



Department of State Police

General Order

Effective Date: July 22, 2022	Number: INV-01
Subject: Criminal Investigations	

Policy

Investigations shall be conducted and documented on all matters of a criminal nature that fall within the jurisdiction of the Department.

Criminal Investigation

All members assigned to investigate a crime and/or criminal activity shall:

- Be responsible for the thorough and methodical investigation of assigned cases;
- Continue the investigation until the case is:
 - Solved or otherwise closed, or
 - Until it appears that further investigation would be of no significant value;
- Comply with applicable Constitutional requirements, Department policies and current case law when conducting criminal investigations that may include, but not be limited to:
 - Interviews, including field interviews;
 - Interrogations; and
 - Confessions/Admissions.
- Ensure specifically that applicable rights including, but not limited to, Miranda, access to counsel and the six-hour safe-harbor rule, are applied when required in accordance with established case law. The investigator shall explain these rights to the suspect as required by the investigation and documented by the investigator as applicable;
 - With regard to Miranda, ensure that interviews and interrogations conducted by members include the administration to subjects/suspects of Miranda rights in accordance with established case law, document the administration of the rights and, when practicable, utilize the SP-124 Miranda Rights Warning & Waiver form. Note: Miranda rights administration is required for custodial interrogations;
- Understand and apply the provisions of *Commonwealth v. Hipolito Rosario*, 422 Mass. 48 (1996), regarding the six-hour safe-harbor rule as they relate to the right to arraignment without delay and custodial interrogations, including but not limited to:
 - Statements shall be taken from a defendant within six hours of arrest, or at any time if the defendant makes an informed and voluntary written or recorded waiver of their right to be arraigned without unreasonable delay;
 - The period of safe harbor questioning commences on arrest and concludes six hours later without regard to when court is in session, except:
 1. If the defendant is incapacitated upon arrest because of a self-induced disability (e.g., consumption of drugs), the six-hour period commences only when the disability terminates; or

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Criminal Investigation,
continued

2. If interrogation during the six-hour period is not possible or must be suspended for reasons not attributable to the police, such as a natural disaster or emergency, the six-hour period should be tolled appropriately.
 - It is most important to recognize that, but for the exceptions just noted, the period of safe-harbor questioning commences on arrest and concludes six hours later without regard to when court is in session.
 - Immediately inform a detainee of an attorney's attempt to reach them and immediately relay the attorney's message to them, including, when applicable, a message advising them not to talk to investigators. An entry into the DAJ or investigative record shall document the name of the member receiving the call, the name of the calling counsel including their Board of Bar Overseers (BBO) number and the name of the member delivering the message. (Commonwealth v. McNulty, 458 Mass. 305 (2010)); and
 - Comply with the requirements of the member's Division in processing subjects arrested with/without a warrant to include a written report for all subjects arrested.

Arrests With/Without Warrant

Members conducting an arrest based upon a warrant shall ensure:

- Confirmation of the warrant prior to arrest in accordance with DET-01 Warrant Management;
- Notification to the detainee of the arrest charge(s);
- Notification to the barracks of jurisdiction of arrest;
- Documentation of the arrest in the DAJ or ACISS to include the assignment of an incident/case number;
- Transport to the barracks, local police department, or court of jurisdiction;
- Provision of a true copy of the warrant to a detainee who requests a copy within six (6) hours;
- Processing of the arrest in accordance with Department policy;
- Completion of a written incident report documenting the arrest; and
- The recalling of the warrant in accordance with established CJIS procedures as applicable.

Members conducting an arrest without a warrant shall ensure:

- Probable cause for arrest is established prior to custody;
- The detainee is advised of the arrest charge(s);
- Notification to the barracks of jurisdiction of arrest;
- Documentation of the arrest in the DAJ or ACISS to include the assignment of an incident/case number;
- Transport to the barracks, local police department, or court of jurisdiction;
- The processing of the arrest in accordance with Department policy; and
- Completion of a written incident report documenting the arrest.

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Alternatives to Arrest

Alternatives to arrest may include citations, summonses, informal resolution, warnings or referral to other agencies. Discretion to arrest or not to arrest may be guided by a totality of the circumstances articulable by the member exercising an arrest alternative. Enforcement of criminal and/or civil law shall be guided by Department policy and applicable M.G.L.

- Circumstances where alternatives to arrest may be appropriate include, but are not limited to:
 - Arrest may aggravate community conflict or precipitate serious disorder;
 - Urgent public emergency or more serious crime necessitating immediate resource allocation/response;
 - Minor offenses where a lesser discretionary method may provide enforcement and documentation of incident(s); and
 - Medical emergencies.

Search & Seizure

Search and seizure of persons/places/objects without a warrant shall be guided by Department policy, Constitutional law and current case law. This may include, but not be limited to:

- Search by consent;
- Stop and frisk of person(s);
- Motor vehicle search;
- Crime scene(s);
- Exigent circumstances;
- Inventory searches of persons/vehicles/property; and
- Other situations authorized by state and federal constitutional provisions, including but not limited to;
 - Abandoned property;
 - Open field doctrine;
 - Plain view; and
 - Search incident to arrest.

Division of Investigative Services / Division of Homeland Security and Preparedness

The Division of Investigative Services (DIS) and the Division of Homeland Security and Preparedness (DHS) shall investigate crime and/or criminal activity as determined by the Colonel/Superintendent, District Attorney or Attorney General and in accordance with their section/unit standard operating procedure (SOP).

Cases Involving Human Death

The District Attorney, upon notification of a death, directs and controls the criminal investigation, in conjunction with the law enforcement agency of jurisdiction. (Massachusetts General Laws c.38 § 4)

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Criminal Investigations by Division of Field Services Members

Members assigned to the Division of Field Services may initiate criminal investigations, if warranted, in situations where criminal activity is occurring.

Members, or their supervisors, shall immediately notify through prescribed channels, the appropriate DIS section/unit or DHS section/unit when:

- Circumstances existing at the scene of the incident/offense require the application of specialized investigative techniques; and/or
- When the demands placed upon the responding member clearly exceed the scope of their investigative authority or abilities.

The Troop Duty Officer may notify the on-call member of each DIS/DHS section/unit for immediate assistance utilizing the on-call schedule which shall be posted to the State Police Document Management System prior to the start of each month by each section/unit commander.

Preliminary Investigations Division of Field Services

In cases where DFS members encounter a situation that necessitates some form of investigation, members may conduct a preliminary investigation concerning those offenses referred to or within the jurisdiction of the Department.

Preliminary investigations may include:

- Determining if a crime has been committed;
- Interviewing the complainant and witnesses;
- Arresting a suspect;
- Protecting the crime scene; and
- Performing other duties necessary to build a solid foundation for follow-up investigators.

Criminal Investigations

The first member arriving at a crime scene shall:

- Make scene safety the first priority;
- Initiate medical services if needed;
- Secure and preserve the integrity of the crime scene;
- Conduct a preliminary investigation:
 - Ensuring that evidence is not lost, destroyed, or altered in such a manner as to eliminate its probative value pending the arrival of crime scene/evidence technicians;
 - Do not move or touch physical evidence unless absolutely necessary, to ensure its preservation; and
 - If physical evidence is moved, a notation shall be made of its exact location and position at the scene.
- Relinquish their responsibility only when directed by a supervisor or to the designated DIS/DHS investigator assigned to conduct the criminal investigation.

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Criminal Investigations,
continued

Every effort shall be made to locate, identify and interview reliable witnesses. Witnesses shall be interviewed:

- As soon as possible and in a quiet environment, where practicable; and
- Separately to ensure independent statements.

If the perpetrator/suspect(s) has left the scene, pertinent information shall be broadcast, as soon as is practicable, utilizing all means necessary.

The member(s) conducting the preliminary investigation should not rely solely on their memory, but should make field notes of all pertinent information. These notes may be subject to discovery in any criminal or civil matter, and may be subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10.

At a minimum, the following information should be recorded:

- Date and time of arrival at scene;
- Weather conditions and visibility;
- Exact location, to include addresses, distance measurements, and/or latitude/longitude when possible;
- Approximate time of the commission of the crime, when it was discovered, and by whom;
- Identity, if possible, or obtain the best available description of the criminal suspect(s);
- Description of any vehicle(s) used by suspect(s);
- Information concerning any physical evidence discovered;
- Name, address of complainant, victim and/or witnesses;
- Identity of other law enforcement officers or civilians present;
- Results of any interviews conducted and statements taken from complainant, victim and/or witnesses; and
- Any other information which may be useful in the apprehension of the perpetrator(s) and subsequent prosecution.

The member conducting the investigation shall complete a written report of the incident.

Follow-up Investigative Steps

If necessary, at a minimum, investigating officers should consider the following step(s) in order to bring the criminal investigation to a close:

- Reviewing and analyzing all previous reports prepared in the preliminary phase, departmental records, and results from laboratory examinations;
- Conducting additional interviews and interrogations;
- Seeking additional information (from other law enforcement officers, informants, etc.);
- Planning, organizing, conducting searches, and collecting physical evidence;
- Conducting search warrants in accordance with applicable Department policy, M.G.L. and current applicable case law;
- Identifying and apprehending suspects;

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**Follow-up
Investigative
Steps, continued**

- Determining involvement of suspects in other crimes;
- Checking suspects' criminal histories; and
- Preparing cases for court presentation.

**Victim/Witness
Assistance**

The rights of victim(s)/witness(es) of crimes shall be guided by the Commonwealth's Bill of Rights which can be accessed at

<https://malegislature.gov/Laws/GeneralLaws/PartIII/TitleIV/Chapter258B>.

To the extent possible, the confidentiality of victims/witnesses and their role in case development, consistent with applicable law, shall be prioritized by investigating member(s).

Victim/Witness assistance is provided by the respective District Attorney Office of jurisdiction. Department members, when applicable, may notify victim(s)/witness(es) of arrest, charges, and detainee's custody status, and, on an as-needed basis, provide referral information to victim(s)/witness(es).

Additionally, the Department shall provide appropriate assistance to victims/witnesses who have been threatened or who, in the judgment of the Department, express specific, credible reasons for fearing intimidation or further victimization. This may include seeking guidance from and/or referral to the Victim/Witness advocate of the Attorney General's Office or the District Attorney's Office assigned to the case.

Most Victim/Witness services are provided by the Attorney General's Office or the District Attorney's Office. However, nothing prevents a member of the Department from providing victim/witness assistance during the preliminary investigation including:

- Providing referral information to the victim/witness about applicable services, e.g., medical attention and victim advocacy;
- Advising the victim/witness about what to do if the suspect or the suspect's companions or family threatens or otherwise intimidates them;
- Informing victims/witnesses about the case number and subsequent steps in the processing of the case;
- Providing a telephone number that the victim/witness may call to report additional information about the case or to receive information about the status of the case; and
- Providing notification to the victim/witness of the suspect(s) arrest, the charges, the suspect's custody status and changes thereto.

Victim/witness assistance may be provided by a member of the Department during the follow-up investigation including:

- Re-contacting the victim/witness periodically to determine whether needs are being met, if in the opinion of the agency, the impact of a crime on a victim/witness has been unusually severe and has triggered above-average need for victim/witness assistance;
- Explaining to victims/witnesses the procedures involved in the prosecution of their cases and their role in those procedures, if not an endangerment to the successful prosecution of the case;

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- Victim/Witness Assistance, continued**
- Scheduling line-ups, interviews, and other required appearances at the convenience of the victim/witness and, at the option of the agency, providing transportation, if feasible; and
 - Returning promptly victim/witness property taken as evidence (except for contraband, disputed property, and weapons used in the course of the crime), where permitted by law or rules of evidence if feasible.

Operation Plans, Documentation & Reports

All investigative activities, including actions taken, shall be documented in an investigative report or application for legal process. This includes, but is not limited to; surveillance, execution of search/arrest warrants, undercover and/or confidential informant purchases of illegal narcotics, decoy operations, or interviews, as well as information obtained as a result of said actions.

Operation plans for actions, including but not limited to, search/arrest warrant executions, undercover or confidential informant narcotics purchases, or decoy operations should be filed when practicable through the appropriate chain of command unless articulable, extenuating circumstances dictate otherwise. Supervisory notification of said activities shall be made in advance, or as soon as practicable, of said activities in situations prohibitive of filing a formal operations plan.

Surveillance operations involving multiple agencies or law enforcement members beyond the Department should be filed through the appropriate chain of command.

Investigating members are strongly encouraged to document their observations during the course of an investigation. All relevant facts and information shall be included in the investigative report.

All documented observations shall be preserved by the individual member and shall be made available upon request of a supervisor.

Vice/Narcotics/ Organized Crime

Information received related to vice/narcotics/organized crime activities shall be recorded according to the receiving Station/Section/Unit consistent with other reports of criminal activity. The SPDU of jurisdiction shall be notified of criminal activity of this nature that is beyond the scope of the receiving Station/Section/Units investigative capability.

Referral to MSP Station/Section/Units or outside agencies shall be documented in the Daily Administrative Journal or ACISS.

The Station/Section/Unit Commander of the investigating unit shall ensure case information of a sensitive or extraordinary nature is provided and/or available to the Division Commander and/or Colonel-Superintendent.

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**Designated
Rooms for
Interviews and
Interrogations**

- Firearms and Electronic Control Weapons (ECWs) shall not be carried on a member's person during interviews and interrogations, excluding field interviews;
- Care should be taken to ensure that the interview/interrogation room is secured and free of items or hazardous materials that may be utilized to aid the escape of a detainee;
- Equipment necessary to conduct the interview/interrogation should be available in the room prior to initiating the interview/interrogation;
- The minimum number of law enforcement personnel will be allowed in the interview/interrogation room and commensurate to the crime committed/investigated;
- Members utilizing said rooms shall have their portable radio on or other means of direct communication with the desk officer or another law enforcement member outside the room;
- Prior to the interview/interrogation, the room should be searched and cleared of any items that could be used as a weapon; and
- The individual being interviewed/interrogated should be provided access to restrooms, water, and/or comfort breaks as circumstances dictate.

References:

Commonwealth-vs-Hipolito Rosario, 422 Mass. 48 (1996);
Commonwealth v. McNulty, 458 Mass. 305 (2010);
Massachusetts General Laws c.38 § 4;
Massachusetts General Laws c. 66, § 10;
MPAC: 1.2.3, 1.2.4, 1.2.5, 1.2.6, 42.1.1, 42.1.4, 42.2.1, 42.2.2, 42.2.10, 43.1.1, 43.1.5, 55.1.1, 55.1.3, 55.2.1, 55.2.2, 55.2.3, 55.2.4, 55.2.5, 74.3.1, 83.2.6;
SP-124: Miranda Rights Warning & Waiver.

Promulgated By: **Christopher S. Mason, Colonel/Superintendent**