



## **2-68 INTERVIEWS AND INTERROGATIONS**

### **Related SOP(s):**

2-60 Preliminary and Follow-Up Criminal Investigations

2-82 Restraint 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. 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.

#### B. Detention of Witnesses

The detention of witnesses is a seizure within the meaning of the Fourth Amendment. This detention should be a reasonable stop which interferes minimally with the liberty of the individual.

### **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.

~~1.~~2. Ask witnesses if they are willing and able to remain on scene to provide information to investigators.

~~2.~~3. Attempt to obtain a written or recorded statement from witnesses who do not wish to remain on scene.



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PROCEDURAL ORDERS

SOP 2-68

OPA Draft

4. If witnesses refuse to give statement, officers/detectives shall use the Crime Scene Canvass and Witness Information form and complete the following:
  - a. ~~Utilize~~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.
  
- ~~3.6.~~ Detectives shall make every attempt, as soon as possible, to accommodate witnesses who need to leave a scene before being interviewed.
  
- ~~4.7.~~ Physical Detention of Witnesses
  - a. Officers shall not pat down, handcuff, or otherwise physically detain individuals who have been identified as witnesses, unless articulable facts that the individual is dangerous exists.
  - 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.
  - e-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.

B.C. Custodial Interviews/ and Interrogations

1. Department personnel will:

a. Electronically record all audio and/or video of custodial interrogations in their entirety:-

~~b. Interrogations conducted in a police facility shall be recorded in a method that includes audio and video, or both methods if available.~~

b. Include the advice of constitutional rights, per Miranda, on the recording:-

c. Tag the recorded interview into evidence; and-

~~d.~~ Document in the ~~offense/incident or supplemental~~ report that the interview was electronically recorded:-

~~e.d.~~

~~i.~~ The reason for not recording the interview will be documented in the officer's report. ~~Exceptions for not recording an interview are listed below:~~

~~ii.~~ ~~The recording equipment failed prior to completion of the interview.~~

~~iii.i.~~ ~~The individual refuses to be recorded.~~

C.D. General Security Concerns

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

2. ~~To provide proper security, a~~ 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 may be present in the room or monitoring. If the interviewer needs assistance, ~~he/she~~ they shall verbally and/or physically summon the officer monitoring the interview, or utilize the "emergency" key on their police radio.

D.E. Weapons Control

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

~~The use of these rooms is restricted to sworn personnel.~~



~~The responsibility for the safety and security of persons brought into the interview room remains with the original officer unless an investigator or supervisor relieves them/him.~~

~~It will be the sole discretion of the officer/investigator, and in certain cases a supervisor, whether or not he/she maintains their authorized department weapon on their person while in the interview room. Should the officer/investigator elect to remove the weapon, it shall be properly secured.~~

#### ~~1. Interview Room General Guidelines~~

- ~~a. Items in the interview rooms should be limited to a table and enough chairs to accommodate the individuals in the room. Any other items brought into the room shall be at the discretion of the officer/investigator conducting the interview.~~
  - ~~b. The number of people present while conducting an interview/interrogation should be kept to a minimum. Typically, this should be no more than two officers/investigators and the person being interviewed. Special circumstances may require a parent, guardian, or legal representative. Ultimately, it will be up to the primary officer/investigator detective on a case-by-case basis to make up the decision as to who may be present.~~
  - ~~c. All individuals are afforded an opportunity to address their personal needs during an interview/interrogation. It will be at the officer/investigator's detective's discretion when a break is conducted. All individuals being interviewed who wish to utilize the facilities (restrooms, water, etc.) shall be escorted by an officer/investigator detective at all times within any secured area of the building.~~
  - ~~d. Prior to usage of the interview room, officers/investigators Detectives shall search the room for weapons and/or contraband that may pose a threat to not only the officer/interviewer detective but also the subject being interviewed.~~
- ~~— Once the interview has been completed, the officer/investigator detective will again search the room prior to exiting.~~

#### 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 (ICU/CCU) arrangements will be made with the attending physician.