

		Policy & Procedures			No. 1.05	
		Subject: Interviewing Witnesses or Victims				
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CALEA STANDARDS: 42.2.0; 42.2.1

GENERAL CONSIDERATIONS AND GUIDELINES

The interviewing of a victim or witness is a vital part of the police criminal investigation procedure as it can lead directly to the identification and subsequent apprehension and conviction of the guilty offender.

Effective interviewing is generally an acquired skill and for a police officer and a very necessary one. It is the task of the resourceful police officer to convince a witness of the need for his/her testimony by appealing to a sense of civic responsibility and to a duty as a citizen to ensure that the purposes of justice are effectively achieved.

The officer conducting the interview should learn to remain patient, calm and tactful even under trying circumstances, in the midst of confusion and distractions, or when faced with contradicting or antagonistic witnesses.

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 the questioning. If the suspect is placed in custody, further questioning must be preceded by administration of the Miranda warnings. See departmental policy and procedure entitled Custodial Interrogation.

Obtaining and accurately recording the physical description of a criminal suspect is a basic requirement of the police investigative function.

I. INTERVIEWING WITNESSES **42.2.0 (2A); 42.2.1 (2F)**

- A. Witnesses should be interviewed as soon as possible after the incident under investigation.

1. An officer should not hesitate to instruct witnesses to remain at the scene until interviewed.
 2. It is important at the outset to obtain the names, addresses and telephone numbers of all persons present. This will ensure that they can be located during any follow-up investigation. Record the place, time and date of the interview.
 3. As soon as possible, witnesses should be separated to ensure independent statements.
 4. It should be carefully noted that 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.
- B. An officer interviewing a victim or witness should immediately identify him/herself or show credentials if not in uniform.
- C. Consideration should be given to the physical and emotional needs of witnesses.
1. Calm the excited and emotionally upset witness (If necessary, delay the interview until a witness has regained composure).
 2. Create a favorable atmosphere for the witness 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 witness or interrupt his/her story unnecessarily.
 6. Only one officer should conduct the interview or if more than one officer is needed other officers present should remain inconspicuous and not interfere with the interview.
- D. The immediate objective of the interviewing officer should be to establish a cooperative relationship. To this objective, an officer should:
1. display a sincere interest;
 2. be patient and tactful;
 3. be respectful;
 4. control personal feelings;
 5. provide reassurance; and
 6. encourage an un-talkative witness by asking appropriate questions.
- E. Encourage witnesses to give a full description of everything that occurred with minimum interruption.
1. At times it may be necessary to ask a question, or to make a brief comment, in order to keep a witness talking or to keep an interview confined to the subject under investigation.
 2. When the conversation lags or stops, be patient and wait for the witness to volunteer additional information.
 3. Do not take anything for granted and do not jump to conclusions.
 4. Listen for and note any obvious omissions or gaps in the statements made by a witness or for any conflicting or inconsistent statements.
 5. Note any extreme nervousness or unusual behavior on the part of a witness or for any unguarded or spontaneous remarks made by a witness.
 6. Pay close attention to the body language of the witness.
 7. Do not exhibit surprise or dismay at anything said by a witness.

- F. Withhold any direct questioning until after the witnesses have given a complete account, and then ask specific questions to clarify earlier statements or to fill in any omissions.
1. Questions should be clear, definite and in plain language.
 2. Ask only one question at a time and wait for a complete reply.
 3. Avoid leading questions that imply or suggest a particular answer.
 4. Avoid rapid-fire questions that can confuse or bewilder the witness.
 5. Avoid questions that can be answered by “yes” or “no” which limit response.
 6. Do not ask questions in a critical or derisive manner, which could deter previously cooperative witnesses.
 7. Do not correct the grammar or the language of the witness, which could cause resentment.
 8. Do not permit your own emotions, attitudes or opinions to distract the witnesses or to interfere with your evaluation of their responses to your questions.
- G. 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.

II. TERMINATING THE INTERVIEW

- A. An interview should be ended in a courteous manner. Do not terminate the interview abruptly or dismiss the witness in a curt manner. This helps to assure further cooperation particularly if the witnesses may be needed to testify at a later date.
1. Summarize what has been covered. Ask the witness if there is anything they wish to add or emphasize.
 2. Thank him/her for their cooperation.
 3. Impress upon him/her the value of their services.
 4. Inform the witness that it is very important to contact the police should he/she recall or uncover additional information about the crime or the suspect at a later date.
 5. The investigating officer should leave a business card with the witness or victim for easy contact. Advise the witness or victim that an officer from the detective bureau may be in touch with them over the course of the investigation.
 6. Inform the victim or witness of the phone number and location of any victim-witness assistance programs or similar programs.
 7. Where appropriate, inform the victim or witness of the phone number and location of the District Attorney’s office, especially if the victim or witness has questions of a legal nature.
 8. Where appropriate, 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. If anyone attempts to do so, the witness should be told to contact the police immediately.
 9. If at all possible, obtain a written and signed statement.

- B. If it is necessary to conduct a further interview, it should take place at a location familiar or acceptable to the witnesses. If necessary, a neutral location may be selected.

III. REPORT WRITING

- A. Notes should be taken, but this should be accomplished in a manner that does not interrupt the interviewing process. Some witnesses 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 witnesses. However, if a statement appears highly informative due to its nature and content, a verbatim account should be recorded. If possible, have a witness sign these statements. Signatures should also be dated and the time and place of the statement should be noted.
- B. All information obtained from witnesses should be passed on to the follow-up investigator. All pertinent data should be included in the officer's official report and submitted in accordance with departmental practice and procedures.
- C. If a tape recorder is available and it is advisable to do so, the police may tape record or audio/video record an interview with a witness. However, before any oral or telephone interview with any witness is tape recorded, the witness must be told that the conversation will be recorded and his or her consent elicited.¹ If any legal or other questions arise pertaining to the tape recording of an interview with a witness, consult with the District Attorney's office. The existence of any tape-recorded interview shall be noted in the officer's report and the prosecutor handling the case shall be promptly notified. All recordings will be tagged and filed into property/evidence in accordance with the department's evidence procedure.

¹ M.G. L. c. 272,s. 99