

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 8.25
	Effective Date: 08/15/05 Prv. Rev. Date: 02/25/21 Revised Date: 05/29/23
	Accreditation Standards: KACP: 17.6, 30.8
Chapter: Field Operations	
Subject: Interviews and Interrogations	

8.25 INTERVIEWS AND INTERROGATIONS

8.25.1 DEFINITIONS

Custodial Interrogation: Questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of their freedom of action in any significant way.

Developmental Disability: A disability that is manifested before the person reaches 22 years of age, which constitutes a substantial disability to the affected individual, and is attributable to an intellectual disability or related conditions, which include cerebral palsy, Down Syndrome, fetal alcohol syndrome, spina bifida, epilepsy, autism, or other neurological conditions, when such conditions result in an impairment of general intellectual functioning or adaptive behavior (refer to SOP 8.42).

Interrogation: The process of focused questioning, directed by police, to a person suspected of a crime, in order to seek a confession.

Interview: The formal questioning of an individual by law enforcement authorities for the purpose of obtaining facts or information.

Interview Room: An area set aside for the interviewing of suspects, witnesses, victims, and juvenile offenders. Since interview rooms are not secure rooms, all suspects and offenders will be kept under continual supervision while at the facility. A temporary detention room may also be used as an interview room, but the stricter standards for temporary detention rooms apply (refer to SOP 8.30).

Mental Illness/Disability: A state of impaired mental processes, which results in a distortion of a person's capacity to recognize reality due to hallucinations, delusions, faulty perceptions, or alteration of mood, and interferes with an individual's ability to reason, understand, or exercise conscious control over their actions. This includes when these behaviors are caused by a Substance Use Disorder (refer to SOP 8.42 and SOP 12.20).

Persons of Diminished Capacity: Encompasses all persons encountered in the field who exhibit unusual behaviors commonly referred to as irrational, bizarre, or unpredictable. These outward observable symptoms could be the result of intoxication, drug use, suicidal indication, disability, or medical complications (refer to SOP 12.20).

8.25.2 INFORMATION DEVELOPMENT

Information in criminal investigations may be developed from sources, including, but not limited to, the following:

- Witnesses, informants, and suspects
- Public records and lawfully-obtained private records
- Background investigations (e.g. criminal history)
- Surveillance
- Physical evidence

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8.25.3 INTERVIEWS (KACP 17.6)

When conducting interviews, officers will attempt to adhere to the following:

- Interviews will be conducted as soon as possible after the crime has been committed.
- Witnesses will be located, identified, separated, and subsequently interviewed separately, in order to protect the integrity of their statements.
- Officers will properly address the security of witnesses, suspects, and victims during interviews conducted at departmental facilities.
- When appropriate, the officer will document interviews on an Investigative Letter form (LMPD #05-0002) or an Investigative Record form (LMPD #0450-02).

The recording of witness interviews, via video and/or audio, is encouraged.

8.25.4 INTERROGATIONS

When interrogating a suspect/arrestee in custody, officers will adhere to the following:

- Officers will properly address the security of custodial suspects/arrestees during interrogations. Interrogations taking place in temporary detention rooms will be in accordance with SOP 8.30.
- Custodial suspects/arrestees will not be left unmonitored in an interview room. An officer will remain inside of the interview room with the custodial suspect/arrestee, or an officer will have visual contact with the custodial suspect/arrestee through a window or via electronic monitoring equipment.
- Custodial suspects/arrestees will be searched prior to interview or interrogation and all items found will be documented on the Temporary Detention Room Use form (LMPD #09-0012).
- The interview room/temporary detention room will be searched before and after each interrogation.
- Officers will either maintain their weapon secured in a holster or secure their firearms or any other such item(s) that may be used as a weapon (e.g. batons, chemical sprays, etc.) in designated areas before entering an occupied interview room/temporary detention room.
- Officers will not interrogate a suspect/arrestee of the opposite sex alone in the interview room/temporary detention room unless another officer is in the room, there is visibility into the room through a window or open door, or the interrogation is being videotaped.
- Panic or duress alarms will be used in occupied interview rooms/temporary detention rooms, if available. If no panic or duress alarms are available, officers will use portable radios with a designated signal and procedures to follow in the event of distress in the occupied interview room/temporary detention room. Live streaming video, as long as it is constantly monitored, may be used instead of portable radios.
- Miranda warnings will be read by officers from the Miranda Rights Waiver form (LMPD #0006-96). For persons with a mental illness or developmental disability, after the initial Miranda warning is read, members may use simple words to modify the Miranda warning to verify that the suspect/arrestee understands their rights (refer to section 8.25.7).
- If the suspect/arrestee has received a Conducted Electrical Weapon (CEW) application, officers must wait at least 60 minutes before reading the suspect/arrestee their Miranda warning and starting an interrogation.

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8.25.4 INTERROGATIONS (CONTINUED)

- Officers will verify that custodial suspects/arrestees understand their right to remain silent and their right to an attorney.
- Custodial suspects/arrestees may be interrogated only when they knowingly and intelligently waive their rights. Oral waivers are often sufficient, but written waivers, particularly for felony charges, are preferred and should be obtained, whenever possible.
- When a custodial suspect/arrestee clearly invokes their right to remain silent, the interrogation will terminate immediately. Simply remaining silent is not considered a notice the suspect intends to exercise their right to remain silent (see *Berghuis v Thompkins*). An interrogation may resume under the following circumstances:
 - After a reasonable amount of time, the officer may re-administer the Miranda warnings. If the custodial suspect/arrestee then waives their rights, the officer may resume interrogation.
 - Whenever the custodial suspect/arrestee initiates communication with the officers. However, Miranda warnings must be re-administered and a waiver will be obtained before questioning.
- Officers will not delay a custodial suspect's/arrestee's arraignment solely to re-initiate interrogation after a custodial suspect/arrestee has invoked their right to silence.
- If a suspect/arrestee waives their right to counsel, a waiver will be obtained prior to questioning. When a suspect/arrestee makes reference to counsel but their intentions are unclear, officers will question the suspect/arrestee further to clarify their intentions.
- When a suspect invokes their right to counsel, the interrogation will cease immediately. The suspect will not be interrogated again by any officer about the crime for which they are charged, or any other crime, unless:
 - The suspect's attorney is present at the questioning; or
 - The suspect initiates new contact with the police; or
 - A minimum of a 14 day break in interrogation custody has passed since the suspect initially invoked their right to counsel (see *Maryland v Shatzer*).

Under any of the above exceptions, Miranda warnings must be re-administered and a new Miranda Rights Waiver form will be obtained.

- Threats, false promises, and/or coercion to induce a custodial suspect's/arrestee's confession are prohibited.
- Normally, no more than two (2) officers should simultaneously actively participate in an interview or interrogation. Exceptions must be approved by a commanding officer and documented to the division/section/unit commander.
- The time/duration of continuous interrogations should be based on the seriousness of the crime, the suspect's age and maturity level, and the suspect's previous experience with law enforcement.
- Custodial suspects/arrestees will have access to a restroom, water, breaks, or other such amenities, as needed.

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8.25.5 AUDIO AND VIDEO RECORDING OF INTERVIEWS/INTERROGATIONS

Any division/section/unit, having audio and/or video recording systems, will use this system to record any criminal interview and/or interrogation of a suspect or potential suspect that the officer has reason to believe has committed, or is wanted on a warrant for committing, a violent felony. For the purposes of this policy, a "violent felony" is defined as:

- Offenses where a suspect has killed a person
- Assault in the First, Second, or Third Degree
- Wanton Endangerment in the First Degree
- Strangulation
- Unlawful Imprisonment in the First Degree
- Kidnapping
- Rape in the First Degree
- Sodomy in the First Degree
- Sexual Abuse in the First Degree
- Arson in the First Degree
- Robbery in the First Degree
- Escape in the First Degree
- Any felony involving a child victim or any physical or sexual assault with a child as the victim

A commanding officer must approve the non-use of audio and/or video equipment for the above list of offenses. If the situation dictates, the recording may be done on Mobile Video System (MVS) equipment or other electronic devices.

If the case involves felony charges, interviews will be documented on an Investigative Letter form (LMPD #05-0002), Investigative Record form (LMPD #0450-02), or transcribed if they have been audio or video recorded.

Other witness and victim interviews/statements may be recorded at the discretion of the supervisor and/or investigator.

The circumstances surrounding the conduct of interrogations and recordings of such interrogations must be fully documented. Officers will turn on the recording equipment prior to entering the room in order to document the full duration of interview/interrogation and prevent allegations of pre-interviews or other irregularities. Documentation should include, at a minimum, the following criteria:

- The location, date, time, and duration of the interrogation
- The identities of officers and others who are present during the interrogation
- The time that Miranda warnings were given and the suspect's/arrestee's responses
- The time at which waivers were provided and whether the suspect/arrestee agreed to sign them
- The nature, times, and durations of any breaks in questioning (e.g. to provide the suspect/arrestee food, drink, use of lavatories, etc.)

The recording will cease at the conclusion of the interview, after the suspect has left the room.

Field interviews/interrogations captured by the MVS are retained pursuant to the MVS policy (refer to SOP 4.1).

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8.25.5 AUDIO AND VIDEO RECORDING OF INTERVIEWS/INTERROGATIONS (CONTINUED)

Audio and/or video recording of interviews and interrogations will be conducted in accordance with applicable laws. Body-Worn Cameras (BWCs) will not be utilized as a substitute during in-custody interrogations when the Axon Interview Room Recording System is available and operational. Once the Axon Interview Room Recording System is confirmed operational, members may turn off their BWC until the conclusion of the interrogation. If the Axon Interview Recording System is not functional, members will use the BWC to document the interview.

After recording an interview or interrogation in an interview room equipped with Axon Interview Room Recording System, the member should select the appropriate category for the interview on the interview room control panel. Interviews recorded by an Axon Interview Room Recording System will be retained in Evidence.com. Members can request hardcopies of interviews through Louisville Metro Police Department (LMPD) Video Records.

If the interview or interrogation is recorded by any other digital recording device, copies of the interview/interrogation will immediately be burned, and labeled as such, for inclusion in the appropriate case file. The original disc will be labeled as the original and must never be altered. It will be retained as evidence.

Members are prohibited from altering or deleting original records until applicable records retention schedule timelines have been met. Members may request enhancements or excerpts be made from a copy of the original record. The original record must never be altered.

Evidence is retained pursuant to applicable federal law, state statute, and departmental policy.

8.25.6 JUVENILES

Refer to SOP 10.7 for procedures related to interviews and interrogations of juveniles.

8.25.7 PERSONS WITH MENTAL ILLNESS, DEVELOPMENTAL DISABILITIES, OR PERSONS OF DIMINISHED CAPACITY (KACP 30.8)

Persons with a mental illness, developmental disability, or persons of diminished capacity may have limited reasoning and the inability to effectively communicate their thoughts. When interviewing or interrogating a person with a mental illness, developmental disability, or a person of diminished capacity, members will follow the procedures outlined in this Standard Operating Procedure (SOP). In addition, members may utilize measures, including, but not limited to, the following:

- Stay calm and do not overreact
- Speak simply and briefly
- Modify the style of questioning
- Move slowly
- Remove distractions and upsetting influences from the scene
- Use a less intimidating interview room

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8.25.7 PERSONS WITH MENTAL ILLNESS, DEVELOPMENTAL DISABILITIES, OR PERSONS OF DIMINISHED CAPACITY (CONTINUED)

- Contact the person's parent/guardian/caretaker to explain the situation and/or to attend the interview
- Announce their actions before initiating them
- Be aware that their uniforms and equipment may frighten the person

When Miranda warnings are issued, after the initial Miranda warning is read, members may use simple words to modify the Miranda warning and ask the person to repeat each phrase of the warning, using their own words, to check for a genuine understanding, rather than a simple repetition, of the words. It is also recommended that the interview or interrogation be recorded.

Members should refer to SOP 8.42, Americans with Disabilities Act, Title II, for additional guidance on accommodations.