



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-68 (Formerly 2-23)

Effective: 09/06/2023 Review: 09/06/2024 Replaces: 11/18/2020

2-68 INTERVIEWS AND INTERROGATIONS

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

[2-8 Use of On-Body Recording Devices \(Formerly 1-39\)](#)
[2-22 Juvenile Delinquency \(Formerly 2-34\)](#)
[2-60 Preliminary and Follow-Up Investigations \(Formerly 2-24\)](#)
[2-65 Language Access Procedure](#)
[2-71 Search and Seizure Without a Warrant \(Formerly 2-17\)](#)

B. Form(s)

[PD 1339 Interview: Advise of Rights Your Constitutional Right](#)
[PD 1385 Crime Scene Canvass and Witness Information Form](#)

C. Other Resource(s)

NMSA 1978, § 29-1-16 Electronic Recordings of Custodial Interrogations

D. Rescinded Special Order(s)

None

2-68-1 Purpose

The purpose of this policy is to provide procedures for Albuquerque Police Department (Department) personnel when completing interviews and interrogations.

2-68-2 Policy

It is the policy of the Department to ensure Department personnel conduct interviews and interrogations of the individuals or witnesses in accordance with federal and state laws and respecting their constitutional rights.

N/A

2-68-3 Definitions

A. Custodial Interrogation

In-custody questioning of an individual by law enforcement in connection with a criminal investigation.

B. Detention of Witness

A request by a law enforcement officer for a person to be interviewed as a witness as defined by the Fourth Amendment of the United States Constitution. The officer's



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detainment of a witness should be reasonable with minimal intrusion of the person's constitutional rights.

C. Exigent Circumstances

An emergency situation(s) requiring action to prevent imminent danger to life, to forestall the imminent escape of an individual, or the destruction of evidence.

D. Interview

A non-accusatory question and answer session with a victim, witness, or an individual suspected of committing a crime. The goal of the interview is to gather information and make an assessment of each individual's credibility.

E. Interrogation

Formal and systematic questioning to elicit a statement from an individual suspected of committing a crime. And that an investigator believes that they have information that is pertinent to the investigation.

F. Limited English Proficient (LEP) Persons

Designated persons whose primary language is not English and who have a limited ability to read, speak, or understand English. LEP persons may be competent in certain types of communication, e.g., speaking or understanding, but still be LEP for other purposes, e.g., reading or writing. Similarly, LEP designations are content-specific: a person may possess sufficient English language skills to function in one setting, but these skills may be insufficient in other situations.

G. *Miranda* Warnings

Warnings that are required whenever any person is being subjected to custodial interrogation, based on *Miranda v. Arizona*. These warnings must clearly inform the person being questioned.

H. Witness

For the purpose of this policy, any person who sees, hears, or otherwise has information relevant to an 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 persons are committing a crime.



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6 2-68-4 **Procedures**

A. Sworn personnel conducting interviews of witnesses shall:

N/A

1. Wear and activate their on-body recording device (OBRD), consistent with SOP Use of On-Body Recording Devices (refer to SOP Use of On-Body Recording Devices for sanction classifications and additional duties);
2. Conduct a preliminary interview to determine if a witness has information pertinent to the investigation of a crime;
3. Ask witnesses if they are willing and able to remain on-scene to provide further information to investigators;
 - a. Sworn personnel shall attempt to obtain a written or recorded statement and contact information from witnesses who do not wish to remain on the scene.
4. Ask witnesses who are willing to remain at the scene not to discuss the incident with other witnesses, media, or other community members, to include not using their personal communication devices to discuss the incident;
 - a. Sworn personnel shall not seize communication devices from witnesses without probable cause and under exigent circumstances.
5. As soon as possible, make every attempt to accommodate witnesses who need to leave a scene before being interviewed;
6. Use a separate Crime Scene Canvass and Witness Information form for each witness contacted;
7. Use a separate Crime Scene Canvass and Witness Information form for each location when they are unable to make contact;
8. If the witness refuses to give a statement, document the attempt in their Uniform Incident Report or Supplemental Report and attempt to obtain the witnesses signature on the Crime Scene Canvass and Witness Information form; and
9. Provide the investigator with all Crime Scene Canvass and Witness Information forms prior to leaving the scene; and document whom they contacted and the location where this contact took place in their Uniform Incident Report or Supplemental Report.

5 B. Physical Detention of Witnesses

1. Sworn personnel shall not detain witnesses unless they have reasonable suspicion that the individual is involved in criminal activity.



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2. Sworn personnel shall not pat down a witness unless there are reasonable articulable facts that the individual is armed and dangerous.
3. Sworn personnel shall prevent witnesses from entering a crime scene that has been secured or shall remove witnesses from within a secured crime scene perimeter.
4. Sworn personnel shall transport witnesses to a police facility or another location only with their voluntary consent.

C. The on-scene supervisor:

1. Shall assign an officer to act as a liaison for the witnesses; and
 - a. The liaison officer shall allow witnesses to access food, water, restrooms, and a telephone, if possible, and shall 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. Sworn personnel may request a secondary Mobile Community Substation in the event there is a large number of witnesses.
 - b. Sworn personnel shall attempt to secure a location for the witnesses while they wait for investigators.

N/A

N/A

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D. Custodial Interviews and Interrogations

1. Sworn personnel shall:

- a. When interviewing or interrogating juveniles, ensure the child is advised of their constitutional rights and secure a knowing, intelligent, and voluntary waiver as outlined in SOP Juvenile Delinquency. (Refer to SOP Juvenile Delinquency for sanction classifications and additional duties);
- b. When interviewing a Limited English Proficient (LEP) individual seek language interpretation assistance as outlined in SOP Language Access Procedure. (Ref to SOP Language Access Procedure for sanction classifications and additional duties);
- c. Electronically record (audio/video) all custodial interrogations in their entirety;
 - i. If the location of the interview has video capability, sworn personnel shall record the interview with the location's recording equipment and their OBRD.
 - ii. In the event the location does not have video recording capabilities, the officer shall use their OBRD to record the interview and/or interrogation.
 1. Department personnel shall notify their supervisor if there are no audio or video recording capabilities.

N/A

N/A



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2. Supervisors shall ensure the officer has an appropriate location equipped with recording devices.
 - d. Give *Miranda* warnings to the individual before any custodial interrogation;
 - i. Department personnel shall document the administration of the *Miranda* warning in the Interview: Advise of Rights Your Constitutional Right form;
 - e. Tag the recorded interview into evidence; and
 - f. Document in their Uniform Incident Report or Supplemental Report that the interview was electronically recorded.
- E. Sworn personnel shall give the individual their *Miranda* warnings when they are subject to a formal arrest or restrained from freedom of movement, and when an officer asks questions of an individual that are reasonably likely to lead to an incriminating response.
- F. General Security Concerns
1. Sworn personnel shall:
 - a. Conduct interrogations in a secured area;
 - b. Search all individuals before bringing them into the interview room;
 - c. Detain only one (1) individual in the interview room at a time;
 - d. Handcuff all in-custody individuals before entering the interview room;
 - i. The investigator has the discretion to remove the handcuffs during the interview.
 - e. While conducting an interview or interrogation, ensure a second officer is in the room or monitoring the interview.
 - i. If the investigator needs assistance, they shall verbally and/or physically request the officer monitoring the interview or use the emergency key on their police radio.

N/A G. Weapons Control

Sworn personnel may remove their firearm when conducting interrogations in a secured location.

H. Interviews and/or Interrogations at Medical Facilities

1. Sworn personnel shall not interfere with medical treatment and, when feasible, shall conduct interviews or interrogations during regular visiting hours.
2. Sworn personnel shall arrange with the attending physician for the interview if the individual is being treated in a limited access area, such as an Intensive Care Unit (ICU)/Critical Care Unit (CCU).