

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

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

The Marquette University Police Department (MUPD) has determined that a limited response only will be provided for certain types of investigations for which other law enforcement agencies may be better positioned to assure the highest level of public confidence that the investigation's outcome was determined correctly and solely on the information developed during a complete investigation.

600.1.1 DEFINITIONS

Designated Investigation - Designated Investigations may include allegations of the commission of a crime by any Marquette University police officer; any employee assigned to the Marquette University Police Department; or any employee of Marquette University as directed by the Chief of Police.

Initial Response - An Initial Response is when MUPD police officers respond to stabilize a situation and stand by, if necessary, until law enforcement officers from other agencies with jurisdiction can respond. Preliminary field investigation and preservation of crime scenes by MUPD police officers shall be conducted in accordance with the procedures and standards of the Milwaukee County District Attorney's Office.

600.2 POLICY

It is the policy of the Marquette University Police Department 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 INVESTIGATIVE PROCEDURES

The Detective Lieutenant shall be responsible for developing, maintaining and reviewing detailed investigative procedures. Such procedures will minimally include:

- (a) Case file management.
- (b) Preliminary and follow-up criminal investigations.
- (c) Vice, narcotics and organized crime investigative and administrative protocols.
- (d) Multi-jurisdictional investigative task force roles and responsibilities.
- (e) Polygraph or other truth-telling device examinations.
- (f) Cold case definition, evaluation criteria and documentation.
- (g) Undercover surveillance, decoy and raid operations.
- (h) Dignitary protection plans.

Marquette University Police Department

Policy Manual

Investigation and Prosecution

- (i) Photographic (conventional and digital) and other digital evidence collection.
- (j) Known source evidence collection for physical evidence comparison.
- (k) Forensic laboratory evidence submission.
- (l) Latent fingerprint preservation.
- (m) Interrogations of adults and juveniles.

Designated Investigation Procedures:

The initial response to the crime scene and the victim is critical in case development. MUPD officers who arrive at the scene of what they believe to be a Designated Investigation shall treat this scene as any other crime scene. The following steps should be taken to stabilize and preserve the scene:

- (a) Control access to the crime scene.
- (b) Make initial contact with victim.
- (c) Determine the nature of the incident.

Identify the victim and determine the need for emergency medical treatment. An officer should accompany the victim to the hospital, if the investigating agency has not arrived at the time of the emergency transport.

Provide assistance to the investigating agency, as appropriate or requested.

Notification:

Upon confirming that a crime is in fact a Designated Investigation, MUPD officers shall:

- (a) Immediately request a supervisor.
- (b) Provide the responding supervisor with the following information:
 - 1. Victim information.
 - 2. Suspect information.
 - 3. Brief summary of incident.
- (c) The responding supervisor will then contact the Shift Commander and relay the details of the incident.
- (d) The Shift Commander will make contact with the Assistant Chief of Police, who will notify the Chief of Police.

MUPD officer shall maintain control of the crime scene until relieved by members of the investigating agency.

At the request of the investigating agency, MUPD officers can take on additional responsibilities related to the investigation.

600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

Marquette University Police Department

Policy Manual

Investigation and Prosecution

- (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 officer shall:
 - (a) Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - (b) Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - (c) If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Commander.
 - (d) If it has been determined that a felony has been committed, a supervisor shall be requested to respond to the scene.
 - (e) Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - (f) Collect any evidence.
 - (g) Take any appropriate law enforcement action.
 - (h) 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, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 SUPERVISOR RESPONSIBILITIES

Any supervisor that responds to a reported felony investigation shall gather all of the available information from the officer(s) who were initially dispatched to the incident. The supervisor shall then determine whether or not detectives should respond to the scene.

600.3.3 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.3.4 FOLLOW-UP INVESTIGATIONS

An officer assigned a case for follow-up investigation shall when appropriate follow the established procedures, to include:

- (a) Review and analyze the preliminary investigation reports, to include statements, photographs, evidence, inventoried property, and any other information contained in the case file.

Marquette University Police Department

Policy Manual

Investigation and Prosecution

- (b) Conduct additional interviews and interrogations in compliance with department policy and laws.
- (c) Gather additional information from officers, victims, witnesses, other agencies, electronic databases, or informants.
- (d) Conduct surveillance consistent with department policy and laws.
- (e) Disseminate information to other officers and/or agencies.
- (f) Plan, organize, obtain search warrants, and execute searches in accordance with department policy and laws.
- (g) Identify, collect, and preserve any additional evidence.
- (h) Identify and apprehend suspects and determine their involvement in other crimes.
- (i) Prepare supplemental reports and submit them for review and approval in a timely manner.
- (j) Prepare cases for court presentation and assist with prosecution.
- (k) Maintain contact with the principals in the case to indicate that the Department is genuinely concerned about the victim's and other citizens' welfare associated with the case.

600.4 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.

600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of a person who is suspected of having committed a misdemeanor or a felony shall be electronically recorded (audio/video or both 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 (Wis. Stat. § 968.073(1)(a); Wis. Stat. § 968.073(2)).

- (a) Exceptions to an audio/visual recording of the interrogation include (Wis. Stat. § 972.115(2)(a)):
 - (a) The person refused to respond or cooperate in the interrogation if a recording was being made. The refusal shall be recorded or documented in a written report.
 - (b) The statement was made in response to a question asked as part of the routine processing.
 - (c) The statement was made spontaneously and not in response to a question.
 - (d) The officer in good faith failed to make a recording because the recording equipment did not function, malfunctioned, stopped operating or the officer inadvertently failed to operate the equipment properly.
 - (e) Exigent public safety circumstances existed that prevented the making of a recording or rendered the making of such a recording infeasible.

Marquette University Police Department

Policy Manual

Investigation and Prosecution

- (f) The officer conducting the interrogation believed at the commencement of the interrogation that the offense for which the person was taken into custody or for which the person was being investigated was not a misdemeanor or a felony.

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 Detective Lieutenant. 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.

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, 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, and 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 proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

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

Marquette University Police Department

Policy Manual

Investigation and Prosecution

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, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available. See the Property and Evidence Policy for additional guidance.

600.6.1 PROCESSING DIGITAL EVIDENCE

The Detective Lieutenant shall be responsible for developing procedures concerning the collection, processing and preservation of digital evidence (i.e., still cameras, video cameras, cell phones, computers) to include:

- (a) Procedures for secure shutdown of electronics.
- (b) Procedures for property packaging and transportation of electronics.
- (c) Storage of original image or document.
- (d) Protocol for processing digital evidence, to include:
 1. Gathering
 2. Editing
 3. Ensuring authenticity
- (e) Training of personnel to handle digital evidence.

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, 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,

Marquette University Police Department

Policy Manual

Investigation and Prosecution

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. Officers should seek legal counsel before any such interception.

600.8 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 the Assistant Chief of Police or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

600.9 INVESTIGATION CASE FILE MANAGEMENT

600.9.1 CASE STATUS AND CONTROL

The department's records management system contains software that is utilized for case status, assignment, and control. The Detective Lieutenant, in collaboration with the Support Services Division, shall be responsible for using the case management program to monitor case development to ensure cases are efficiently brought to its proper conclusion.

600.9.2 ADMINISTRATIVE DESIGNATORS

An administrative designator will be used for each case, to include:

- (a) A unique incident number assigned to each case when originally reported.
- (b) Officers shall select designators for UCR offense types during the report process, reviewed, amended if necessary, and reported by Support Services.
- (c) Disposition clearance codes are used when the case is concluded. Disposition codes shall follow the UCR guidelines, to include:
 1. Cleared by arrest – Arrested, charges filed, and/or case turned over to the court.

Marquette University Police Department

Policy Manual

Investigation and Prosecution

2. Open/Pending – Case is ongoing and has not reached conclusion.
3. Exceptionally cleared – Identity of offender is established, however, some reason outside law enforcement control precludes arrest, charging, or prosecution.
4. Closed - No Further Leads – All investigative leads have been exhausted resulting in the suspension of the case pending new information.
5. Closed--Non-Criminal - Non-Criminal cases upon incident report approval.
6. Closed - All Other
7. Unfounded – Complaint is false or baseless.