clarification.

- 6.** Interviews should be ended in a courteous manner. Do not terminate the interview abruptly or dismiss the witness in a curt manner. This helps to assure further cooperation, particularly if the witnesses may be needed to testify at a later date.
  - a.** Summarize what has been covered. Ask the witnesses if there is anything he wishes to add or emphasize.
  - b.** Thank him for his cooperation.
  - c.** Impress upon him the value of his service.
  - d.** Inform the witness that it is very important to contact police if the witness recalls or uncovers additional information about the crime or criminal at a later time.
  - e.** Inform the victim or witness of the phone number and location of any victim/witness assistance program or similar programs available.
  - f.** Where appropriate, inform the victim or witness of the phone number and location of the District Attorney's Office, especially if the victim or witness has questions of a legal nature.
  - g.** Where appropriate, inform the witness that it is a criminal offense for anyone to threaten or intimidate the witness into altering or changing his testimony or not to testify. If anyone attempts to do so, the witness should be told to contact the police immediately.

#### **E. REPORT WRITING:**

- 1.** Notes should be taken, but this should be accomplished in a manner that does not interrupt the interviewing process. Some witnesses are reluctant to talk if they notice that the officer is taking down every word that they say. Brief notes can be made without deterring or distracting witnesses. However, if a statement appears highly informative due to its nature and content, a verbatim account should be recorded. If possible, have a witness sign these statements. Signatures should also be dated, and the time and place of the statement should be noted.
- 2.** All information obtained from witnesses should be passed on to the follow-up investigator.
- 3.** All pertinent data should be included in the officer's official report and submitted in accordance with departmental practice and procedures.

- 4.** If a tape recorder is available and it is advisable to do so, officers may tape-record an interview with a witness. However, before any oral or telephone interview with any witness is tape-recorded, the witness must be told that the conversation will be recorded and his consent elicited. If any legal or other questions arise pertaining to the tape-recording of an interview with a witness, consult with the District Attorney's Office. The existence of any tape-recorded interview shall be noted in the officer's report, and the prosecutor handling the case should be promptly notified.
- 5. COURT PROSECUTION:** The ultimate goal when an investigation is conducted is to identify, arrest, or bring into court by means of a complaint, and assist in the successful prosecution of, the offender in a court of law.

All suspects who are arrested by members of this department shall be arraigned as soon as is reasonably possible following arrest.

- A. COURT DISMISSALS:** In the event that any action is dismissed in court, or the District Attorney declines to prosecute because of alleged mishandling by a Truro Police Officer, the Chief of Police shall review the case and take immediate corrective action by personally speaking to the officer involved. If the Chief of Police is satisfied that the officer understands his error and that it will not be repeated, this action will be sufficient. If not, then a formal review by the Internal Affairs Officer will be conducted.
- B. HABITUAL/SERIOUS OFFENDERS:** In order to be more effective and efficient in the prosecution of habitual and serious offenders, the Police Prosecutor will use the following criteria:

**DEFINITION OF HABITUAL OFFENDER:** For the purpose of this procedure, a habitual offender shall be defined as anyone twice convicted of a crime and sentenced and committed to prison, in this or another state, or once in this state and once in another state, for terms of not less than three years each, and does not show that he has been pardoned for either crime on the grounds that he was innocent, shall, upon conviction of a felony, be considered a habitual offender.

- 1.** Those individuals charged with will be identified and designated as habitual or serious offenders.

  - a.** Crimes of violence;
  - b.** Serious repeat offenders;
  - c.** Crimes posing the greatest threat to the public;
  - d.** Motor vehicle offenses that pose a threat to the public, and fall under Mass. Gen. Law, Chap. 90, Sec. 22F;
- 2.** It will be the responsibility of all officers to inform the Police Prosecutor if they know or have reason to believe an individual is a habitual offender. It will especially be the responsibility of the Police Prosecutor to check with

the probation department on the status of the offender and take appropriate action, such as obtaining complaints and/or having citations written that are warranted, and notifying the District Attorney of the offender's status.