2-68 INTERVIEWS AND INTERROGATIONS

Related SOP(s):

2-8 Use of On-Body Recording Devices
2-22 Juvenile Delinquency
2-60 Preliminary and Follow Up Criminal Investigations
2-82 Restraints and Transportation of Individuals

2-68-1 Purpose

The purpose of this policy is to provide procedures to personnel who are completing interviews and interrogations.

2-68-2 Policy

It is the policy of the Department to ensure interviews and interrogations are conducted in accordance with New Mexico State Law.

2-68-3 Definitions

A. Detention of Witnesses

The detention of witnesses is a seizure as defined by the Fourth Amendment of the U.S. Constitution. This detention should be a reasonable stop which interferes minimally with the liberty of the individual.

B. Witness

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. There is no reasonable suspicion or probable cause to believe these individuals are committing a crime.

2-68-4 Rules and Procedures

A. Officers/Detectives conducting interviews of witnesses shall:

1. Conduct a preliminary interview to determine if an individual has information pertinent to the investigation of the crime.

2. Ask witnesses if they are willing and able to remain on scene to provide information to investigators.

3. Attempt to obtain a written or recorded statement from witnesses who do not wish to remain on scene.
4. If witnesses refuse to give a statement, officers/detectives shall use the Crime Scene Canvass and Witness Information Form and complete the following:

   a. Use a separate form for each person contacted and each location that contact is not made;
   b. Ensure that witness’ signature is completed;
   c. Document in their report who they contacted and where; and
   d. Provide detectives with all Crime Scene Canvass & Witness Information Forms immediately upon detectives’ arrival at the scene.

5. Ask 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.

   a. Officers shall not seize the mobile communication devices from witnesses without probable cause.

6. Detectives shall make every attempt, as soon as possible, to accommodate witnesses who need to leave a scene before being interviewed.

7. Physical Detention of Witnesses

   a. Unless articulable facts that the individual is dangerous exists, officers shall not pat down, handcuff, or otherwise physically detain individuals who have been identified as witnesses.
   b. 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.
   c. Officers may transport witnesses to a substation or another location only upon their express consent. They may withdraw this consent at any time.
   d. Officers shall not detain witnesses within their own home without the consent of the witness. The witness may withdraw their consent at any time.

B. On Scene Supervisor

   1. Shall 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.

   2. May request the Mobile Community Substation to respond to provide a comfortable place where witnesses may wait.

      a. In the event there is a large number of witnesses, officers and detectives may request a secondary Mobile Community Substation or will make an effort to secure a location for witnesses to wait for detectives if they so choose.
C. Custodial Interviews and Interrogations

1. Department personnel will:
   
   a. Electronically record (audio/video) all custodial interrogations in their entirety;
      i. If the location of the interview has video capability the interview must be
         video recorded;
      ii. In the event the location does not have video recording capability, the officer
          will use their on-body recording device to record the interview and or
          interrogations;
      iii. In the event that there is no audio or video recording capabilities, officers will
          notify their supervisor;
      iv. Supervisors shall ensure the officer is provided with an appropriate location
          equipped with appropriate recording devices.
   b. Include the advice of constitutional rights, per Miranda, on the recording;
   c. Tag the recorded interview into evidence; and
   d. Document in the report that the interview was electronically recorded.
      i. The reason for not recording the interview will be documented in the officer's
         report.

D. General Security Concerns

1. The interview rooms shall be located in secured areas.

2. All arrestees/prisoners shall be searched prior to being brought into the interview
   room.

3. Only one (1) arrestee/prisoner at a time should be in the interview room. All
   arrestees/prisoners will be handcuffed prior to entry of the interview room.
   Handcuffs may be removed at the discretion of the officer/investigator detective
   conducting the interview.

4. While an officer is conducting an interview or interrogation, a second officer should
   be present in the room or monitoring. If the interviewer needs assistance, they shall
   verbally and/or physically summon the officer monitoring the interview, or utilize the
   “emergency” key on their police radio.

E. Weapons Control

1. Officers may remove their firearm when conducting interviews in a secure location.

F. Interviews and/or Interrogations at Hospitals

1. Officers/Detectives shall not interfere with medical treatment and, when feasible,
   should be conducted during normal visiting hours.
2. If the individual is being treated in a limited access area (e.g. ICU/CCU), arrangements will be made with the attending physician.