

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 42.2

CRIMINAL INVESTIGATIONS: OPERATIONS

ISSUED APRIL 2006

42.2.1 Procedures Used in Criminal Investigations

Officers and investigators will in every incident conduct thorough, timely, professional, and impartial investigations. Victims and witness will be contacted promptly. The following procedures may be utilized in a criminal investigation.

Information Development

Information may be developed from a wide variety of sources. These may include, but are not limited to, witnesses, victims, suspects, neighbors, friends, relatives, public and private agencies, other law enforcement agencies, and informants.

All information obtained will be kept confidential consistent with public information and record-keeping statutes.

Interviews and interrogations are tools that can be useful in assisting officers and investigators in establishing the truth.

Interviews are conducted for information and fact gathering with persons not necessarily considered to be the focus of the case, but who may have knowledge of facts pertinent to the investigation.

Since the information must be voluntarily given and usually in a non-custodial setting, time of day, length, focus and the number of officers present during the interview should be considered when planning the interview.

Interrogations are utilized with persons directly involved in a criminal investigation. Whether a person should be advised of his/her rights should be evaluated prior to the interrogation.

Collection, Presentation and Use of Physical Evidence

Physical evidence will be searched for, collected, and preserved during the course of any criminal investigation. Police officers will ensure that physical evidence collected from a crime scene will be examined and properly used during the course of the investigation.

All evidence will be processed and collected in accordance with General Orders [83.1](#), [83.2](#), and [83.3](#). Information regarding DNA evidence collection is referenced in General Order 83.2.7.

42.2

Surveillance

Surveillance activities can be a useful investigative tool in criminal investigations to observe suspects, potential targets of victimization and other conditions related to criminal conduct.

When planning for and conducting surveillance activities, investigators should, when practical, notify Field Operations and Investigations supervisors as well as Dispatch of the surveillance location and duration.

When conducting surveillance in another city, that jurisdiction's patrol force and Communications should be notified prior to the detail.

During the course of surveillance, if a crime is observed, consideration regarding the safety of the community, the officer, and the on-going investigation should be evaluated prior to effecting an arrest.

42.2.2 Conducting Preliminary Investigations

The Santa Clara Police Department Field Operations Division will be responsible for conducting initial preliminary investigations. The officer initially assigned will be responsible (time, expertise, and nature of crime allowing), for doing as much of the investigation as possible and bringing it to its final conclusion. Cases needing further follow-up beyond the capability of the reporting officer will later be assigned to a Detective in the Investigative Unit.

The nature of certain incidents may require the immediate assignment of Investigation Division personnel. These incidents are set forth in [General Order 42.1.10](#). When the Detective or Detective supervisor arrives on the scene, the overall responsibility for the investigation is transferred to the Investigations Unit.

When a suspect is taken into custody within a reasonable time after the commission of a major felony, a chemical test/blood sample shall be taken from him/her and placed into evidence in the proper manner. Refer to [General Order 95.2](#) for additional details on this testing.

During the course of the initial investigation, patrol officers will follow these steps when appropriate:

- Observe all conditions, events, and remarks
- Canvass, locate, and identify witnesses
- Maintain the crime scene and protect evidence
- Interview the complainant and witness(es)
- Interview or interrogate suspects as appropriate
- Arrange for the collection of evidence
- Affect the arrest of suspect(s) in conformance with State statutes, Federal law, and City ordinances, and
- Document the entire incident fully and accurately

42.2.3 Conducting Follow-up Investigations

Patrol officers are expected to conduct as much of the follow-up investigation as possible. Criteria for follow-up by a patrol officer or investigator may include, but is not limited to:

- Need for specific investigative expertise, and the complexity of the investigation;
- Time constraints on patrol personnel and requirement of investigative staff hours;
- Out of town travel;
- Complexity of the investigation;
- Related incidents;
- Time factors; and
- Other relevant considerations.

The following guidelines will be used as necessary in conducting follow-up investigations:

- Review and analyze all previously submitted reports regarding the investigation.
- Conduct additional interviews and interrogations.
- Review departmental records.
- Gather additional information from available resources such as sworn officers and informants.
- Ensure dissemination of appropriate information.
- Collect and process physical evidence.
- Review results from laboratory examinations.
- Plan, organize, and conduct searches.
- Identify and apprehend suspects.
- Determine involvement of suspects in other crimes.
- Check suspect's criminal histories
- Prepare cases for court presentation.
- Assist in prosecution.
- In any event, whether actual leads or additional information exists or not, investigators should make a "second contact" in order to not only solicit information, but to convey to the public the Department's concern for the victims of crime and the community as a whole.

42.2.4 Investigation Checklists

The initial field report, properly prepared, serves as a satisfactory checklist in most investigations. More complex investigations may require additional effort. Checklists are provided for certain cases to assist in ensuring that critical areas of investigation are not overlooked, such as in Auto Theft, Robbery, Burglary, and Hit and Run Accident investigations.

Checklists for more involved investigations will be available to all police officers with an extra supply in the report writing room.

42.2

42.2.5 Second Contact With Principals in a Case

Investigators and assigned police officers should re-contact victims, complainants, and witnesses of Part I (Murder, Rape, Robbery, Burglary, Grand Theft, Aggravated Assault, Auto Theft and Arson) crimes within seven days of the reported incident to elicit information which may lead to the case clearance. Maintaining a policy of “second contact” is valuable in building public confidence in the Police Department as well as communicating that police are genuinely concerned about the welfare of the victim and other citizens associated with the case.

42.2.6 Follow-up Case Assignment Responsibilities

The Investigations Lieutenant or Captain will be responsible for reviewing all police offense reports. They will determine which incidents warrant assignment to an investigator, and these assignments will be listed in the computerized Records Management System.

42.2.7 Criminal Investigation On-Call Schedule

The Santa Clara Police Department does not assign Investigation Division personnel throughout a 24-hour period or on weekends. Therefore, the Lieutenant will establish after hours on-call schedules for both person and property crimes units. They are also responsible for ensuring that the schedules are disseminated to the Operations Division Commander, Watch Commanders, Patrol Supervisors, Records Personnel, and to the Communications Division.

42.2.8 Investigations - Assistance After Hours

It is the policy of the Santa Clara Police Department to have investigators available on a 24-hour basis. When investigators are needed after hours, on weekends or holidays, the on-duty Watch Commander will contact the on-call Investigations Lieutenant and Investigator. Communications can contact the on-call personnel from the supplied callout list, and relay messages from the Watch Commander if he/she is busy at the crime scene or out of telephone contact.

42.2.9 Investigations and Field Operations Liaison

A strong working relationship and frequent exchange of information between the Field Operations and Investigations Division is essential to foster an effective Police Department.

In working toward that end, Investigators are encouraged to regularly interact with Field Operations supervisors and officers. As appropriate, Investigators may attend briefings and share or receive information relative to cases that are currently being worked on.

42.2.10 Polygraph Examination as an Investigative Tool

The Santa Clara Police Department utilizes polygraph examiners from the California Department of Justice to conduct polygraphs related to a criminal investigation. These examiners are graduates of institutions providing training for this purpose, and are fully certified by the appropriate State-licensing agency.

Although polygraph and other detection of deception methods and equipment are generally inadmissible in criminal court cases in the State of California, such methods are legitimate investigative tools in certain criminal investigations.

The lead investigator in a criminal case will determine if a polygraph examination would be useful. After obtaining supervisory approval, the investigator will contact the Department of Justice to arrange for the exam.

The lead investigator will provide the polygraph examiner with all necessary information related to the case and be available for consultation with the examiner before, during, and after the exam.

42.2.11 Investigative Task Forces

The purpose of an investigative task force is to bring substantial resources to bear on a particular crime problem in a region or county that individual law enforcement agencies do not have the resources to impact.

The Santa Clara Police Department currently participates in a variety of multi-agency investigative task forces.

The Chiefs of Police, Sheriff, and Santa Clara County District Attorney have the authority and responsibility to appoint a middle manager from one of the participating agencies to oversee, manage, and command each unit. A memorandum of understanding will be established outlining the goals and objectives of the task force as well as the roles and responsibilities of each participating agency.

The manager commanding the unit will have the responsibility for managing all financial, property and personnel resources allocated to the unit. The unit manager will prepare and submit quarterly written reports to the Chiefs and Sheriff outlining the progress and results of the unit's investigations as well as accounting for the expenditure of resources assigned to the unit.

The Chiefs of Police and Sheriff participating in the task force will have the responsibility to identify what resources are available and ensure that they are allocated to the unit. Each participating agency will contribute as agreed per the memorandum of understanding.

The task force's governing body comprised of the Chiefs of Police, Sheriff and District Attorney, will meet as needed to review and evaluate the results of the task force's efforts and determine the need for the unit's existence.

42.2.12 Constitutional Requirements

It is important in any criminal investigation to insure that an individual's Constitutional rights are preserved and that any statements or confessions given by a suspect are legally obtained and permissible in a criminal proceeding.

42.2

Officers shall normally advise a suspect of his/her Constitutional rights prior to any custodial interrogation. The statement of rights used by Department members shall follow the guidelines established by the District Attorney's Office.

Officers may question persons during general, on-the-scene investigations of the facts surrounding a crime. Persons questioned during this time need not be advised of their Constitutional rights until the person is taken into custody or otherwise deprived of or may reasonably believe that they have been deprived of their freedom.

Information volunteered or spontaneous statements made by suspects are admissible as evidence and need not be preceded by warnings. Any follow-up questioning in a custodial situation initiated by an officer shall be preceded by a Miranda warning.

When an arrested person is interviewed at the Police Department, and a video or audio recording device is used, he/she shall normally be advised of their Constitutional rights and such statements and responses shall be included in the recording.

All interviews of suspects in custody for violent felonies shall be recorded, in compliance with the County Chiefs of Police Protocol issued on December 30, 2003. (See [General Order 96.7.1](#))

Per Section 633 of the California Penal Code, telephone statements or confessions given over the telephone by persons speaking with law enforcement officers are legal, and suspects need not be advised of his/her Constitutional rights.

After a suspect has been advised of his/her rights and requests to speak to an attorney, no further questioning should take place. Statements made after a suspect invokes his/her rights are not admissible in court, unless the suspect initiates the conversation and has been re-advised of his/her Miranda rights and wishes to continue the conversation.

Suspects shall not be coerced into giving involuntary statements or confessions.

42.2.13 Field Interview/Interrogation

Properly conducted and documented field interviews may prevent crime, provide information needed by other officers and investigators, or provide information beneficial to future investigations.

Field interviews should be used only where an officer can articulate a reasonable suspicion that an individual has been or is currently involved in criminal conduct. Officers should be aware of any current State or Federal law which further defines the use of the field interview.

Officers shall document all field interviews on a Field Interrogation card, ensuring that all information is properly filled out. The comment section should include an explanation of the circumstances that prompted the interview.

The card will be placed into the Patrol Sergeant reports review box, where the on-duty supervisor will review it before forwarding to Records Unit. Records personnel will then forward the F.I. cards to the Investigations Division, where they will be entered into the Records Management System by clerical staff.

42.2.14 Background Investigations - Criminal Investigations

Criminal investigations frequently involve background investigations of persons, particularly as they relate to white-collar crime, organized crime, and vice activities. The Santa Clara Police Department will conduct background investigations of persons only in conjunction with an ongoing criminal investigation or as a condition in the licensing of some businesses pursuant to Santa Clara City Ordinance. Such investigations must be conducted discreetly and within the provisions of all applicable local, state, and federal guidelines and regulations. This section does not apply to background investigations of Police Department employee candidates.

Various sources of information are available in conducting a background investigation. Some potential sources include:

- Business associates;
- Financial institutions;
- Former employers;
- Informants;
- Utility companies;
- Public records;
- Intelligence reports, i.e., WSIN;
- Criminal history;
- Pawn shops/secondhand dealers;
- Other law enforcement agencies.

All information obtained in a background investigation will be incorporated into the criminal case file or placed into the Division's intelligence files after review by the Detective. Computerized criminal history printouts will only be made part of the record if the investigation is prosecutable, being prosecuted, or part of court adjudication.

All information placed into intelligence files will adhere to the criteria outlined in the intelligence files administrative rules, which in part outline distribution of related records and purging schedules.