



2-64 IDENTIFICATION, INTERVIEWING, AND DETENTION OF WITNESSES TO CRIME

2-64-1 Policy

Department policy is to investigate misdemeanor and felony criminal activity while balancing public safety concerns and the intrusiveness of the detention of witnesses. Department personnel will assure compliance with all constitutional requirements during criminal investigations including adherence to lawful and reasonable searches and seizures.

Officers are permitted to detain individuals briefly to identify witnesses to the crime they are investigating, to obtain the names and addresses of such witnesses, and to determine if the witness is willing to speak voluntarily with officers or investigators. Officers are not permitted to hold, detain, or arrest any witness who refuses to provide their name or address. The Fourth Amendment reasonableness standard governs the detention of witnesses. The detention of witnesses must be brief in scope.

Officers may briefly detain witnesses in the interest of public or officer safety and to maintain the officer's control over a crime scene. The length of the detention must be reasonable. To determine reasonableness, the officer shall consider the importance of the witness to the investigation and whether the detention is minimally invasive to the witness' Constitutional right to liberty. The specific facts of each investigation determine the length of detention. The courts have determined that a detention of a witness for 90 minutes is unreasonable. A detention shorter in duration may be unreasonable based on the facts of the case.

2-64-2 Definitions

A. Witness

For this policy, the term "witness" shall be defined as any individual who sees, hears or otherwise has information relevant to the investigation, such as audio or visual recordings, of a criminal act or major event. Further, this term shall only apply to individuals for whom there is no reasonable suspicion or probable cause to believe these individuals are committing a crime.

B. Detention of Witnesses

The detention of witnesses is a seizure within the meaning of the Fourth Amendment. The officer will limit this type of brief stop to that which interferes only minimally with liberty.

C. Forceful Methods

May be used during an investigative detention, short of arrest, only when such methods are necessary for officer protection or protection of the public. The use of firearms, handcuffs, and other forceful techniques generally exceed the scope of an investigative detention and enter into the realm of an arrest.



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2-64-3 Procedures

The following procedures shall be followed during the identification and interviewing of witnesses:

A. Identification of Witnesses

1. Officers arriving at the scene of a crime or major event should make every effort to locate and identify individuals who may be witnesses in addition to the efforts made to locate and identify possible suspects.
2. Officers should also identify the type of information the witness may provide such as:
 - a. Video or photographic evidence
 - b. Eyewitness account
 - c. Information regarding a suspect's identity, location, or relevant background information

B. Interviewing of Witnesses

1. Officers coming into contact with witnesses shall:
 - a. Conduct a preliminary interview to determine if an individual has information pertinent to the investigation of the crime.
 - b. Utilize the Crime Scene Canvass & Witness Information Form, including asking witnesses if they will consent to the investigative detention, i.e., they are willing and able to remain on scene to provide information to investigators.
 - c. Request witnesses who express a willingness to remain at the scene not to discuss the incident with other witnesses, media or other citizens, including using their mobile communication devices to discuss the incident. Officers shall not seize the mobile communication devices from witnesses without probable cause.
 - d. Request a supervisor to assign an officer to act as a liaison for these witnesses. The officer shall allow witnesses to access food, water, restrooms, and a telephone if at all possible and provide updates to witnesses as they become available.
 - i. Officers and investigators may request the Mobile Community Substation to respond to provide a comfortable place where witnesses may wait.
 - ii. In the event, there is a large number of witnesses, officers, and investigators may request a secondary Mobile Community Substation or will make an effort to secure a location for witnesses to wait for investigators if they so choose.



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- e. Request witnesses who do not wish to remain on scene to provide a written or recorded statement before leaving. Permit witnesses who do not wish to fill out the form or do not wish to make a statement to leave.
 - f. Provide investigators with all Major Crime Canvass & Witness Information Forms immediately upon investigators arrival at the scene.
2. Investigators shall make every attempt, as soon as possible, to accommodate witnesses who need to leave a scene before being interviewed. This will include making arrangements for an interview at a later time, date, different location, and ensuring access to bathrooms, food, water and a telephone.
 - a. Investigators shall make every effort to interview witnesses as soon as possible, giving priority to witnesses who have waited but need to leave as soon as possible.
 3. Witnesses who do not wish to give a statement and/or fill out a Witness Information Form shall be allowed to leave, however, officers shall ask for identification information as well as contact information, to include:
 - a. Name, date of birth, address, phone number, email address
 4. Officers shall advise witnesses they are under no obligation to provide this information, and individuals declining to provide this information will be allowed to leave without further questioning.
- C. Interactions with Witnesses
1. Individuals who have been positively identified as being solely witnesses shall not be patted down, handcuffed or otherwise physically detained unless such methods are necessary for officer protection or protection of the public based on particularized facts to believe the person is dangerous. Such methods shall cease immediately when the need for such methods ends. Physical detention includes:
 - a. Placed in a police car, absent consent;
 - b. Placed in a holding cell;
 - c. Physically prevented from leaving the officer's presence; or
 - d. Prevented from leaving through threats, intimidation or other coercive acts.
 2. Officers may prevent witnesses or others from entering a crime scene that is secured or may remove witnesses from within a secure crime scene perimeter as this does not constitute a detention in and of itself.
 3. Officers may transport witnesses to a substation or another location only upon their express consent. They may withdraw this consent at any time.



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4. There can be no detention of a witness in his or her home absent consent and witnesses can withdraw their consent at any time. Upon withdrawal of consent, officers must immediately leave the premises.
- D. No part of this policy shall exclude officers from detaining individuals found on the premises where a valid search and or arrest warrant is being served.