

	PALACIOS POLICE DEPARTMENT	
	Policy 7.40 Investigations	
	Effective Date: 1/04/2021	Replaces: 02/07/2006
	Approved:  Milton Rivera, Chief of Police	
	Reference: TBP: 7.04, 7.05, 7.09 and 7.10	

I. POLICY

The primary purpose of an investigation is to collect facts leading to the identification and arrest of an offender and to organize and present the facts so that the result is a successful prosecution. The single most important criterion determining a successful investigation is the correct obtaining and handling of information supplied by an investigation of the crime scene, and from the victim(s) or witness(es) immediately after the crime.

The department expects officers to treat investigating as a skill developed through training and experience, a skill that demands intelligence, logic, and discipline.

Not every preliminary investigation will result in the identification of a suspect, an arrest, or the recovery of property. Solving a crime is most often a result of careful analysis of the physical evidence left at the scene or information provided by victims and witnesses. Follow up investigations are often necessary.

Because resources are limited, the department must prioritize their use. The department will investigate those crimes that are the most serious in nature and those that have the highest likelihood of solution.

II. PURPOSE

The purpose of this policy is to establish guidelines for the general conduct of preliminary and follow-up investigations.

III. PROCEDURES: PRELIMINARY INVESTIGATIONS

A. General

The preliminary investigation begins when the first officer arrives at the scene of a crime or when a citizen requests help, and it continues until a specialized investigator arrives and assumes responsibility. Patrol officers are responsible for the preliminary offense report in all cases except those specifically directed by a supervisor.

B. Caution

Officers who first arrive at a possible crime scene must take care not to enter hastily. The crime scene may pose a threat to the officer: an armed suspect may still be at the scene, toxic chemicals or infectious materials may be present, or evidence may be destroyed if the officer enters. When practicable, officers shall first note the total environment of the scene including, for example, whether doors and windows are open or closed, lights on or off, presence of odors, and the condition and circumstances of the victim.

C. After forming an impression of the entire scene and ensuring that no threat exists, the officer shall proceed with the preliminary investigation, which consists of, but is not limited to, the following activities:

1. Providing aid to the injured.
2. Defining the boundaries of and protecting the crime scene to ensure that evidence is not lost or contaminated. It should be cordoned with tape or rope. Any alterations to the crime scene should be recorded. Alterations might be caused by emergency assistance activity, the immediate necessity to handle evidence or assist victims, or the actions of witnesses or suspects at the scene.
3. Determining if an offense has actually been committed and, if so, the exact nature of the offense.
4. Determining the identity of the suspect or suspects and making an arrest if it can be accomplished either at the scene or through immediate pursuit.
5. Furnishing other officers with information concerning wanted suspects or vehicles including descriptions, method, and direction of flight or any other relevant information.
6. Determining the identity of all witnesses.
7. Collecting evidence. Patrol will collect physical evidence to the limit of their ability and training. If the collection of evidence is beyond the capabilities or training of the officer, or is evidence in a serious crime, the patrol officer shall contact appropriate crime scene investigation officers.
8. Obtaining written statements from the victim, witnesses, and suspects.
9. Arranging for follow-up surveillance of the crime scene, if appropriate.
10. Accurately and completely recording all pertinent information on the prescribed report forms.

D. Follow-up

While the initial stages of all preliminary investigations shall be conducted by patrol officers, assuming they are the first responders, they will also conduct follow-up investigations in most misdemeanor crimes.

In certain serious crimes, as defined in Section IV below, investigators shall assume responsibility for completion of the investigation.

E. Supervisory responsibilities

1. The on-duty supervisor shall ensure that an adequate and complete preliminary investigation has been made, and shall review, screen, and approve the officer's preliminary report. Screening shall include a review of facts to ensure that all essential information is included and that the report is legible, clear, and complete. After the supervisor has reviewed, screened, and approved the report he/she will sign it.
2. Supervisors shall limit access to crime scenes to those persons immediately and directly connected with the investigation. Exceptions to this rule will not be made for other officers of the department, persons from other agencies, or members of the community, regardless of rank or position.
3. The supervisor shall authorize the call-out of a trained evidence technician or detective, if appropriate.
4. The supervisor may enlarge the preliminary crime scene if necessary by assigning officers to canvass the area for possible witnesses or suspects.

IV. ASSIGNMENT OF FOLLOW-UP INVESTIGATIONS

- A. All felony offenses, all sex crimes, all crimes involving juveniles as victims, and all domestic violence and hate crimes shall be followed up by an investigator. Officers who conduct preliminary investigations of these offenses shall contact CID as soon as practicable. The initial responding officer is responsible for completing the original offense report with all details of the preliminary investigation included in the report. If CID is unable to respond to the scene, the report will be forwarded to the investigator at the end of shift.
- B. All other offenses will be investigated by the responding officer unless otherwise directed by the on-duty supervisor. Responding officers who believe they cannot conduct a follow-up investigation (either because of lack of expertise, shift assignment, or any other reason) will contact their supervisor for direction.
- C. The supervisor and CID shall confer to determine follow-up responsibility.

V. PROCEDURES: FOLLOW-UP INVESTIGATIONS

- A. Occasionally, additional investigation will be required at the end of the tour of duty of the assigned officer. In these cases, the on-duty supervisor shall determine whether the investigation should be (1) discontinued until the assigned officer's next tour of duty, (2) assigned to the next available officer or to an investigator, or (3) overtime should be authorized.
- B. Except where the investigation might be jeopardized by its temporary discontinuance, the original assigned officer shall handle the case.
- C. A supplemental report must be prepared by each officer who works on the case, but not necessarily for each occasion that he/she works on it. A supplement recording the investigating officer's activity, the information developed, and case status shall be prepared at least every ten days and forwarded to the investigation's supervisor.

The officer or investigator shall maintain a case file to include the supplemental report.

- D. Officers and investigators conducting follow-up investigations shall continue the investigation of each criminal offense until it is brought to a conclusion or until there are no additional workable leads that would likely result in the identification of a suspect or recovery of property.
- E. If the officer's time is limited, follow-up of cases will be prioritized by seriousness of the crime and likelihood of identifying a suspect. Officers and investigators shall consult with their supervisors for additional assistance if cases with workable leads are not completed because of a shortage of personnel.
- F. Victims will be kept informed of the status of the case periodically and when the case is closed or suspended.
- G. Supervisors, both patrol and investigative, shall maintain a log of cases being worked by officers under their command. This log will be updated regularly when 10-day status supplements are received or when the case is closed or suspended. Officers, investigators, and supervisors will keep the Chief of Police informed of the status of significant criminal cases.
- H. A follow-up investigation consists of, but is not limited to, the following activities:
 - 1. For most non-criminal cases:
 - a. Interviewing complainants and witnesses.
 - b. Locating missing persons.
 - c. Determining if information or suspicious activity relates to criminal activity.
 - d. Distributing information to the proper persons or agencies.
 - e. Locating lost property and returning same to the owner.
 - f. Investigating deaths, overdoses, suicides, and injuries to determine if a crime was committed.
 - g. Making necessary notifications or conducting necessary inspections.
 - h. Recording information.
 - 2. For most criminal cases:
 - a. Reviewing and analyzing reports of preliminary investigations.
 - b. Recording information.
 - c. Reviewing departmental records for investigative leads.
 - d. Seeking additional information from other officers, informants, contacts in the community, and other investigators/agencies or any other likely source.
 - e. Interviewing victims and witnesses.
 - f. Interrogating suspects.
 - g. Monitoring social media sites of potential suspects, victims, and witnesses for information related to the case.
 - h. Monitoring posted comments to on-line news stories about an offense.
 - i. Arranging for the dissemination of information as appropriate.

- j. Planning, organizing, and conducting searches.
- k. Collecting physical evidence.
- l. Recovering stolen property.
- m. Arranging for the analysis and evaluation of evidence.
- n. Reviewing results from laboratory examinations.
- o. Identifying and apprehending the offender.
- p. Checking the suspect's criminal history.
- q. Consulting with the district attorney in preparing cases for court presentation and assisting in the prosecution.
- r. Notifying victims and witnesses when their presence is required in court.
- s. Testifying in court.
- t. Arranging for polygraph examinations, if necessary.

VI. REPORT WRITING

A. Field notes.

All formal reports begin with field notes. Field notes are important for the following reasons:

- 1. To create a permanent record of events.
- 2. To aid the investigation.
- 3. To ensure accurate testimony in court.
- 4. To protect the officer from false accusations.
- 5. Field notes are to be forwarded to records with the case tracking form.

B. Formal reports shall include the following information:

- 1. Date and time of arrival at the scene.
- 2. Relevant weather or situational conditions at the scene upon arrival (e.g., a fire, crowd).
- 3. Circumstances of how the crime was discovered and reported.
- 4. Identity of other officers or emergency personnel at the scene.
- 5. Physical evidence present at the scene and the officers responsible for its collection.
- 6. Names, addresses, telephone numbers of victims or witnesses.
- 7. Results of interviews with the complainant, victim, or witnesses to include the identity or description of suspects.
- 8. Diagrams, sketches, photographs, or videotape taken at the scene, and the identity of the photographer or artist.
- 9. Recommendations for further investigation.

VII. SOURCES OF INFORMATION

A. Informants

Information is available from many sources, e.g., members of the community who wish to remain anonymous, criminals who have firsthand knowledge of illegal activity, and relatives or friends of those involved in

crime. These sources shall be kept in mind when conducting investigations and interviews. Officers are cautioned to determine the motivation of people who provide information in order to evaluate it. For guidance on handling informants, consult Policy 7.43.

B. Interviews and interrogation

1. Field interviews

Field interviews are a productive tool and source of information for the department. They shall be used only in the pursuit of legitimate enforcement goals. When used properly they can discourage criminal activity, identify suspects, and add intelligence information to the files of known criminals.

2. Victim/witness interviews

- a. Officers must recognize the trauma/stress to which the victim or a witness has been subjected and shall conduct the interview in such a manner as to reduce stress.
- b. The age, physical limitations, and credibility of witnesses shall also be considered when evaluating their information.

C. Interrogation of suspects

1. Custodial statements and confessions.

- a. Miranda warnings are required and shall be administered prior to any custodial interrogation. Officers shall be familiar with the requirements in article 38.22 of the CCP.
- b. The following represent examples of situations that are not custodial and do not require issuance of Miranda warnings.
 - i. Investigatory stop and frisk or consensual encounters
 - ii. Questioning during a routine traffic stop (or detention) or for a minor violation, which includes driving while intoxicated (DWI) stops until a custodial interrogation begins. During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.
 - iii. During voluntary appearances at the police facility.
 - iv. When information or statements are made spontaneously, voluntarily, and without prompting by police. (Note: follow-up questions that exceed simple requests for clarification of initial statements may require Miranda warnings.)

2. Administering Miranda.

- a. Miranda warnings shall be read by officers from the card containing this information to all persons subjected to custodial interrogation.
 - b. Freelancing, recitation from memory, or paraphrasing the Miranda warnings is prohibited because it precludes officers from testifying in court as to the precise wording used.
 - c. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. Suspects may be interrogated only when they have knowingly and intelligently waived their rights. Threats, false promises, or coercion to induce suspect statements is prohibited.
 - d. The waiver of one or both of the Miranda rights must be performed affirmatively. Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the appropriate agency form.
 - e. Officers arresting deaf suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.
 - f. Officers arresting suspects who they believe may have limited English proficiency shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.
3. Invoking the Right to Silence
 - a. When a suspect invokes his/her right to remain silent, all interrogation shall terminate immediately.
 - b. Officers may interrogate a suspect who has previously invoked his right to silence if, after the passage of time, the suspect initiates communication with officers or fourteen (14) days have passed. However, prior to questioning Miranda warnings shall be re-administered and a waiver obtained.
4. Invoking the Right to Counsel
 - a. If a suspect waives his/her right to counsel, a written waiver shall be obtained prior to questioning. The interview shall be recorded by bodycam or another acceptable recording device. If a suspect makes reference to counsel but his/her intentions are unclear, officers may question the suspect further to clarify his/her intentions. When a suspect invokes his/her right to counsel, all interrogation shall cease immediately.
 - b. The suspect may not again be interrogated about the crime for which he/she is charged, other crimes, or by other officers (from this or other agencies) unless (1) the suspect's attorney is present at the questioning; (2) there has been a break in custody of more than 14 days and the individual is re-advised of his Miranda rights and indicates he/she is waiving his right to counsel (written waiver), or (3) the suspect initiates new contact with the police. In this later case, Miranda rights must again be administered, and a waiver obtained before any questioning may take place. Officers shall also

document and, if possible, obtain written verification that the suspect initiated the communication.

- c. Officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.
5. Other Interrogation Requirements
 - a. Parents or guardians shall be notified whenever a juvenile is interrogated, taken into custody, or charged. Officers will take care when advising juveniles of their rights to ensure that the rights are understood before obtaining a waiver. Officers should honor a child's request to speak to a parent or guardian before waiving his or her rights. Whenever possible, the child's parents should be present while the child's rights are explained and the waiver obtained
 - b. The number of officers engaged in the interrogation shall be kept to a minimum.
 - c. The interrogation shall be as short as possible.
 - d. The interrogation will not take place until the child is properly magistrate. Upon completion of the interrogation the child and any statements must be taken back before the magistrate for review. The officer will wait outside the room while the child is being magistrate.

D. Recording of Statements and Confessions

1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to;
 - a. location, date, time of day, and duration of interrogation;
 - b. the identities of officers or others present;
 - c. Miranda warnings given, suspect responses, and waivers provided, if any; and
 - d. the nature and duration of breaks in questioning provided to the suspect for food, drink, use of lavatories or for other purposes.
2. Officers shall electronically record custodial interrogations conducted in a place of detention involving major crimes as defined by this department. Officers are not required to record noncustodial interviews with suspects, witnesses, or victims during the initial interview phase of an investigation but may do so where deemed necessary, in accordance with law and departmental policy.
3. Electronic recording of juveniles shall be conducted if at the time the crime was committed the juvenile suspect could be charged with a major crime as an adult.
4. If electronic recordings cannot be conducted due to equipment failure, lack of suspect cooperation, or for any other reason deemed pertinent to successful interrogation by the case manager, the basis for such occurrences shall be documented. This includes but is not limited to spontaneous declarations or other statements not elicited by police questioning.
5. Transporting officers need not refrain from questioning a suspect who has indicated a willingness to talk either at the scene or en route to the place of detention. However, officers shall not purposefully engage in custodial

interrogations involving major crimes as defined by this policy in order to avoid this department's requirement for electronic recording.

6. Recording Protocol

- a. Suspects do not have to be informed that they are being recorded unless required by law.
- b. The office of the prosecutor, the investigative case manager, or other authorized department official may direct that specific interrogations be recorded although they do not meet the criteria of major crimes as defined by departmental policy.
- c. The primary interrogator shall, where possible, obtain a signed waiver from the suspect before beginning interrogation. If the suspect elects not to be recorded or refuses to engage in the interrogation, the suspect's rejection shall be recorded.
- d. Interrogations and confessions shall be recorded in their entirety, starting with the interrogator's entrance into the interview room and concluding with the departure of the interrogator and suspect.
- e. When commencing the recording, the primary interrogator shall ensure that voice identification is made of officers, suspect, and any others present, and that the date, time, and location of the interrogation is verbally recorded.
- f. When beginning a new recording, the interviewer shall announce the date and time that the interrogation is being resumed.
- g. An authorized member of the department shall be assigned to monitor recording time to ensure the recording does not run out.
- h. Each recording shall include the following:
 - i. Declaration of the time the recording began.
 - ii. Declaration of the start of the interrogation.
 - iii. Concurrence by the suspect that the interrogation has begun.
 - iv. Administration of Miranda warnings, even if the recording is a follow up to a prior interview or the suspect has been previously Mirandized.
 - v. Notation of the time the interrogation ends.
 - vi. Any lapse in the recording for comfort breaks or other reasons shall be accounted for on the recording. As an alternative, during a short recess, the recording may continue without interruption.
 - vii. Recording attorney-client conversations is prohibited.
 - viii. At the conclusion of the interrogations, the interrogator shall state that the interrogation is concluded and note the date of time or termination.
 - ix. The recording shall continue until all parties have left the interrogation room.
- i. Recordings of interviews are considered evidence and shall be handled as such. In addition, the following shall apply:
 - i. Unused recording media shall always be used for interrogations.
 - ii. Both the original and copies of all recording media shall be protected from re-recording.

- iii. Only one interrogation shall be recorded on each recording tape, disk, or other material used in recording.
- iv. Before submitting the original recording to a secure evidence storage area a copy of the recording shall be made. Copies shall be maintained in the investigative unit.
- v. The identifying information items supplied on the recording label shall be completed and the recording marked either as an original or a copy.
- vi. The reporting detective's follow-up report shall note if and how the interview was recorded.
- vii. All recordings shall be governed by this department's policy and procedures for the handling and preservation of evidence.

E. Collection, preservation, and use of physical evidence

1. Physical evidence is of major importance in all cases, particularly those without witnesses. The successful prosecution of a case often hinges on the quality of the physical evidence collected and preserved.
2. All officers are responsible for the preservation of evidence, and for maintaining and documenting the chain of custody of all evidence that is in their charge.

VIII. CONSTITUTIONAL REQUIREMENTS: GENERAL

- A. Officers conducting criminal investigations shall take all precautions necessary to ensure that all persons involved are afforded their constitutional protections. Officers shall ensure that:
1. All statements, including confessions, are voluntary and non-coercive.
 2. All persons are advised of their rights in accordance with this general order.
 3. All arrested persons are taken promptly before a magistrate for formal charging.
 4. All persons accused or suspected of a criminal violation for which they are being interrogated are afforded an opportunity to consult with an attorney.
 5. Prejudicial pre-trial publicity of the accused is avoided so as not to interfere with a defendant's right to a fair and impartial trial.

IX. RELATIONSHIP WITH DISTRICT ATTORNEY

- A. All personnel shall respond to requests for appointments from the district attorney, be on time, and be ready to discuss the subject at hand.
- B. In every contested case, misdemeanor or felony, the officer involved shall make an appointment with the district attorney or his/ her assistant to discuss the case before trial.

- C. During any investigation (or during planning for arrest or in pretrial stages), any questions of law or criminal procedure shall be addressed to the district attorney. Questions on law-enforcement procedures shall be addressed to the Chief of Police.
- D. The district attorney may advise the Chief of Police of any cases where a decision was made not to prosecute or where the case was dismissed because of mishandling or error by an officer.

X. DISPOSITION OF CASES

- A. The officer or investigator shall maintain files of all cases assigned to him/ her. All case files shall be appropriately labeled with the date of incident, the name of victim, and/or the name of any suspect or arrested person. Investigators shall be aware of the requirement under state discovery laws in article 39.14 of the CCP that mandate virtually all writings and other items generated by the police during an investigation are subject to disclosure to the defense.

The file shall contain the following:

- 1. Original incident report and any supplementary reports or statements.
 - 2. Photographs.
 - 3. Lab reports,
 - 4. Reports of disposition of any property pertinent to the case, such that which was stolen, confiscated, recovered, or otherwise dealt with.
 - 5. Arrest reports
 - 6. Investigative notes
 - 7. All electronic and recorded communications – including but not limited to email, text, instant messages, and voice mail.
 - 8. All other items developed, documented or seized during the investigation.
- B. When the investigation is complete, the investigator shall close the case under one of the labels listed below. A statement that explains the reasoning for the label shall be included in the file.
 - 1. Cleared. An arrest has been made in this case.
 - 2. Exceptional Clearance. The identity and address or exact location of the culprit is known and sufficient evidence to obtain a warrant exists. However, due to some reason outside the control of the police, no arrest will be made. Examples: Complainant will not prosecute; district attorney will not prosecute; perpetrator is dead; subject arrested by another jurisdiction and no charges will be placed by the department.
 - 3. False Report. The reporting party lied in order to mislead the police concerning the incident.
 - Unfounded. The offense did not actually occur in the first place, although at the time of the original report it was believed to have occurred. If the investigation has exhausted all leads, yet the possibility remains that new facts may come to light given future inquiry, the case shall remain open.
 - NOTE: Do not confuse “unfounded” and “false report.” It is a violation of the law to deliberately make a false report. An unfounded report is made in the belief that the offense actually occurred, but, in fact, it did not.

4. Suspended. All leads have been exhausted. No further investigation is possible or practical until new leads develop.
- C. The officer's or investigator's supervisor shall approve the case closure in a manner consistent with current police reporting processes.
 - D. When a case is closed, the case file is forwarded to the records custodian for filing.