

## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and dispositions of criminal investigations.

### 600.2 POLICY

It is the policy of the Kalamazoo Department of Public Safety to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

The initial investigation of incidents reported to the department is normally the responsibility of the Operations Division. The initial investigation begins with the receipt of the original complaint/report and continues until a decision is made, by a supervisor, to inactivate, close or transfer the investigation to another division.

#### 600.3.1 PUBLIC SAFETY OFFICER RESPONSIBILITIES

A public safety officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  1. An initial statement from any witnesses or complainants.
  2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the public safety officer shall:
  1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  2. Determine whether additional investigative resources (e.g., detectives or scene processing) are necessary and request assistance as required.
  3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Commander.
  4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  5. Collect any evidence.
  6. Take any appropriate law enforcement action.
  7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary and what other resources may be available, and advise the informant or complainant of this information.

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#### 600.3.2 SUPERVISOR RESPONSIBILITIES

- (a) Review and approve all case reports for completeness and accuracy. Incomplete case reports will be returned to the submitting officer for correction.
- (b) Monitor and review initial investigations assigned to patrol personnel to ensure efficiency and effectiveness of the investigative process.
- (c) Evaluate the case report and determine whether the case should be closed based off the “discontinuation of investigation” factors listed in 600.5 or forwarded for further review or actions based off the [case referral guidelines](#).

#### **600.5 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the *Temporary Custody of Juveniles Policy*. The following policies should be consulted for further information regarding interviews/interrogation and interview room procedures.

- *Policy 612 Interview/Interrogation- Adults & Juveniles* for further information on interview/interrogation procedures
- *CID Procedure 420 Office Security* for interview room use and procedures

#### 600.5.1 AUDIO/VIDEO RECORDINGS

The Kalamazoo Department of Public Safety will utilize audiovisual recording equipment anytime a custodial interrogation of a person suspected of the following crimes is conducted (MCL 763.8):

- (a) A felony punishable by imprisonment for life, for life or any term of years, or for a statutory maximum of 20 years or more
- (b) A violation of MCL 750.520d (criminal sexual conduct in the third degree)

The recording will be time stamped and contain the entire interrogation including the notice of the *Miranda* rights. Any objection to the recording will be documented but the recording will continue (MCL 763.8).

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Criminal Investigations Division supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete, and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

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#### **600.5 DISCONTINUATION OF INVESTIGATIONS**

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, there is no reasonable belief that the person who committed the crime can be identified and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
  - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
  - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor; charges have been filed; further investigation is not reasonable, warranted or requested; and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proved that a crime was not committed (see the *Sexual Assault Investigations* Policy for special considerations in these cases).

The *Domestic Violence*, *Child Abuse*, *Sexual Assault Investigations* and *Adult Abuse* policies may also require an arrest or submittal of a case to a prosecutor.

#### **600.6 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, public safety officers should request that crime lab specialists or public safety officers specifically trained to handle this type of evidence assist with seizing computers and related evidence. If a lab specialist is unavailable, public safety officers should take reasonable steps to prepare for such seizure and use the resources that are available.

#### **600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment,

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the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

#### **600.7.1 ACCESS RESTRICTIONS**

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

#### **600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Public Safety Officers should seek legal counsel before any such interception.

#### **600.8 IDENTITY THEFT**

A report shall be taken any time a person reports that he/she has been a victim of identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the City of Kalamazoo to facilitate the crime) (MCL § 780.754a). This includes:

- (a) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Department members should encourage the individual to review the material and should assist with any questions.
- (b) Referring the victim to the Records Division to obtain a copy of the police report (MCL § 780.754a).

A member investigating a case of identity theft should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency (e.g., an identity theft ring working from out of state). The victim should be advised that the case

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is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

#### **600.9 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Commander or the Chief, Deputy Chief or Assistant Chief of Public Safety. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.