

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.

600.2 POLICY

It is the policy of the Redding 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.

- (a) The Investigative Division shall be under the command of a Captain.
- (b) The Investigative Division has a dual function:
 - 1. Its primary function is to investigate crime.
 - 2. Its secondary function is career development.
- (c) Officers assigned to the Investigative Division will serve at the direction of the Division Commander or Chief of Police. The length of service will be determined by Division needs, officer performance, training and expertise in a particular field, and other factors that would affect the overall effectiveness of the Division. The length of service will be determined by Departmental needs, efficiency of the employee in the assignment, training expertise in a particular field, and other factors which contribute to the overall effectiveness of the Department.
- (d) The Investigations Division assignments are divided into the following subunits:
 - 1. Property Crimes
 - 2. Persons Crimes
 - 3. Narcotics Task Force
 - 4. High Tech Crimes
- (e) The Investigations Division, with the assistance of Records, is responsible for the following:
 - 1. Processing Card Room Applications
 - 2. Conducting Card Room Inspections
 - 3. Issuing Card Room Employee Permits
 - 4. Issuing Secondhand Dealer and Firearms Dealer Licenses
 - 5. Registering Sex Offenders and Arson Offenders
 - 6. Issuing Pawn Shop Licenses

600.3 INITIAL INVESTIGATION

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

600.3.1 OFFICER RESPONSIBILITIES

An 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 officer shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if 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 or the Watch 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, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 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.

600.4 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.

- (a) When a custodial suspect/defendant invokes their *Miranda* rights at the time of or during the interrogation, all questioning regarding the criminal investigation shall cease.
 - 1. Limited further questioning may occur when necessary to clarify a waiver or invocation of rights.
 - 2. Limited further questioning may occur when necessary for administrative purposes which are generally outside the scope of *Miranda*; i.e., use of force application, medical, booking, etc.

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

- (b) Officers may commence questioning of a suspect about a criminal investigation after the initial invocation, and with a proper re-advisement and waiver, in either of these circumstances:
 - 1. The suspect has had at least a 14-day break from custody since he invoked his right to counsel in the previous custodial interrogation.
 - 2. Or when the suspect initiates contact with police officers about the criminal investigation.

600.4.1 AUDIO/VIDEO RECORDINGS

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 Investigation 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.

600.4.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

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

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

600.5.1 BCS CASE CLEARANCE PROCEDURES

The purpose of this policy is to establish procedures for assuring closure of cases per the Bureau of Criminal Statistics (BCS) guidelines.

BCS keeps a record of crimes and clearance rates for eight categories. The categories are homicide, rape, robbery, assaults, burglaries, thefts, auto theft, and arson. The guidelines for closing cases for BCS purposes are different than those for the Redding Police Department.

For BCS purposes, only three clearance categories may be used to close a case; they are:

- (a) clearance by arrest,
- (b) exceptional clearance, and;
- (c) unfounded (see RPD Form F-2000-001 REV 5-2012).

The UCR Handbook specifies an offense as "Cleared by Arrest" when at least one person is arrested, charged, and turned over for prosecution. "Exceptional Clearances" require enough information to identify, locate, and arrest the offender, but some reason beyond law enforcement control precludes making the arrest. If the offense is deemed to have never occurred, the case shall be closed as "Unfounded".

Supplemental form RPD Form F-2000-001 shall be routed through the report system in the usual manner.

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. For further see Policy 807 - Electronic Devices and 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.

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

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 the 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. Officers should seek legal counsel before any such interception.

600.8 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Investigation Division Commander is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

- (a) Security procedures are developed to protect information gathered through the use of the technology.
- (b) A usage and privacy policy is developed that includes:
 1. The purposes for which using cellular communications interception technology and collecting information is authorized.
 2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
 3. Training requirements necessary for those authorized employees.

Redding Police Department

RPD Policy Manual

Investigation and Prosecution

4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
5. Process and time period system audits.
6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department's usage and privacy procedures and all applicable laws.

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

600.10 ARSON INVESTIGATIONS

The responsibility for arson investigation is with the Redding Fire Department's Fire Prevention Bureau. The Investigations Division will assist with arson investigations as requested by Redding Fire Department. All arson reports shall be provided to the Fire Prevention Bureau.

600.11 FIRE AND EXPLOSION INVESTIGATIONS IN STATE-OWNED OR STATE-OCCUPIED BUILDINGS

- (a) The State Fire Marshal (SFM) is required by (13107(a) H&S) to investigate every fire or explosion in any State institution, State-owned building, or those portions of a building which are leased or rented by the State of California.
- (b) The California Highway Patrol and State Fire Marshal shall be notified immediately whenever such incident occurs with our jurisdiction.
- (c) The State Fire Marshal's Arson and Bomb Investigation Unit will be responsible for the fire scene investigation and any subsequent follow-up investigation.
- (d) Because the examination of a fire scene is critical to the entire investigation, cleanup shall not be permitted without clearance from a representative of the SFM's Arson and Bomb Unit.