

Asheville Police Department Policy Manual

Chapter: 9 - Investigations

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Contents

Introduction

Policy Statement

Definitions

Rules and Procedures

903.1 Victim/Witness Interviews

903.2 Suspect Interrogations

903.3 Interview and Interrogation Recordings

903.4 Room Security and Safety

Associated Directives

[SOP 3001 – Juvenile Secure Custody](#)

Introduction

The purpose of this directive is to provide general procedures for conducting interviews and interrogations during criminal investigations.

Policy Statement

It is the policy of the Asheville Police Department (APD) that interviews and interrogations will be conducted in accordance with established procedures to ensure that all statements or confessions are given freely and voluntarily and with due consideration for individuals' rights. All officers must understand and follow this policy to ensure the due process rights of suspects are observed. [1.2.3]

Definitions

Custodial: situations where the individual is under arrest or when a reasonable person in the suspect's position would feel that their freedom has been restricted to the degree consistent with a formal arrest.

Electronic Recording: an audio and visual recording that is an authentic, accurate, unaltered record.

Interrogation: the formal, systematic, and intensive questioning of a person arrested for or suspected of committing a crime. This also includes any words or actions by officers that they should know are reasonably likely to elicit an incriminating response.

Interview: a non-accusatory interaction designed to gather information and learn more about the details of an incident.

Non-Custodial: situations where the individual is not in custody and is free to leave at any time, nor has their freedom been restrained to a degree associated with a formal arrest.

Secure Facility/Interview Room: interview rooms or areas that can be locked to prevent exit.

Rules and Procedures

903.1 Victim/Witness Interviews

- A. Interviews are conducted to seek information from the victim or a witness(es) of a specific incident. Officers should adhere to the following procedure when conducting interviews: [6.02]
 - 1. The officer should interview witnesses as soon as practical and, if possible, in private.
 - 2. The officer should be careful not to lead the witness by asking questions that imply the answer or offer an answer.
 - 3. Officers should allow the witness to continue their narrative of the event in an uninterrupted manner before asking specific questions.
 - 4. Questions are to be stated simply and clearly in a systematic and chronological order.
 - 5. In certain instances, requiring a written and/or taped statement from a witness may be appropriate.
- B. Special care will be taken when interviewing persons under the age of eighteen (18). Officers will take into consideration their age and mental state before any questioning. [44.2.3 b]
 - 1. Responding officers may interview a person under eighteen (18) who was a victim or witness of a non-traumatic event. If the information obtained is relevant to an investigation, a reasonable attempt will be made to contact

the juvenile's parent or guardian before listing their information in a police report.

2. When encountering a person under the age of 18 who was a victim or witness of a traumatic event, after gathering any essential initial information, officers must:
 - a. Contact a parent or guardian, whenever possible, prior to an interview.
 - b. Consult with a Criminal Investigations supervisor. If necessary, the Mountain Area Child Advocacy Center will be contacted.

903.2 Suspect Interrogations

- A. Before any custodial interrogation, the suspect will receive a Miranda warning. This must occur during the initial interrogation, before any subsequent interrogations, and before resuming questioning after any significant time lapse. All Miranda warnings will be given from the appropriate form and include the date and time of the warning. [1.2.3] [6.02]
- B. It is extremely important that all constitutional requirements be safeguarded:
 1. Coercion or intimidation to obtain a confession will not be tolerated from any officer.
 2. Appearance before a magistrate should be made within a reasonable time after arrest.
 3. Prior to any custodial questioning or questioning of a person who can reasonably assume they are in custody, the suspect will be advised of their Miranda rights.
 4. If legal counsel is requested, no in-custody interrogation will take place in the absence of that legal counsel. [1.2.3 c]
- C. Officers attempting to conduct an interrogation with a developmentally disabled or mentally ill individual should contact a supervisor. It is important to establish if the person has the capacity to understand their Miranda rights. [41.2.7 c]

903.3 Interview and Interrogation Recordings [42.2.8 e]

- A. Custodial interrogations of juveniles or any person in a criminal investigation related to a [felony](#) must be electronically recorded, and all provisions outlined in [N.C. Gen. Stat. § 15A-211](#) followed. [6.02]
- B. Officers are not required to record non-custodial interviews with suspects, witnesses, or victims during the initial interview phase of an investigation but may do so where deemed necessary in accordance with the law and departmental policy.
- C. If electronic recordings cannot be captured due to equipment failure, lack of suspect cooperation, or other reasons deemed pertinent to successful interrogation by the primary investigator, the basis for such occurrences will be documented. This includes, but is not limited to, spontaneous declarations or other statements not elicited by police questioning.
- D. 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 will not purposefully engage in custodial interrogations to avoid the requirement for electronic recording.
- E. Recorded interrogations will be recorded in their entirety, starting with the interrogator's entrance into the interview room and concluding upon the departure of the interrogator and suspect. Recordings must clearly show the interrogator and the person in custody.
- F. Each recording will include the administration of Miranda warnings, even if the recording is a follow-up to a prior interview or the suspect has been previously Mirandized.
- G. Any lapse in the recording for comfort breaks or other reasons will be accounted for on the recording and do not constitute an "interruption." The record will reflect the starting time of the recess and the resumption of the interrogation. During a short recess, the recording may continue without interruption.
- H. Recording attorney-client conversations is prohibited where an expectation of privacy would reasonably exist.
- I. At the conclusion of the interrogation, the interrogator will state that the interrogation is concluded and note the date and time of termination. The recording will continue until all parties have left the interrogation room.

- J. All recordings will be governed by this department's policy and procedures for handling and preserving evidence. [83.2.2 b,c]

903.4 Room Security and Safety

- A. Police personnel utilizing Criminal Investigations interview/interrogation rooms will adhere to all departmental safety guidelines relating to custodial and non-custodial interviews and interrogations.
- B. Weapons are prohibited in all interview/interrogation rooms. Officers must safely secure their firearms in the designated lockbox or in a locked office before entering an interview/interrogation room. [42.2.8 a]
- C. All suspects, witnesses, and victims will be searched for weapons before entering the interview/interrogation rooms and polygraph room. Any articles removed will be returned upon the conclusion of the interview, unless illegal in nature. [42.2.8 b]
- D. The number of officers present during an interview/interrogation should be kept to a minimum, with consideration for the needs of a particular interview/interrogation, including the necessity of interpreters, additional security, multiple agency investigations, and officers present at the request of the person being interviewed/interrogated. [42.2.8 c]
- E. Officers conducting interviews/interrogations will afford reasonable comfort breaks, access to restrooms, and water for persons being questioned. [42.2.8 g]
- F. No suspect will be handcuffed to any object in the interview room.
- G. Each interview and interrogation room will be equipped with necessary furnishings and safety precaution devices, including, at a minimum, a table, chair(s), and audio recording equipment ready for use. Officers requiring assistance may do so verbally, via radio or cellular phone, or by activating emergency buttons in interview rooms (where equipped). [42.2.8 d,f]

By order of:

A handwritten signature in black ink, appearing to read 'ML L', is written over a light blue horizontal line.

Michael Lamb
Interim Chief of Police