

# INTERVIEWING VICTIMS AND WITNESSES

POLICY & PROCEDURE NO. <b>3.06</b>	ISSUE DATE: <b>July 27, 2015</b>
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MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED:	REVISION DATE: _____

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The interviewing of a victim or witness is a vital part of the criminal investigation procedure. It can lead directly to the identification, subsequent apprehension and conviction of the guilty offender. It is the task of a police officer to convince witnesses of the need for their testimony by appealing to their sense of civic responsibility and to their duty as a citizen to ensure that the purposes of justice are effectively achieved.

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. Eyewitness identifications must be made under strict legal requirements and must avoid any suggestiveness by the police on impressionable witnesses. (See department policy on ***Eyewitness Identification.***)

Officers conducting the initial investigation and interviews should be aware that some criminals remain at the scene. If the officer begins to suspect that a person who claims to be only a witness or even a victim may actually be the perpetrator, the officer should be cautious in conducting any questioning. If the suspect is placed in custody, further

questioning must be preceded by administration of the Miranda warnings. See department policies on ***Interrogating Suspects and Arrestees*** and ***Stop and Frisk and Threshold Inquiries*** [1.2.3(a)]

## II. POLICY

A. It is the policy of this department that:

1. Officers shall attempt to identify and interview all witnesses and victims of crimes, and
2. Officers shall obtain as complete and accurate a record of the witness or victim's statement as possible.

## III. PROCEDURE

A. **Conducting Interviews** [42.2.1(b); 42.2.2(d)]

1. Immediately identify yourself or show your credentials (badge or identification) if not in uniform.
2. Interview witnesses and victims as soon as possible after the incident under investigation.
3. Interview each witness/victim separately, if possible, to ensure independent statements.
4. Record the date, time and location of each interview.
5. Obtain an interpreter if needed.
6. Establish a cooperative relationship with the witness/victim.
7. Consider the physical and emotional state of the witness/victim.
8. Obtain a full description of the incident.
9. Take notes or tape record the interview.
  - a. If notes are taken, it should be accomplished in a manner that does not interrupt the interviewing process. Some interviewees are reluctant to talk if

they notice that the officer is taking down every word they say. Brief notes can be made without deterring or distracting the interviewee. However, if a statement appears highly informative due to its nature and content, a verbatim account should be made.

- b. Before any interview is tape recorded, the interviewee must be told that the conversation will be recorded. G.L. ch. 272, s. 99. If any legal or other questions arise pertaining to the tape recording of an interview, consult with the District Attorney's office.
- 10. Ask specific questions to clarify the statement or to fill in any omissions.
  - a. Observe and note any emotional outbursts, inflections of the voice and nervous reactions which may indicate areas requiring further probing or clarification.
  - b. Assess each interviewee's objectivity or possible bias.
  - c. Note any relationship or connection the witness might have with the victim or perpetrator or the property or premises involved in the crime; the overall credibility of the witness/victim; his/her opportunity to make observations; and his/her ability to recall details as opposed to general impressions, etc.
- 11. Obtain a written statement from the witness/victim, if possible.

## **B. Interviews at the Scene**

- 1. Witnesses/victims shall be instructed to remain at the scene until interviewed.
- 2. Obtain the names, addresses and telephone numbers of all persons present at the scene.
- 3. Witnesses/victims shall be separated, if possible, to prevent them from discussing what has occurred among themselves before they are interviewed, which may taint individual recollections.

4. Paper may be given to each person so that they may begin writing their descriptions of the incident before their interview.

### C. **Interviews at Other Locations**

1. *At Station:* A separate area to interview victims/witnesses should be arranged to ensure privacy and a minimum of interruptions.
2. *Telephone:* Officers are discouraged from conducting telephone interviews.

### D. **Terminating the Interview**

1. Interviews shall be ended in a courteous manner. Do not terminate the interview abruptly or dismiss the witness or victim in a curt manner. This helps to assure further cooperation, particularly if the witness or victim may be needed to testify at a later date.
  - a. Summarize what has been covered. Ask the witness or victim if there is anything they wish to add or emphasize.
  - b. Any written statements shall be signed and dated by the witness and the investigating officer for authentication purposes. The time and place of the statement shall be noted.
  - c. Inform the witness or victim that it is very important to contact the police if [s]he recalls or uncovers additional information about the crime or the criminal at a later time.
  - d. Provide information about victim and witness assistance. (See department policy on ***Victim/Witness Assistance***.)
  - e. Where appropriate, inform the victim or witness of the phone number and location of the District Attorney's Victim/Witness Assistance office, especially if the victim or witness has questions of a legal nature.

- f. Inform the witness that it is a criminal offense for anyone to threaten or intimidate the witness into altering or changing their testimony or to not testify. G.L. ch. 268, s. 13B. If anyone attempts to do so, the witness should be told to contact the police immediately.
2. Thank the witness or victim for his/her cooperation and impress upon him/her the value of his/her services.

#### **E. Report Writing**

1. All information obtained from witnesses shall be passed on to the follow-up investigator, if any.
2. All pertinent data, including notes, tapes, and written statements shall be included in the officer's official report and submitted in accordance with departmental practice and procedures.

### **IV. INTERVIEW TECHNIQUES**

#### **A. Use of Interpreters**

1. Before using any person at the scene as an interpreter, make sure that person chosen to serve as interpreter is reliable.
2. If possible, take the precaution of asking a second person who knows the foreign language to listen to the interpreter and notify the officer if the interpreter fails to translate any question or answer accurately and completely.

#### **B. Consider Physical and Emotional Needs of Witnesses/Victims.**

1. Calm the excited and emotionally upset witness or victim. (If necessary, delay the interview until the person has regained composure).
2. Create a favorable atmosphere for the witness or victim to talk freely.
3. Conduct the interview in a quiet area, if available.

4. Maintain privacy to the greatest degree possible.
5. Do not distract the interviewee or interrupt his/her story unnecessarily.
6. Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.

**C. Establish Cooperative Relationship**

1. Display a sincere interest.
2. Be patient, tactful and respectful.
3. Control personal feelings. Do not exhibit surprise or dismay at anything said by a witness or victim.
4. Provide reassurance.
5. Encourage an untalkative interviewee by asking appropriate questions.
6. Encourage witnesses/victims to give a full description of everything that occurred with a minimum of interruption. When the conversation lags or stops, be patient and wait for the interviewee to volunteer additional information.

**D. Conducting the Interview**

1. Do not take anything for granted and do not jump to conclusions.
2. Listen for and note any obvious omissions or gaps in the statements made by a witness or victim, or for any conflicting or inconsistent statements.
3. Note any extreme nervousness or unusual behavior on the part of a witness or victim or any unguarded or spontaneous remarks.
4. It is important to not only listen to what is said, but also to 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 that a sensitive area has been reached. By noting these things, an officer will know what portions of the statement may require further probing or clarification.

#### **E. Questioning Victims/Witnesses**

1. Withhold any direct questioning until after the witness or victim has 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.
  - 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 or victims.
  - g. Do not correct the grammar or the language of the witness or victim, which could cause resentment.
  - h. Do not permit your own emotions, attitudes or opinions to distract the witness or victim or to interfere with your evaluation of his/her response to your questions.

