



CRIMINAL INVESTIGATIONS

General Order Number: 5.2

Effective Date: December 17, 2024

POLICY:

It shall be the policy of the Brookline Police Department to conduct criminal investigations for the purpose of clearing crimes by arrest and/or complaint, to prosecute lawbreakers, to recover stolen property and to bring each case to a successful conclusion.

Whenever members of this department conduct an investigation, which requires the interrogation of a suspect, or an interview, connected therewith, all constitutional and statutory rights guaranteed under the law shall be afforded to the individual.

The Brookline Police Department will ensure that there is a screening of all reported offenses to assure adequate follow-up investigation whenever appropriate.

PROCEDURES:

UNIFORM PATROL OFFICERS CONDUCT PRELIMINARY INVESTIGATIONS:

Most preliminary investigations will be conducted by members of the patrol force since they are usually the first to arrive at the scene and can start the investigation without delay. Patrol Officers should pursue the initial investigation at the scene until such time that it seems unlikely to produce additional benefits.

It may frequently be possible and desirable for patrol officers to conduct limited follow-up investigations of some crimes. Many times the name of a perpetrator may be known and an interrogation, while the incident is still fresh and before evidence of a crime can be destroyed, may be advantageous. Minor larcenies and assaults, and other misdemeanors not requiring specialized expertise, are examples of crimes that may be followed up by preliminary investigating officers.

A. GUIDELINES FOR CONDUCTING PRELIMINARY INVESTIGATIONS:

All officers assigned to conduct a preliminary investigation shall make every effort to obtain as much information as possible during this stage of the investigation. It will frequently be possible to bring an investigation to a satisfactory conclusion at this point, thus obviating the need for a follow-up investigation.

The first officer assigned to a preliminary investigation shall:

1. Ascertain whether or not the suspect is still in area and armed;
2. Proceed to the scene promptly and safely;
3. Render assistance to the injured;
4. Effect the arrest of the criminal;
5. Locate and identify witnesses;
6. Interview the complainant and witness;
7. Maintain crime scene and protect the evidence;
8. Interrogate the suspect;
9. Note all conditions, events, and remarks;
10. Arrange for the collection of evidence;
11. Report the incident fully and accurately;
12. Yield the responsibility to the follow-up investigator.

B. SERIOUS OR COMPLEX INVESTIGATIONS: Serious or complex preliminary investigations requiring special handling shall be assigned to investigative personnel when delay will not hamper the investigation. On such occasions, the uniformed officers should protect the scene from contamination and request a detective at once. It should be recognized that exceptions should be made when it is advantageous to have detectives respond initially. When determining whether or not to conduct a follow-up investigation, the officer shall consult with a patrol supervisor who shall consider the following circumstances:

- a. Seriousness of the crime;
- b. Whether delay will make the investigation more difficult;
- c. Workload of the shift on duty; and
- d. Number of personnel presently on duty.

C. CRIMINAL INVESTIGATION PROCEDURES: Whenever practicable, members of the department shall follow the below listed procedures when investigating a crime committed, or an incident which has taken place requiring police action:

- 1. INFORMATION DEVELOPMENT:** The primary purpose of a preliminary or follow-up criminal investigation is to identify and arrest the offender, when appropriate and consistent with law. This is usually accomplished by the gathering of information. Information may be obtained from physical evidence as well as from people or testimonial evidence. Both sources should be used. An investigating officer should always conduct an investigation within the bounds of the law and with all due respect to the persons and the property with whom they come in contact.

Investigating officers shall maintain a notebook and, at a minimum, take the following information:

- a. Time of assignment/arrival;
- b. Weather conditions, when pertinent to the investigation;
- c. Approximate time of crime, and by whom and when it was discovered;
- d. Identity of other officers present;
- e. Name, address, telephone numbers and email addresses of the victim(s) and/or witnesses;
- f. Hour, date, and location of the interview;
- g. Description of the suspect, particularly unusual characteristics;
- h. Brief statements as to what a witness saw or heard;
- i. Important measurements and a crime scene sketch, when warranted;
- j. List of property and valuables taken or destroyed, if known;
- k. Any other information the officer believes may be useful in apprehending the criminal.

2. **MAJOR CRIME OCCURRENCES:** Patrol Officers responding to a major crime occurrence shall immediately notify the Patrol Supervisor, who shall inform the Commanding Officer - Platoon on Duty, who shall notify necessary investigative personnel. In addition, the Commanding Officer - Platoon on Duty, wherever there is a question as to the agency's liability or the crime is so significant that may result in a heightened community interest, shall be responsible for notifying the appropriate Department personnel in accordance with the Special order on Critical Incident Notification Protocol.

In the event that there are no detectives on duty, the Commanding Officer - Platoon on Duty shall contact the Deputy Superintendent of the Detective Division, or their designee, who shall determine what, if any, detectives shall be assigned to the crime scene.

In all circumstances when the detectives are needed, the Deputy Superintendent of the Detective Division, or their designee, shall be notified.

3. **SUDDEN DEATH OR HOMICIDE:** In cases of suspicious sudden death or homicide, the Commanding Officer shall notify the Deputy Superintendent of the Detective Division. The detective division shall make notification to the Office of the District Attorney, and the Office of the Medical Examiner. In some instances a family member may request a member of the clergy or a particular funeral home. Every effort should be made to accommodate this request.
4. **RAPE AND SEX-RELATED CRIMES:** In cases of rape and sex-related crimes, the Deputy Superintendent of the Detective Division, or their

designee shall be notified, and shall make the decision what member(s) of the Detective Division if any shall be notified, and under what circumstances they will be assigned to the case in accordance with established procedures.

5. VICE, DRUGS AND ORGANIZED CRIME COMPLAINTS

a. Receipt:

- i. All drug, organized crime and vice complaints received by members of the department shall be documented and submitted to the Detective Division.

b. Processing:

- i. The Commanding Officer- Platoon on Duty at the time the complaint is received shall make a determination as to the most effective preliminary action to be taken.
- ii. Such action could include, but not be limited to, immediate action if appropriate, referral to the Detective Division, or notification of outside law enforcement agencies. When in doubt as to the most appropriate action to take, the Detective Division Supervisor in charge should be consulted prior to action being taken.

c. Recording:

- i. A record of all complaints received shall be maintained.
- ii. A record shall be kept of all information conveyed to and received from outside agencies.
- iii. The Chief of Police, or his or her designee, shall be briefed by the Detective Supervisor in charge of all active investigations.
- iv. Records and reports of active vice, drug and organized crime investigations shall be securely filed and maintained separately from the central records system in the Detective Supervisor's office in a locked filing cabinet..

D. CASE MANAGEMENT AND CONTROLS: Case file management is known as the Detective Case Management System, (DCMS), in the Brookline Police Larimore computer system. A Detective Supervisor with the rank of Sergeant or above shall enter all criminal cases into the DCMS.

Each step in every investigation shall be recorded in the DCMS with a brief explanation of the work performed so that these records can be accessed by other Detectives and Detective Supervisors to assist and monitor a specific crime or to review for methods of operation or patterns of crimes. On rare occasions, access to the DCMS records can be limited if the investigation is confidential and such limited access is approved by the Commanding Officer-Detective Division, Superintendent, or Chief of Police. Detectives should keep the DCMS current so that other investigators can review and share information that is current and accurate and in order to prevent duplication of effort.

All victim and witness contacts and attempts to contact should be noted in the DCMS, as should the collection of evidence and crime scene processing. It is also important to document dates and times of contacts with others involved in the case such as Assistant District Attorneys, the State Crime Lab, and suspects. Attempts to contact the aforementioned people should also be noted in the DCMS.

All cases regardless of status are maintained in the DCMS within the Department's Larimore System and the Technology Division maintains these records.

1. **ASSIGNING OF CASE INVESTIGATIONS:** Cases are assigned to Detectives based on their specialization of certain crimes, similar cases being investigated by a particular Detective, and availability and even distribution of the investigative workload. In some instances, more than one Detective may be assigned to a case depending on their specialization, technical ability, or specific knowledge of a case or suspect. A Detective Supervisor may be assigned as an investigator depending on the number of Detectives assigned complexity of the case, and the Supervisor's specific knowledge or specialization of a certain crime.
2. **CASE STATUS:** After a review of the DCMS by an assigned Detective and Supervisor, the status of a case can be changed depending on the outcome of an investigation. The status of each case can be chosen from the menu in the DCMS. Menu options including: Cleared Arrest, Cleared Court Action, and Cleared Referral shall include a written explanation in the narrative section to include who was arrested, what court action was taken (i.e. Summons or Clerk's Hearing), and to what agency the referral was made.

The following categories shall be used to classify case status:

- a. **OPEN/ ACTIVE:** Shall indicate that the case is assigned to a detective and that investigative efforts are active.

- b. **SUSPENDED:** Shall indicate that all available leads have been exhausted but the case has not been brought to a satisfactory conclusion and investigative efforts may be resumed. A case that has been classified as Suspended may be re-classified as Open/ Active if new information is obtained.
- c. **CLOSED:** Shall indicate the case has been satisfactorily concluded, and did not meet the requirements to be classified in any other category.
- d. **UNFOUNDED:** A case that is categorized as Unfounded shall include within the narrative section the basis for this classification.

3. CRITERIA FOR SUSPENDING INVESTIGATIVE EFFORTS: A designation of suspended shall not be made without an evaluation by the case officer of the following:

- a. Absence of further leads or solvability factors.
- b. Unavailability of investigative resources.
- c. Negative interviews with victims/witnesses.
- d. Inconclusive physical evidence found at the scene of the crime/incident.
- e. The exhaustion of all other information sources.
- f. The degree of seriousness of the offense/incident.

In all cases, the case officer shall have the approval of a superior officer of the Detective Division, prior to the suspension of investigative efforts.

4. CRIME VICTIM NOTIFICATION OF STATUS: It shall be the responsibility of the assigned investigator to personally notify the victim of a crime of any changes in the status of a case. An official notification shall be made in person, by mail, or by telephone within one week. The notification to the victim shall be made whenever the case changes from OPEN to SUSPENDED or CLOSED. Adequate explanation of the reason for the change shall be made to the victim by the assigned investigator. The investigator making the victim contact shall note this on their report.

5. CASE FILE MAINTENANCE: All investigative case files shall be maintained in the Detective Division by the case officer. The assigned case number shall be the incident number assigned to the file at the time it is originated. The case file shall contain, but not be limited to, copies of preliminary investigation reports; statements of victims/witnesses and perpetrators; examination results; photos; status reports; all other records needed for investigative purposes. These files shall not be made public in accordance with Brookline Police Department Regulations.

Confidential cases involving rape and sexual assaults shall be maintained in a secure location. All other cases, when closed or suspended, shall be periodically consolidated into the central records system.

6. **INVESTIGATIVE CASE CONTROL SYSTEM:** The Deputy Superintendent of the Detective Division shall maintain, or cause to be maintained, a recorded case status control system. The information contained therein shall include the case number, the subject matter, the investigator assigned, and the administrative designation of the case, as required.
7. **CASE-SCREENING SYSTEM/SOLVABILITY FACTORS:** Cases to be followed up will be determined by the Deputy Superintendent of the Detective Division, or their designee, who shall base such determination on factors such as past experience and research of our own department, as well as degree of seriousness and solvability factors.
8. **CASE PROGRESS REPORTING:** Investigators will periodically report the progress of investigations assigned to them to the Deputy Superintendent of the Detective Division, or their designee. Such reports shall be made at least once each week, and more frequently if necessary. It shall be the responsibility of such superior officer to determine if additional resources shall be expended in the investigation of such cases.

- E. **FOLLOW-UP INVESTIGATIONS:** Follow-up investigations are usually the result of the report review process. The criteria used to determine if a follow-up investigation will be conducted includes, but is not limited to, the nature and seriousness of the offense, solvability factors, and the availability of department resources.

It shall be the responsibility of the Deputy Superintendent of the Detective Division, or their designee, to determine how many investigators are assigned to any particular investigation, and how many hours are expended thereon.

Renewable resources, such as photographic supplies, fingerprint equipment, videotapes, and other equipment and supplies, may be used during the course of the investigation at the discretion of the individual investigator. Such use, however, shall be periodically monitored by the Deputy Superintendent of the Detective Division, or their designee.

1. **PRINCIPAL INVESTIGATOR:** Any superior officer of the Detective Division who assigns a follow-up case for investigation shall designate one particular investigator as the Principal Investigator/Case Officer. The pertinent information on the case, along with the Principal Investigator's name, shall then be entered into the report. This procedure will provide for appropriate accountability for each case.
2. **GUIDELINES FOR CONDUCTING FOLLOW-UP INVESTIGATIONS:** The following listed procedures should be used as a guide when conducting

follow-up investigations. Investigators shall conduct as thorough an investigation as possible, including as many of the following steps as appropriate, although all of the steps may not be necessary in every investigation:

- a. Review and analyze all previous reports prepared in the preliminary phase;
- b. Conduct additional interviews with victims, witnesses, reporting parties, and preliminary investigating officers, if necessary;
- c. Conduct interrogations of all suspects;
- d. Review departmental records for incidents of a similar nature for the purpose of developing a suspect;
- e. Review results from laboratory examinations;
- f. Seek additional information from informants, or from officers from this and neighboring police agencies;
- g. Plan, organize, and conduct crime scene searches for the purposes of gathering additional physical evidence;
- h. Check criminal records of potential suspects;
- i. identify and apprehend suspects;
- j. interview apprehended suspects in order to determine involvement in, and clearance of, other crimes;
- k. arrange for dissemination of pertinent information obtained to other components and agencies, as appropriate;
- l. Assist department prosecutors and/or Assistant District Attorneys in preparing cases for court prosecution;
- m. Assist in prosecution of cases in District or Superior Court.

3. SECOND CONTACT/VICTIMS, WITNESSES and COMPLAINANTS:
Investigators shall maintain a policy of a "second contact" with principals involved in a case requiring a follow-up investigation whenever possible. The contact should be timely to ensure the building of public confidence in the department, as well as indicating a genuine concern about the welfare of the victim and others involved in the case. This procedure may result in the receipt of information leading to the clearance in a case.

4. **INVESTIGATIVE TASK FORCES:** Whenever it is necessary to form a task force to deal with a particular crime, type of crime, or series of incidents, The Deputy Superintendent of the Detective Division shall determine, based upon the circumstances, if any task force will be required and notification will be made to the Chief of Police.

These procedures will apply for multi-jurisdiction task forces as well.

An exception to this procedure shall be whenever the assignment of personnel to a task force is of a confidential nature.

5. **INVESTIGATIONS OUTSIDE OF JURISDICTION:** At times, it will be necessary for police officers to conduct investigations outside of their jurisdictional boundaries. When doing so, officers must follow the rules and regulations and policies and procedures of the department. They must also act in compliance with established case law.
6. **BACKGROUND INVESTIGATIONS:** Background investigations may be used for either criminal investigations, police or fire applicants or licensing purposes. Investigations of this nature shall be conducted discretely and with special precautions.

The use of information and the purging of records shall be the responsibility of the Chief of Police or their designee, unless the background check was made as a result of the request of another licensing agency, i.e.: Firearms, Traffic, Patrol Division, etc.

The use of information obtained shall be limited to legitimate law enforcement functions, and shall only be disseminated on a need-to-know basis within the department. Approval for dissemination of background investigation information to an agency outside the police department shall be obtained from the Chief of Police, or their designee. Upon conclusion of an investigation, only that information specific to a criminal case shall be kept, and such information will be maintained in a secure fashion.

F. INTERVIEWS/INTERROGATIONS:

1. **INTERROGATIONS:** All officers shall strictly adhere to the policy of the department prior to any interrogation of suspects. Miranda warnings shall be given in an unhurried manner to assure that the suspect has heard and understood what constitutional and statutory rights he or she is entitled to. Miranda warnings shall be read from an approved Miranda Card or from a Brookline Police Department Miranda Form. A suspect who requests the aid or presence of an attorney shall not be questioned until the attorney is present, regardless of when the request is made. A suspect's right to summon, meet with, or speak to his or her attorney shall not be delayed or denied.

It should be remembered that a waiver of Miranda warnings may be suppressed because of language understanding difficulties, youthful age of the suspect, mental condition, drug or alcohol consumption by the suspect, wounds, shock or other medical impairment, and the lack of a clear, understanding, intelligent, and competent waiver.

No coercion, threats, or promises shall be used under any condition to obtain a confession, statement, or admission from any individual.

Voluntary statements may be taken by the officer after a valid waiver of Miranda warnings, or whenever a voluntary statement is made when the Miranda warnings are not a prerequisite for admissibility in court.

When a suspect voluntarily makes a statement, officers do not have to prevent him or her from continuing to talk. Voluntary statements:

- a. Are those not made in response to questioning by an officer;
- b. Are statements made by a suspect of his or her own free will;
- c. May be taken after a suspect is in custody and before or after actual interrogation, so long as the statements are clearly voluntary.

2. **RECORDING INTERVIEWS:** The Brookline Police Department utilizes the following procedures to follow the guidance of Commonwealth vs. DiGiambattista to make certain that the details contained within a confession or admission can be verified as accurate. All custodial interviews are recorded, when practical, with the suspect's knowledge. This policy covers interviews which are custodial or may be deemed custodial. The use of the interview room/recorder may be used to document any other interview such as that of a victim, fresh complaint witness or witness, when appropriate to preserve statements to further any investigation.

- a. **Interviews outside Brookline Police Station:** Interviews that take place outside of the Brookline Police Station where no recording device is in place, will utilize a reliable video recorder. These recorders are available in the Identification Unit. If the SD card is not present you will not be able to record the interview. A small tripod is provided to stabilize the camera while recording.

Situations where these recorders may be needed are if the suspect is at the hospital, at another police station or House of Correction. The recording should commence with the interviewer stating the date, time and place of the interview, advising all parties present the intention to electronically record all conversations and reading the suspect his/her Miranda rights from an

approved rights form. Have the suspect sign the form. Once the suspect waives his or her Miranda rights, you may commence the interview. All conversation should be recorded; any break in the interview should be explained on the recording. At the conclusion of the interview and your return to the station, submit the video recorder and Miranda form into evidence per departmental evidence policy. This includes initiating a report or supplemental report documenting the interview and documenting the recording in the evidence portion of the report and submission into an evidence locker.

The evidence officer will, upon receipt of the video recording, have it downloaded by the ID Unit on to the Identification Unit digital evidence server. Any request for copies will be made to the ID Unit evidence officer.

- b. Interviews at Brookline Police Station: Interviews that take place at the Brookline Police Station will utilize the third-floor interview room which has been equipped with a video/audio recording system. Detectives and Patrol Supervisors are to be trained in the use of the video/audio recording system. Patrol Supervisors will directly supervise and participate in any custodial interview conducted by a patrol officer. Detectives shall make every effort to have at least two officers present in the vicinity of interview room while interviewing a suspect. The second officer if not involved in the interview should be able to observe the interview from outside the room and be able to summon further assistance if he/she and the primary officer is not able to control any situation that may arise. Assistance may be summoned by activating the "Officer Needs Help" feature on their assigned portable radio. All officers' weapons shall be secured in the firearms lockers prior to the interview. No weapons should be present during a custodial interview. This rule of "No Weapons" will also include law enforcement personnel from other departments including local, state and federal agencies. No items that can be used as a weapon, other than writing instruments shall be kept in the interview room. Writing material, tables and chairs should be the only items in the interview room.

At the start of any interview, the interviewer will logon on to the video/audio system using their username and password or use the wall switch inside the interview room. After logging in, click on the interview room window and fill in the case number, name of interviewer and subject name. Recording immediately begins when you click on the interview room window. Officers will know the room is recording when the "In use" box outside of the interview room is illuminated.

The recording should commence with the interviewer stating the date, time and place of the interview, advising all parties present the intention to electronically record the conversation, identifying all parties present including the suspect and reading the suspect his or her Miranda rights from

an approve form. Have the suspect acknowledge that he understands his rights as explained and sign the form. You may then commence the interview. All conversations should be recorded and any break in the questioning should be explained on the recording. At the conclusion of the interview, click to close the interview room window and this will end the interview. The interviewing Officer will initiate a report or supplemental report documenting the interview in the evidence portion of the report. The interview is preserved on the video/audio system evidence server. A copy of the interview is not required to be turned into the evidence as it is already preserved on the "evidence server".

Using the "wall switch" option: Upon using the wall switch, the interview room will immediately start recording. Officers will know the room is recording when the "In Use" box outside of the interview room is illuminated. The interview can be terminated by pressing the wall switch. If using the "wall switch", the interview officer will have to logon to the video/audio system and fill in the case number, interview officer name and subject name.

- c. Any interview or interrogation conducted in the police station that uses a telephone interpreter service must record the conversation where practicable. This can be accomplished by either:
 - i. Using a telephone where the line itself is recorded.
 - ii. Using the interview room with the telephone on speaker so the audio recording of the room itself can record the conversation.
 - iii. Using the officers body worn camera to record the conversation by placing the telephone on speaker.
 - iv. In the event the interview is not conducted in the police station, the interviewee shall make all attempts, where practical, to record the conversation.

3. INTERVIEW TECHNIQUES: To promote the success of the interview, the investigator should remember that peculiar characteristics of witnesses may affect their statements (for example: hysteria, belligerence, evasiveness, age, etc.), and that the officer's own demeanor - the use of tact, patience, reassurance, etc. - is very important. When conducting an interview or an interrogation, officers shall do so in an area in which distractions are limited or eliminated. Officers of the Detective Division shall utilize an interview room located within the Detective Division, whenever practical. The following minimum standards for interviewing will be maintained:

- a. Questions should be simple and in plain language.
- b. Only one question at a time should be asked.
- c. Avoid questions that imply an answer.

- d. Avoid sarcasm, rudeness, or antagonism.
- e. Avoid interruptions.

4. **COMFORTS:** The interview room should have reasonable access to restrooms and water provided upon request. The subject shall be afforded reasonable comfort breaks if the interview is extensive in time. Officers shall take into consideration security risk in granting a comfort break and take precautions during such breaks.
5. **RIGHT TO COUNSEL:** When a suspect is in custody and is being interviewed or is about to be interviewed, and an attorney calls to inform investigators that he or she represents the suspect and wants to speak with the suspect, the Brookline Police Department has an obligation to transmit that message. The attorney shall be connected immediately with someone who has access to those conducting the interrogation or interview.

This obligation exists even when the suspect has been informed of his or her Miranda rights and agreed to talk to police without an attorney present, and when the suspect does not know that an attorney has been appointed or retained on his or her behalf.

If the attorney asks that a message be passed on to the suspect, questioning must stop and officers shall comply with the attorney's request. The message need not be transmitted verbatim, but the substance must be transmitted to the suspect. This includes a message from the attorney that they do not want their client to speak with the police.

If, after receiving the message, the suspect invokes his or her right to silence, or to counsel, officers must stop the interrogation. If on the other hand, the suspect chooses to continue the interview, it may proceed. Notation on the record should be made by the interviewing officers that the suspect is voluntarily proceeding.

Officers shall make a record of their communication of an attorney's message to a suspect. Where the interview is being recorded, the officers' relaying of the message and the suspect's decision to continue or terminate the interview shall be captured on the tape.

6. **TECHNICAL AIDS FOR THE DETECTION OF DECEPTION:** Technical aids for the detection of deception may be used in an investigation if appropriate. The Brookline Police Department will seek assistance from other law enforcement agencies that have detection of deception devices, and investigators trained and certified for operation of such devices as necessary. No unauthorized personnel shall be allowed to use such technical aids for investigations.

G. INTERVIEWING WITNESSES:

1. Witnesses should be interviewed as soon as possible after the incident under investigation.
 - a. An officer should not hesitate to instruct a witness to remain at the scene until interviewed.
 - b. It is important at the onset 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.
 - c. As soon as possible, witnesses should be separated to ensure independent statements.
 - d. 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.
 - e. Eyewitness identifications must be made under strict legal requirements and must avoid any suggestiveness by the police on impressionable witnesses.
 - f. An officer interviewing a victim or witness should immediately identify themselves or show their credentials if they are not in uniform.
 - g. Considerations should be given to the physical and emotional needs of witnesses.
 - i. Calm the excited and emotionally upset witness (if necessary, delay the interview until the witness has regained composure).
 - ii. Create a favorable atmosphere for the witness to talk freely.
 - iii. Conduct the interview in a quiet area, if available.
 - iv. Maintain privacy to the greatest degree possible.
 - v. Do not distract the witness or interrupt his or her story unnecessarily.
 - vi. Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.
 - h. The immediate objective of the interviewing officer should be to establish a cooperative relationship. To this objective, an officer should:
 - i. Display a sincere interest;

- ii. Be patient and tactful;
 - iii. Be respectful;
 - iv. Control personal feelings;
 - v. Provide reassurance; and
 - vi. Encourage untalkative witness by asking appropriate questions.
- i. Encourage witnesses to give a full description of everything that occurred with a minimum of interruption.
- i. 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 the interview confined to the subject under investigation.
 - ii. When the conversation lags or stops, be patient and wait for the witness to volunteer additional information.
 - iii. Do not take anything for granted and do not jump to conclusions.
 - iv. Listen for and note any obvious omissions or gaps in the statements made by a witness, or for any conflicting or inconsistent statements.
 - v. Note any extreme nervousness or unusual behavior on the part of a witness, or for any unguarded or spontaneous remarks made by a witness.
 - vi. Do not exhibit surprise or dismay at anything said by a witness.
- j. Officers should withhold any direct questioning until after the witnesses have given a complete account; then ask specific questions to clarify earlier statements or to fill in any omissions.
- i. Questions should be clear, definite, and in plain language.
 - ii. Ask only one question at a time, and wait for a complete reply.
 - iii. Avoid leading questions that imply or suggest a particular answer.
 - iv. Avoid rapid-fire questions that can confuse or bewilder the witness.
 - v. Avoid questions that can be answered by "yes" or "no," which limit response.

Do not ask questions in a critical or derisive manner, which could deter previously cooperative witnesses.

- vii. Do not correct the grammar or the language of the witness, which could cause resentment.
- viii. Do not permit your own emotions, attitude, or opinions to distract the witnesses or to interfere with your evaluation of their response to your questions.
- k. It is important to not only listen to what is said but also to know 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 a sensitive area has been reached. By noting these things, an officer will know what portions of the statements may require further probing or clarification.
- l. Interviews 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.
 - i. Summarize what has been covered. Ask the witnesses if there is anything they wish to add or emphasize.
 - ii. Thank them for their cooperation.
 - iii. Impress upon them the value of their service.
 - iv. Inform the witness that it is very important to contact police if the witness recalls or uncovers additional information about the crime or criminal at a later time.
 - v. Inform the victim or witness of the phone number and location of any victim/witness assistance program or similar programs available.
 - vi. 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.
 - vii. 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 not to testify. If anyone attempts to do so, the witness should be told to contact the police immediately.

H. REPORT WRITING:

1. 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 that 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.
2. All information obtained from witnesses should be passed on to the follow-up investigator.
3. All pertinent data should be included in the officer's official report and submitted in accordance with departmental practice and procedures.
4. If a tape recorder is available and it is advisable to do so, officers may tape-record. 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 their consent elicited. If during an interview with a witness, (See section above regarding recording interviews via electronic recording and Special Order 2005-19) 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 should be promptly notified.

I. COURT PROSECUTION: The ultimate goal when an investigation is conducted is to identify, arrest, or bring into court by means of a complaint, and assist in the successful prosecution of, the offender in a court of law.

All suspects who are arrested by members of this department shall be arraigned as soon as is reasonably possible following arrest. Post arrest, if a warrantless arrest is made and the arrestee is being held longer than 24 hours, a Clerk Magistrate or the On-call Judge must be called and a determination of probable cause must be made. The bail Clerk who has set the bail on the arrestee can NOT also make a probable cause determination, as they must be "neutral and detached".

1. **COURT DISMISSALS:** In the event that any action is dismissed in court, or the prosecutor declines to prosecute because of alleged mishandling by a Brookline Police Officer, the Court Prosecutor shall review the case and take immediate corrective action by personally speaking to the officer involved and submitting a memo to the officer's Division Deputy Superintendent. If the Court Prosecutor is satisfied that the officer understands their error and that it will not be repeated, this action will be sufficient.

In the event that the Court Prosecutor feels that further action is necessary, they shall refer the matter to the officer's Division Deputy Superintendent.

The officer's Division Deputy Superintendent shall take whatever action they feel is necessary to correct the situation, including but not limited to:

- a. Personally speaking to the officer;
- b. Having the officer's immediate supervisor speak with them; or
- c. Referring the matter to the Training Division for remedial action.

In the event that the particular Division Deputy Superintendent feels that the error has resulted from a fault in the policies and procedures of the Brookline Police Department, they shall refer the matter to the Chief of Police for appropriate police revisions.

(If the dismissal is a result of Intentional misconduct, or clear inability of the officer to perform the job, the Court Prosecutor shall refer the matter to the Chief of Police).

2. **HABITUAL/SERIOUS OFFENDERS:** In order to be more effective and efficient in the prosecution of habitual and serious offenders, the Court Prosecutor will use the following criteria:

a. HABITUAL OFFENDER DEFINED: For the purpose of this procedure, a habitual offender shall be defined as anyone twice convicted of a crime and sentenced and committed to prison, in this or another state, or once in this state and once in another state, for terms of not less than three years each, and does not show that they have been pardoned for either crime on the grounds that they were innocent, shall, upon conviction of a felony, be considered a habitual offender.

Those individuals charged with:

- i. Crimes of violence;
- ii. Serious repeat offenders;
- iii. Crimes posing the greatest threat to the public;
- iv. Motor vehicle offenses that pose a threat to the public, and fall under Mass. Gen. Law, Chap. 90, Sec. 22F; will be identified and designated as habitual or serious offenders.

It will be the responsibility of all officers to inform the department Court Prosecutor if they know or have reason to believe an individual is a habitual offender. It will especially be the responsibility of the department Court Prosecutor to check with the probation department on the status of the offender and take appropriate action, such as obtaining complaints and/or having citations

written that are warranted, and notifying the District Attorney of the offender's status.