
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 Montgomery County Sheriff's Office 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

600.3.1 DEPUTY RESPONSIBILITIES

A deputy 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, if available.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the deputy shall:
 - 1. Preserve the scene and any evidence as required to complete the initial investigation.
 - 2. Determine whether additional investigative resources (e.g., investigators 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.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect and preserve any apparent 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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600.4 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 State Law.

600.4.1 AUDIO/VIDEO RECORDINGS

Audio and video recordings are subject to the following requirements:

- (a) Deputies shall make an electronic recording (video with audio, as available) of:
 - 1. All custodial interrogations of juveniles in criminal investigations that are conducted at any place of detention.
 - 2. Any custodial interrogation of any person in a criminal investigation that is conducted at any place of detention if the investigation is related to:
 - (a) Any Class A, B1 or B2 felony.
 - (b) Any Class C felony of rape, sex offense or assault with a deadly weapon with intent to kill that inflicts serious injury.
- (b) An electronic recording shall:
 - (a) Be an uninterrupted record that begins with and includes the deputy's advice to the person in custody of his/her constitutional rights. Brief periods of recess requested by the person in custody or a deputy do not constitute an interruption.
 - (b) Clearly show both the interrogator and the person in custody throughout.
 - (c) Not end until the interview has completely finished.
 - (d) Reflect the starting time of any recess as well as the time the interrogation resumes.

Places of detention include jails, police stations or sheriff's offices, correctional or detention facilities, holding facilities for prisoners or other facilities where persons are held in custody in connection with criminal charges.

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 an interrogation should be destroyed or altered without written authorization from the District Attorney assigned to the case. 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.

Deputies shall identify and catalogue electronic recordings. All evidentiary recordings shall be retained as required by the records retention schedule and in no case less than one year after

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all post-trial matters are resolved. Any disposition of evidence will be pursuant to court order.

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 and further investigation is not reasonable or has not been requested by the prosecutor.
- (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, Sex Offense 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, deputies may contact a computer forensic examiner for assistance with seizing computers and related evidence, when exigent circumstances arise. If a forensic examiner is unavailable, deputies should take reasonable steps to prepare for such seizure and use the resources that are available, in particular, assistance from the State Bureau of Investigation or other appropriate agencies.

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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 Deputies while on-duty and for purposes related to the mission of this office. If a Deputy encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the Deputy should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The Deputy, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using office equipment.

Information obtained via the Internet should not be archived or stored in any manner other than office-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 office 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. Deputies should contact the State Bureau of Investigation or other appropriate agency to apply for an order authorizing or approving the interception of wire, oral or electronic communications.

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600.8 IDENTITY THEFT

A report should be taken any time a person living within the jurisdiction of the Montgomery County Sheriff's Office reports that he/she has been a victim of identity theft:

- (a) Taking a report, even if the jurisdiction for the investigation and prosecution of the offense may lie elsewhere or has not been determined.
- (b) Providing the victim with the appropriate information in regards to the victims compensation fund through the District Attorney's Office as well as any other State and Federal entities regarding social security and credit.

A report should also be taken if a person living outside office jurisdiction reports an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Montgomery County to facilitate the crime).

A Deputy taking a report of identity theft should ensure that the case is referred to the appropriate agency if it is determined that this office 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 is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for office use and are specific to this type of investigation.

600.9 MODIFICATION OF CHARGES FILED

Deputies 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 Investigations Division Director. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.