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# UW–Madison Police Department

**Policy: 42.2**

**SUBJECT: INVESTIGATIONS-OPERATIONS**

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## **POLICY:**

The University of Wisconsin–Madison Police Department shall establish guidelines that provide for efficient and effective investigations of all reported crimes that occur within the Department jurisdiction.

## **DEFINITIONS:**

“Blind shuffle” refers to the process where each photo of the lineup is placed in an identical envelope, then shuffled or mixed so that the showing officer does not know when the suspect will be shown.

“Cold Case” is defined as any criminal investigation by a law enforcement agency that has not been solved for (generally) at least one year and, as a result, has been closed from further investigations.

“Eyewitness” refers to an individual who personally witnessed the crime under investigation or observed the suspect in the area of the crime scene.

“Follow-up investigation” refers to an extension of the preliminary investigation. The purpose is to provide additional investigation in order to close a case, arrest an offender, and/or recover stolen property.

“In-person lineup” refers to an identification procedure in which a suspect is placed in a live group setting with similar persons and presented to a witness or victim.

“Photo lineup” is an identification procedure in which a suspect’s photo is placed in a group of other similar photographs and shown sequentially to a witness or victim.

“Preliminary investigation” refers to the activity that begins when personnel arrive at the scene of an incident. The activity should continue until such time as postponement of the investigation or transfer of responsibility will not jeopardize the successful completion of the investigation.

“Sequential procedure” refers to the process where a victim or witness views only one person/photo at a time.

“Show up” is when a lone suspect is presented by the police to an eyewitness or victim so that the eyewitness or victim might make an identification of the suspect as the perpetrator.

## **PROCEDURE:**

### **42.2.1 CONDUCTING PRELIMINARY INVESTIGATIONS**

The following establishes steps to be followed in conducting preliminary investigations:

- A. A thorough and comprehensive preliminary investigation may negate the need for investigative follow-up. Appropriate steps in a preliminary investigation may include, but are not limited to:
  - 1. Providing aid to the injured.
  - 2. Observing all conditions, events, and remarks surrounding the incident under investigation.
  - 3. Locating and identifying the suspect(s), witnesses, victims, and affecting an arrest if possible.
  - 4. Securing, maintaining, and protecting the crime scene and collecting basic evidence or arranging for the collection of evidence by evidence technicians or specialized assistance that is needed including, but not limited to supervisors and canine investigations.
  - 5. Conducting interviews of the complainant, victims, witnesses and suspects.
  - 6. Furnishing other field units (through the communications center) with descriptions, method, direction of travel, and other relevant information concerning wanted persons or vehicles.
  - 7. Accurately and completely recording all pertinent information in report form, including any offense observed and all elements of the offense.
  - 8. Obtaining written statements from victims, witnesses, and if legally possible, from the suspect.
- B. An officer conducting a preliminary investigation is not precluded from being assigned to the follow-up investigation.

#### **42.2.2 CONDUCTING FOLLOW-UP INVESTIGATIONS**

The following establishes steps to be followed in conducting follow-up investigations:

- A. Appropriate steps in a follow-up investigation may include, but are not limited to:
  - 1. Reviewing and analyzing all previous reports filed during the preliminary investigation, departmental records, and results from laboratory examinations.
  - 2. Additional interviews of the victims, witnesses, or other persons who may possess information and interrogations of any potential suspects.
  - 3. Seeking additional information from responding officers, informants, or suspects.
  - 4. Planning, organizing, and conducting searches and collecting physical evidence. Review of collected evidence and consideration of submission for laboratory analysis.
  - 5. Identifying and apprehending a suspect or suspects and obtaining a written statement.
  - 6. Determining involvement of the suspect in other crimes.
  - 7. Checking the suspect's criminal history.
  - 8. Inquiring with other law enforcement agencies.
- B. Personnel assigned to follow-up investigations shall make contact by telephone, in-person, or other reasonable means with the victim or complainant in cases assigned to them. Ideally, this contact will be made within two working days of assignment. The purpose of this contact is to gain any additional information not included in the initial report and to inform the victim or complainant what action will be taken by the person assigned to the follow-up.

#### **42.2.3 INVESTIGATION CHECK-LISTS**

The following check-lists are available to aid in preliminary and follow-up investigations:

- A. The primary field report may serve as a satisfactory check-list for most investigations. However, more complicated investigations require additional efforts, and check-lists aid in ensuring that critical areas of the investigation are not overlooked.
- B. Check-lists, such as the missing/runaway juvenile check-list, the death investigation check-list, the Major Crimes checklist, or the domestic abuse check-list, contain solvability factors that assist in investigations. Check-lists should be reviewed annually by the Investigative Services Captain.
- C. Check-lists, if used in a case and completed, must be attached to the case report upon completion of the investigation.

#### **42.2.4 SHIFT BRIEFING ATTENDANCE**

The following outlines patrol shift briefing attendance for detectives or other personnel assigned to investigations:

- A. The detective on call shall attend patrol shift briefing, at minimum, once during the on call week and document their attendance.

- B. The detective assigned to a major case investigation where the suspect is known and at large shall share suspect description and possible location information with Field Services and Investigative Services personnel. This shall be done through attending shift briefings or sending memoranda and/or email to Field Services and Investigative Services personnel.
- C. Periodically, or upon operational necessity, any detective or other investigative personnel may attend patrol shift briefing sessions. The purpose of this is to foster an atmosphere of cooperation, open lines of communication, and to share specific information on criminal activity or criminal trends.

#### **42.2.5 INVESTIGATIVE TASK FORCES**

The following provides the purpose and associated responsibilities for those involved with long term investigative or multi-jurisdictional task forces:

- A. The Investigative Services Captain shall be responsible for acting as a liaison with command staff for the Dane County Narcotics Task Force. The Dane County Narcotics Task Force (DCNTF) is a multi-jurisdictional law enforcement group consisting of City of Madison, County of Dane and University of Wisconsin personnel. Participating agencies enter into a written agreement with Dane County to formalize the relationship. The purpose of the Dane County Narcotics Task Force is to work in conjunction with state and federal agencies to interdict drug trafficking and gang activities. The DCNTF is responsible for identifying, arresting, and seeking prosecution of street level users and dealers as well as those involved in major trafficking and drug related conspiracies. DCNTF members are authorized to investigate narcotics offenses through-out Dane County. The Department's role and the results of the DCNTF will be evaluated annually and the need for continued participation determined.
- B. The Chief of Police or designee shall be responsible for acting as a liaison with command staff for the Federal Bureau of Investigation Joint Terrorism Task Force (FBI JTTF). The FBI JTTF is a partnership between various U.S. law enforcement agencies. The purpose of the FBI JTTF is to take action against terrorism and terrorist related activities. The FBI JTTF engages in surveillance, electronic monitoring, source development and interviews in their pursuits. Pursuant to 28 USC 533, 28CFR 0.85, Executive Order 12333, and Presidential Decision Directives 39 and 62, the FBI is authorized to coordinate intelligence, investigative, and operational response to terrorism. By virtue of that authority, the FBI formed FBI JTTFs to act in support of the efforts to thwart terrorism. Participating agencies enter into a memorandum of understanding with the FBI to formalize the relationship. FBI JTTF personnel are responsible for prevention, preemption, deterrence and investigation of terrorist acts that affect United States interests. FBI JTTF sworn personnel receive federal deputation for the time period they are assigned to the task force. The deputation allows non-federal members of the FBI JTTF to exercise law enforcement authority throughout the United States. The Department's role and the results of the FBI JTTF will be evaluated annually and the need for continued participation determined.
- C. The Chief of Police or designee shall be responsible for acting as a liaison with command staff for the FBI Cyber Task Force (CTF). The 2008 Comprehensive National Cybersecurity Initiative led to the creation of the FBI – led National Cyber Investigative Joint Task Force (NCIJTF) by way of Presidential Directive. The FBI recognizes that national-level coordination is important for security the nation, but the FBI also recognizes that multi-disciplinary teamwork at the local level is necessary. The FBI established the CTF consisting of a partnership between the FBI and local stakeholders. The CTF personnel respond to cyber incidents; understand and address threats, vulnerabilities, and collection opportunities; maintain relationships and information sharing with key companies and institutions. Participating agencies enter into a memorandum of understanding with the FBI to formalize the relationship. The Department's role and results of the CTF will be evaluated annually and the need for continued participation determined.
- D. All UW-Madison personnel assigned to multi-jurisdictional task forces shall engage in communicating officer safety awareness information to and from the department as their assignment allows.
- E. Department coordinated task force activities will be planned prior to implementation. Guidelines for task force operations include:
  1. Identifying the purpose of the task force.
  2. Defining authority, responsibilities and written agreements.
  3. Responsibility for task force operations lies with the initiating agency. Assisting agencies act in a supporting role. When members of the Department are operating under the direction of supervisors from an outside agency, they will

keep the Investigative Services Captain informed of their activities and abide by the rules and regulations of this Department. Accountability within the task force will be clearly established.

4. Identifying resources available for use in task force operations to include personnel, equipment, funds, and time, as permitted. The commitment of Departmental resources shall in no way restrict the delivery of police services to the UW-Madison community.
5. Ongoing results will be periodically evaluated and the need for continued operations will be determined. At the conclusion of such operations, a debriefing and review session will be conducted.

#### **42.2.6 USE OF INFORMANTS**

The following specifies procedures to be used when using confidential informants, excluding detectives assigned to outside agencies:

- A. During the course of criminal investigations, detectives or other investigative personnel may need to utilize confidential informants. The use of confidential informants may be important to the satisfactory completion of an investigation. Procedures outlined in this section shall be followed strictly and uniformly unless otherwise authorized by the Investigative Services Captain out of operational necessity.
- B. Personnel seeking to use a confidential informant shall make a formal request to the Investigative Services Captain. This request should contain the reason for the request and information on the potential informant.
- C. Management of any informants will be conducted by the Dane County Narcotics Task Force.
- D. Investigators shall document all contact with informants. Information shall include date and time, location, reason for meeting, information exchanged, and amount of payment, if any. The investigator shall begin a record on the informant to be kept in the informant file, which includes biographical and background information, criminal history record, and, any code name or number being used for the informant.
- E. No person shall be allowed access to informant files without the expressed permission of the Chief of Police or the Investigative Services Captain. All informant files shall be kept secure unless in use by authorized personnel.
- F. Confidential informants shall be advised of and subject to the following control measures:
  1. The amount and method of informant payments, if any.
  2. The restrictions placed on the expenditure of advance money by the informant.
  3. The procedures to be followed in establishing contacts and meetings.
  4. The procedures to be followed if the informant is arrested.
  5. The informant's testimony requirements and obligations.
  6. The Department's limitations in protecting the identity of the informant.
  7. The Department's future obligations to the informant once contact has been completed.
- G. The Department will not tolerate criminal activity on the part of any informant. If, during an investigation, an officer becomes aware of illegal acts by the informant, prosecution will be sought. Special attention should be given so that the informant does not misuse department funds (i.e., by pocketing part of the buy money so he or she would benefit financially). In all cases, informants shall not be paid unless the Investigative Services Captain has approved of the payment. The Chief shall be notified of such expenditures. Fees paid to informants shall be determined by quality of information, quantity of information, risk factors involved, and seriousness of the case. Receipts for any payment shall be issued.
- H. The following precautions should be taken with informants:
  1. When meeting the informant, the officer should always select the time and place. Location and times should vary to avoid a pattern.
  2. The informant should always be debriefed prior to terminating contact. Any information related to criminal violations shall be documented and investigated or forwarded to the appropriate agency for investigation.
  3. Investigators or officers should attempt to verify the accuracy of information supplied to them by informants.
  4. Contacts between Department personnel and informants shall be made utilizing at least two officers: one officer making the contact, with a second officer observing from a nearby position.
  5. Juveniles will not be used as informants.

#### **42.2.7 IDENTITY THEFT CRIME PROCEDURES**

The following governs procedures regarding reports of identity crime:

- A. A report shall be completed for any identity crime occurring within the jurisdiction of the Department. The Identity Crime Incident Detail Form, distributed by the United States Secret Service, may be used by personnel to collect information for use in an identity theft investigation.
- B. Personnel taking or investigating identity crime reports should provide information and assistance to victims, including but not limited to:
  - 1. The general process of investigation.
  - 2. What contact person or agency they may contact later.
  - 3. Referral information to other government and/or private agencies regarding assistance or information for victims.
  - 4. Suggested steps to be taken to further the investigation and/or better prevent further incidents.
- C. Reports of identity theft crime involving other jurisdictions should be forwarded, if possible, to that jurisdiction. Investigative responsibility will be retained, unless it is determined that the other agency will take responsibility due to greater evidence and/or access to the suspect or other necessary resources. In any case involving another jurisdiction, where parallel investigations take place, investigators will coordinate with those agencies to minimize duplication of effort and increase efficiency and effectiveness.
- D. Investigators and other Department personnel will provide information on prevention of identity theft crime to the public.

#### **42.2.8 COLD CASE INVESTIGATION PROCEDURES**

The following governs cold case investigation procedures:

- A. Over time, persons involved in a case change or factors associated with the case present new opportunities for law enforcement. A cold case should be re-evaluated when new information comes forward or new technology allows for re-examination of case evidence.
- B. Cold case evaluation criteria will include, but not be limited to the following:
  - 1. Legal considerations, including statutes of limitation.
  - 2. Technological considerations, including advancement of new technological techniques for evidentiary analysis, based on the type and condition of available evidence.
  - 3. Practical considerations, such as availability of witnesses and chain of custody.
  - 4. Resource considerations, including time, money and personnel available for investigation and forensic analysis.
- C. Investigative actions and activities shall be recorded, to increase efficiency and reduce duplication of effort. Investigative actions and activities may include, but are not limited to:
  - 1. Identifying cold cases and prioritizing the cases according to such considerations as, solvability factors and statutes of limitation.
  - 2. Reviewing case files, evidence reports, laboratory reports and autopsy reports.
  - 3. Evaluating case evidence for potential probative D.N.A. sources.
  - 4. Consulting with the forensic laboratories and the District Attorney's Office in submitting appropriate evidence to the laboratory for testing.
  - 5. Identifying and re-interviewing all witnesses and potential suspects in the case.
  - 6. If D.N.A. or other evidentiary analysis is to be conducted, obtaining reference samples from suspects and other identified subjects for elimination.
  - 7. If a D.N.A. profile does not match suspect's D.N.A. profile, submitting the profile to CODIS.
  - 8. Submitting investigative intelligence to State and Federal profiling repositories for information.

#### **42.2.9 INTERVIEW ROOM PROCEDURES**

The following procedures shall govern procedures for personnel utilizing designated rooms for interviewing suspects:

- A. The Department has a single interview room outside of the temporary detention area (referenced in Chapter 71). This interview room is adjacent to the temporary detention area.
- B. Personnel using the interview room during an investigative interview shall utilize basic officer safety principles. It will be the sole discretion of the officer/detective whether or not s/he maintains his/her authorized weapon while in the interview room. Should the officer/detective elect to remove the weapon, it shall be properly secured.

- C. Due to the limitation of the room size as well as the potential for the appearance of intimidation, no more than two (2) officers are allowed during an investigative interview. One of those officers should be the primary interviewer.
- D. When utilizing the interview room for an investigative interview, officers shall ensure their portable radios are available to summon assistance if necessary.
- E. Interviews will be audio and/or video recorded utilizing the designated equipment within the room.
- F. Personnel conducting interviews shall conduct the interview in accordance with all applicable Constitutional requirements, State Statutes and Department Directives. According to Wisconsin case law, any interview of a juvenile suspect shall be audio and video recorded and any interview of an adult felony suspect shall be at least audio recorded.
- G. As necessary during any investigative interview, the subject being interviewed should be offered access to water, use of the restroom and/or a break during the interview process.

#### **42.2.10 PHOTOGRAPHIC AND PHYSICAL LINE-UP**

The following shall govern procedures for photograph arrays and physical line-ups:

- A. Sequential photographic lineups may be used to identify a suspect. Only one suspect should be used in each photographic lineup along with five filler photographs and two empty folders or envelopes at the end. Persons depicted in the other photographs should be of similar appearance and photographs should be of similar size. No photographs should be repeated in multiple line ups that the same person will view. If multiple victims or witnesses will view the same photographic lineup, there should be a separate photographic lineup packet of the same lineup for each person viewing the lineup.
- B. Unless exigent circumstances exist, the showing officer should not know which photo is the suspect. If the showing officer is aware of which photo is the suspect, then a blind shuffle shall be used prior to administering the lineup.
- C. Photos should be shown one at a time to the witness or victim after the witness or victim has been explicitly instructed by the showing officer that the suspect may or may not be in the line-up and the victim or witness should not feel compelled to make an identification. After each photo, the witness or victim should be asked if the person in the photo is the person he or she saw commit the crime. All photos must be shown, even if identification has been made with an earlier photo.
- D. If practical, record the entire photo identification procedure. Video recording is preferred. The guidelines set forth by the Wisconsin Attorney General's Office shall be utilized.
- E. A suspect or likeness (photo, composite, videotape, drawing, etc.) of a suspect should not deliberately be displayed to more than one eyewitness at a time. This includes show-ups.
- F. An officer must not by word or gesture suggest an opinion to any witness that the suspect committed the crime. Witnesses making inquiries about an officer's opinion will be informed of this restriction.
- G. If identification is made, the level of confidence expressed by the witness should be obtained. The showing officer should document the phrase used by the witness and not ask for a percentage. Officers shall not confirm to the witness/victim that he or she has made a correct choice; simply instruct them that the investigation will continue. An eyewitness who has taken part in an identification procedure must not be permitted to state his/her conclusions within hearing range of another person who is, or who is about to be, or has been, a viewer.
- H. Whenever a witness makes a positive identification from a photograph and probable cause to arrest the suspect is thereby established, photographs should not be displayed to other witnesses if they will later view the suspect in a lineup.
- I. Photographic displays should be handled as evidence in case of a trial. A report will need to be completed by the officer conducting the sequential photo lineup which should include the names of the people included in the lineup, how the lineup was conducted and any identification made along with statements from the victim or witness regarding his or her identification of a particular photo.

- J. Personnel conducting a photo lineup should utilize the Department's Photo Lineup Instruction Form to help ensure uniformity.
- K. When no particular suspect has been identified, an effective tool for searching to find the suspect is a freehand sketch or composite. If this leads to a definite identification, no other sketches or composites should be displayed to any other witnesses. In those cases a sequential photo line-up should be used.
- L. Lineups may be used for the identification of suspects after consulting with and at the direction of the district attorney's office. The Department will follow the guidelines for lineups established by the Wisconsin Attorney General. If practical, record the entire photo identification procedure. Video recording is preferred.

#### **42.2.11 NON-CUSTODIAL IDENTIFICATION AND SHOW-UP GUIDELINES**

The following provides procedures for non-custodial identification and show-ups:

- A. Non-custodial identification occurs when the eyewitness observes a suspect who is at liberty. Witnesses may be taken to locations where the suspect is likely to appear provided it is a place where several people are likely to be present or pass by at random. A place such as the suspect's home is prohibited. Transporting a witness in a squad car to cruise the general area in which a crime has occurred in the hope of identifying the perpetrator is permissible.
- B. A show-up is a police directed viewing of the suspect by an eyewitness shortly after a crime occurs. The use of a sequential photographic line-up is preferable to the use of show-ups.
- C. An officer may arrange a show-up wherever the suspect is detained for a short period of time (approximately 20 minutes). The show-up must be necessary and done in a manner to minimize suggestiveness. The officer may use reasonable force to detain the person. The show up should be done as expeditiously as possible, within a reasonable time, generally not to exceed one hour from the occurrence of the crime. Beyond this time, the on-duty district attorney should be contacted. The following applies:
  - 1. A show-up can be deemed as necessary if police lack probable cause to arrest the suspect or other exigent circumstances exist that prevent the use of a sequential photographic line-up.
  - 2. If there is probable cause to arrest a suspect, the suspect should be taken into custody and identification should be made by use of a sequential photographic line-up instead of a show-up.
  - 3. Officers must get a complete description of the suspect from the witness/victim prior to the show-up. Where multiple witnesses/victims exist, each should provide a description separately and out of earshot of other witnesses/victims. Descriptions should include, but are not limited to clothing, age, height, weight, hair and eye color, posture, gait, hairline, skin texture, alertness, facial expression, and other physical characteristics which can be seen.
- D. Suspects not identified should be released unless probable cause still exists to believe they committed the offense.
- E. The Wisconsin Supreme Court has said show-ups are inherently suggestive and require the show-up be done in a manner that reduces the suggestiveness of it. The following applies:
  - 1. The suspect should not be handcuffed or seated in a squad during the show up. If handcuffs are necessary, steps should be taken to conceal that from view of the witness/victim. The show-up should not be done at the police department. The witness should be taken to the location of the suspect.
  - 2. Each witness/victim must view the suspect separately and out of sight and earshot of other witnesses/victims who will also view the suspect.
  - 3. Officers should only tell the witness/victim the person they are about to view may or may not be the perpetrator and should not feel pressured or compelled to make an identification. Officers must not refer to the person as a suspect to the witness/victim. If there is a positive identification, officers should ask if there was anything in particular that lead to the positive identification and document exactly what the witness/victim said if he or she has positively identified the suspect.
  - 4. Officers shall not confirm to the witness/victim that he or she has made a correct choice; simply instruct them that the investigation will continue.
  - 5. Once probable cause exists to arrest the suspect, other witnesses/victims should identify the suspect through the use of a sequential photographic line-up instead of the show-up.
  - 6. Officers shall not show the same suspect to the same witness more than once (i.e. through use of a second show-up, in person line-up or photographic line-up).
  - 7. Officers shall instruct witnesses/victims not to discuss their viewing of the suspect with other potential

witnesses/victims.

- F. The process used for the show-up and its results must be documented in a report.
- G. In emergency circumstances, such as when a witness is in danger of death or blindness, an immediate show-up or a single photograph may be arranged if medical authorities permit.

#### **42.2.12 COMPLAINTS OF OBSCENE MATERIAL**

The following shall define procedures for investigating complaints of obscene material:

- A. Courts have had great difficulty in defining obscenity. Their decisions are based on a variety of complex issues. Police, therefore, are not expected to define what is obscene.
- B. In response to a complaint and under certain circumstances (for example, but not limited to, child pornography), the police may decide whether materials will be seized or an arrest should be made. Officers should refer to state statutes 944.20 and 944.21(1) when making a decision regarding potential incidents of obscenity.
- C. In circumstances where there is a question as to whether or not the activity/material is obscene, the police will facilitate communication between complainant and prosecutor, and act at the direction of the prosecutor.
- D. When a complaint involves pornographic material on a computer, officers must be aware of potential criminal activity (child pornography) and University work rule violations. In order to determine if the images are criminal an officer will need to view the images. While the incident is under investigation the computer should be treated as a crime scene and protected and secured following the property and evidence control written directives.