



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Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):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

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D. Rescinded Special Order(s)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 in accordance with the federal and state laws.

N/A 2-68-3 Definitions

A. Custodial Interrogation

Questioning of a detained individual by law enforcement in connection with a criminal investigation. An individual is not only detained when under arrest but also whenever they are not free to leave.

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 detainment of a witness should be reasonable, and interferes minimally with the person's constitutional rights.

C. Exigent Circumstances



An emergency situation(s) requiring swift action to prevent imminent danger to life, to forestall the immediate 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 that an investigator believes they have information that is pertinent to the investigation.

F. 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.

7 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 using their 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 their attempt to obtain the witnesses signature on the Crime Scene Canvass and Witness Information form;
9. Provide the investigator with all Crime Scene Canvass and Witness Information forms prior to leaving the scene; and
10. Document who they contacted and where in their Uniform Incident Report or Supplemental Report.

5 B. Physical Detention of Witnesses

1. Sworn personnel shall not pat down a witness unless there are articulable facts that the individual is both armed and dangerous.
2. Sworn personnel shall not detain witnesses unless they have reasonable suspicion that the individual is involved in criminal activity.
3. Sworn personnel shall not detain witnesses within their own homes without the witness's consent.

N/A

- a. A witness may withdraw their consent at any time.

N/A

4. Sworn personnel may prevent witnesses or others from entering a crime scene that has been secured or may remove witnesses from within a secured crime scene perimeter because this does not constitute a detention of a witness.

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5. Sworn personnel shall only transport witnesses to a substation or another location with their consent.

N/A

- a. A witness may withdraw this consent at any time.

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.



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N/A

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

N/A

- 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.

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D. Custodial Interviews and Interrogations

1. Sworn personnel shall:

- a. 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.
 2. Supervisors shall ensure the officer has an appropriate location equipped with recording devices.
- b. 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;
- c. Tag the recorded interview into evidence; and
- d. 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).

REDLINED



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~~

~~2-60 Preliminary and Follow Up Criminal Investigations~~

~~2-82 Restraints and Transportation of Individuals~~

B. Form(s)

PD 1339 Interview: Advise of Constitutional Rights Your Constitutional Right

PD 1385 Crime Scene Canvass and Witness Information Form

C. Other Resource(s)

~~N.M. Stat. Ann. MSA 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 ~~to~~ for Albuquerque Police Department (Department) personnel who ~~are~~ en completing interviews and interrogations.

2-68-2 Policy

It is the policy of the Department to ensure Department personnel conduct interviews and interrogations ~~are conducted~~ in accordance with the federal and state ~~constitutions and~~ laws.

N/A

2-68-3 Definitions

A. Custodial Interrogation

Questioning of a detained individual by law enforcement in connection with a criminal investigation. An individual is not only detained when under arrest, but also whenever they are not free to leave. (Placeholder)

~~Miranda warnings are required when an individual is subject to a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest; and when an officer asks questions of an individual that are reasonably likely to lead to an incriminating response.~~



B. Detention of Witnesses

A request by a law enforcement officer for a person to be interviewed as a witness ~~The detention of witnesses is a seizure as defined by the the Fourth Amendment of the U.S. United States Constitution. The officer's detainment of a witness~~ This detention should be a reasonable stop, and which interferes minimally with the person's constitutional rights ~~liberty of the individual person.~~

C. Exigent Circumstances

An Emergency situation(s) requiring immediate swift action to prevent imminent danger to life, serious damage to property, to forestall the immediate escape of an suspect 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, victim, or witness. 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 illicit a statement from an individual suspected of committing a crime that an investigator believes they have information that is pertinent to the investigation.

D.F. Witness

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

7 2-68-4 Rules and Procedures

A. ~~Officers/detectives~~ 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 an individual witness has information pertinent to the investigation of the crime;



3. Ask witnesses if they are willing and able to remain on-scene to provide further information to investigators;
4. a. Sworn personnel shall ~~a~~ attempt to obtain a written or recorded statement and contact information from witnesses who do not wish to remain on the scene.
- ~~5.~~4. Ask witnesses, who ~~express a~~ are willing ~~ness~~ to remain at the scene, not to discuss the incident with other witnesses, media, or other ~~citizens~~ community members, to include using their ~~mobile~~ communication devices to discuss the incident;
 - a. ~~Officers~~ Sworn personnel shall not seize ~~the mobile~~ communication devices from witnesses without probable cause and under exigent circumstances.
- ~~6.~~5. As soon as possible, Detectives shall mMake every attempt, ~~as soon as possible,~~ to accommodate witnesses who need to leave a scene before being interviewed; ~~and~~
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;
- ~~7. Use the Crime Scene Canvass and Witness Information Form to document the following: If the witnesses refuses to give a statement, document their attempt to obtain the witnesses signature on the Crime Scene Canvass and Witness Information form; officers/detectives/sworn personnel shall use the Crime Scene Canvass and Witness Information Form and complete and document the following:~~
 - ~~Use a separate form for each person witness contacted;~~
 - ~~a. and each location that contact is not made;~~
 - ~~b. Attempt to obtain the witness's signature on the form;~~
 - ~~c.~~8. Document in their Uniform Incident rReport or Supplemental Report who they contacted and where; and~~Use a separate form for each location when they are unable to make contact is not made; and~~
9. Provide the investigator with all Crime Scene Canvass and Witness Information ~~f~~Forms prior to leaving ~~at the~~ the scene; ~~and~~
- ~~Document who they contacted and where in their Uniform Incident Report or Supplemental Report.~~
- 10.



~~8.~~ Physical Detention of Witnesses

B.

~~a.1. Sworn personnel shall not pat down an individual a witness unless there are articulable facts that the individual individual person is both armed and dangerous. officers shall not pat down an individual.~~

~~b.2. Officers Sworn personnel shall not detain individuals witnesses unless they have a reasonable suspicion that the individual person is involved in criminal activity.~~

~~3. Officers Sworn personnel shall not detain witnesses within their own homes without the consent of the witness witness's consent.~~

N/A

~~a. A The witness Witnesses may withdraw their consent at any time.~~

N/A

~~e.4. Officers Sworn personnel may prevent witnesses or others from entering a crime scene that has been secured or may remove witnesses from within a secured crime scene perimeter, because as this does not constitute a a detention of a witness in and of itself.~~

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~~5. Officers Sworn personnel shall only may transport witnesses to a substation or another location only upon their express consent with their consent from the witnesses.~~

N/A

~~d. A witness They may withdraw this consent at any time.~~

~~e. Officers shall not detain witnesses within their own home without the consent of the witness. The witness may withdraw their consent at any time.~~

~~a.~~

~~B.~~ The On-Scene Supervisor:

C.

1. Shall assign an officer to act as a liaison for these witnesses; and

~~1. The liaison officer shall allow witnesses to access food, water, restrooms, and a telephone, if at all possible, and shall provide updates to witnesses as they become available.~~

~~a.~~

N/A

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

N/A

~~a. Sworn personnel may request a secondary Mobile Community Substation, in the event there is a large number of witnesses.~~

~~a.b. Sworn personnel, officers and detectives may request a secondary Mobile Community Substation or shall make an effort attempt to secure a~~



location for the witnesses while they to wait for investigators ~~detectives~~ if they se
~~choose.~~

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C.D. Custodial Interviews and Interrogations

1. ~~Department~~ Sworn personnel shall:

- a. Electronically record (audio/video) all custodial interrogations in their entirety;
 - i. If the location of the interview has video capability, officers sworn personnel shall record the interview with the location's recording equipment, as well as their and their OBRD.
~~—~~In the event the location does not have video recording capabilities, the officer shall use their OBRD to record the interview and/or interrogations.
 - ii.
 - 1. Department personnel shall notify their supervisor ~~it 1. In the event that if there are is no audio or video recording capabilities, officers sworn personnel shall notify their supervisor.~~
 - 2. ~~2.~~ Supervisors shall ensure the officer is provided with has an appropriate location that has been equipped with appropriate recording devices.
- b. Give *Miranda* warnings to the individual prior to before any custodial interrogation;
 - ~~b.i.~~ Department personnel shall document the Administration of the *Miranda* warning should shall be memorialized documented in the Form Interview: Advise of Rights Your Constitutional Right Advise of Constitutional Rights form;
- c. Tag the recorded interview into evidence; and
- d. Document in their ~~report~~ Uniform Incident Report or Supplemental Report that the interview was electronically recorded.

~~—~~ Sworn personnel shall give the individual their *Miranda* warnings when they are subject to required when an individual is subject to a formal arrest or restrained from on freedom of movement, movement of the degree associated with a formal arrest and when an officer asks questions of an individual that are reasonably likely to lead to an incriminating response.

~~E.~~

~~D.F.~~ General Security Concerns

1. Sworn personnel shall:

- a. Conduct interrogations in a secured area;
- ~~2.~~ Search All arrestees/prisoners in custody individuals shall be searched prior to before bringing them being brought into the interview room;
- b.



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~~Sworn personnel shall Detain~~ Only one (1) ~~arrestee/prisoner in custody individual~~ at a time ~~should be~~ in the interview room at a time.

~~C.~~

~~Sworn personnel shall Handcuff~~ All ~~arrestees/prisoners in custody individuals~~ shall be handcuffed prior to before ~~entering~~ entering of the interview room.

~~d.~~

~~5. The investigator has the discretion to remove the~~ Handcuffs during the interview ~~may be removed at the discretion of the officer/investigator detective conducting the interview.~~

~~i.~~

~~While an officer is sworn personnel conducting~~ ing an interview or interrogation, ensure a second officer ~~should~~ shall be ~~is~~ present in the room or monitoring the interview.

~~e.~~

~~6. If the investigator~~ viewer needs assistance, they shall verbally and/or physically ~~summon~~ request the officer monitoring the interview, or ~~utilize~~ use the "emergency" key on their police radio.

~~i.~~

N/A ~~F.G.~~ Weapons Control

~~4. Officers~~ Sworn personnel may remove their firearm when conducting ~~interviews interrogations~~ in a secured location.

~~F.H.~~ Interviews and/or Interrogations at Medical Facilities ~~Hospitals~~

1. ~~Officers/Detectives~~ Sworn personnel shall not interfere with medical treatment and, when feasible, ~~should~~ shall conduct interviews or interrogations ~~be conducted~~ during ~~normal~~ regular visiting hours.

2. Sworn personnel shall ~~make arrangement~~ arrange with the attending physician for the interview ~~if~~ the individual is being treated in a limited access area, ~~(e.g., such as an Intensive Care Unit (ICU)/Critical Care Unit (CCU),~~ arrangements shall be made with the attending physician.