

Waltham Police Department

CRIMINAL INVESTIGATION

CHAPTER 42

General Order Number: GO-01 2009

Effective Date: 01/2009, 01/2014, 03/2016, 05/2017

Accreditation Standard #'s: 42.1.2-42.1.4, 42.2.1-42.2.3, 42.2.5, 42.2.8, 42.2.10, 82.2.1

POLICY:

It shall be the policy of the Waltham Police Department to conduct criminal investigations for the purpose of clearing crimes by arrest and/or complaint; to prosecute lawbreakers; and to recover stolen property.

The Waltham Police Department will ensure that there is a screening of all reported offenses to assure adequate follow-up investigation whenever appropriate. [42.1.2]

PROCEDURES:

1. UNIFORM OFFICERS CONDUCT – PRELIMINARY INVESTIGATIONS:

Most preliminary investigations will be conducted by members of the patrol force since they are usually the first to arrive at the scene and can start the investigation without delay. Patrol Officers should pursue the initial investigation at the scene until such time that it seems unlikely to produce additional benefits. [42.1.4]

It may frequently be possible and desirable for patrol officers to conduct limited follow-up investigations of some crimes. Many times, the name of a perpetrator may be known and an interrogation, while the incident is still fresh and before evidence of a crime can be destroyed, may be advantageous. Minor larcenies and assaults, and other misdemeanors not requiring specialized expertise, are examples of crimes that may be followed up by preliminary investigating officers.

a. GUIDELINES FOR CONDUCTING PRELIMINARY INVESTIGATIONS:

All officers assigned to conduct a preliminary investigation shall make every effort to obtain as much information as possible during this stage of the investigation. It will frequently be possible to bring an investigation to a satisfactory conclusion at this point, thus obviating the need for a follow-up investigation.

The first officer assigned to a preliminary investigation shall: [42.2.1a, b, c, d]

1. Ascertain if the suspect is still in area and armed.

2. Proceed to the scene promptly and safely.
3. Render assistance to the injured.
4. Effect the arrest of the criminal.
5. Locate and identify witnesses. [B]
6. Interview the complainant and witness. [E, F]
7. Maintain crime scene and protect the evidence. [C]
8. Interview and/or interrogate the suspect(s). [G]
9. Observe and note all conditions, events, and remarks. [A]
10. Arrange for the collection of evidence. [D]
11. Report the incident fully and accurately. [82.2.1]
12. Yield the responsibility to the follow-up investigator.

A report will then be generated to include all of the above information. [82.2.1a]

b. SERIOUS OR COMPLEX INVESTIGATIONS:

Serious or complex preliminary investigations requiring special handling shall be assigned to investigative personnel when delay will not hamper the investigation. On such occasions, the uniformed officers should protect the scene from contamination and request a specialist at once. When determining whether or not to conduct a follow-up investigation, the officer shall consult with a ranking officer who shall consider the following circumstances:

1. Seriousness of the crime.
2. Whether delay will make the investigation more difficult.
3. Workload of the shift on duty.
4. Number of personnel presently on duty.

c. CRIMINAL INVESTIGATION PROCEDURES:

Whenever practicable, members of the department shall follow the below listed procedures when investigating a crime committed, or an incident which has taken

place requiring police action:

1. INFORMATION DEVELOPMENT:

The primary purpose of a preliminary or follow-up criminal investigation is to identify and arrest the offender, when appropriate and consistent with law. This is usually accomplished by the gathering of information. An investigating officer should always conduct an investigation within the bounds of the law and with all due respect to the persons and the property with whom they may come in contact.

2. MAJOR CRIME OCCURRENCES:

Patrol officers responding to a major crime occurrence shall immediately notify the Commanding Officer - Platoon on Duty, who shall dispatch the Patrol Supervisor and notify necessary investigative personnel.

In the event that there are no detectives on duty, the Commanding Officer - Platoon on Duty shall contact the Commanding Officer - Investigation Division, or his designee, who shall determine what, if any, detectives shall be assigned to the crime scene

3. SUDDEN DEATH OR HOMICIDE:

In cases of suspicious sudden death or homicide, the Commanding Officer - Platoon on Duty shall notify the Commanding Officer - Investigation Division, the Office of the District Attorney, and the Office of the Medical Examiner. In some instances, a family member may request a member of the clergy or a particular funeral home. Every effort should be made to accommodate this request.

4. RAPE AND SEX-RELATED CRIMES:

In cases of rape and sex-related crimes, the Commanding Officer - Investigation Division, or his designee shall be notified.

5. IDENTITY CRIMES:

In cases when a person is a victim of an Identity Crime, officers will take a report documenting the incident (including account numbers and information) and advise the victim to do the following: **[42.2.8-2A]**

- a. Place a fraud alert on their credit report by contacting one of the following credit reporting companies:

Transunion:	1-800-680-7289	www.transunion.com
Equifax	1-800-525-6285	www.equifax.com
Experian	1-800-397-3742	www.experian.com

- b. Close compromised account immediately and follow up in writing.
- c. Report the Identity theft to the Federal Trade Commission: www.ftc.gov/idtheft and complete the on-line complaint form. Bring the complaint form to the police department; or call 1-877-ID THEFT (1-877-438-4338) to report the crime.
- d. File a police report and ask the police department to attach FTC complaint to the police report. Obtain a copy of the police report for their records.

Officers may take a report prior to notification of the Federal Trade Commission. After completing the police report, advise the victim of the FTC's website and/or phone number.

Officers will provide victims with a copy of the "Steps to take to prevent further ID theft/fraud/harm" flyer (located at the front counter). Information will also be provided to the public on the Waltham Police Department website. [42.2.8-2C] Informational brochures regarding prevention of identity crimes will be made available to the public. [42.2.8-2E] Investigating officers will maintain contact with other agencies in order to coordinate identity crime investigations. [42.2.8-2D]

2. CASE MANAGEMENT AND CONTROLS:

a. ASSIGNING OF CASE INVESTIGATIONS:

When assigning case investigations to Investigation Division personnel, ranking officers will consider any specialized skill, knowledge, or ability that may be needed in the investigation of such case, and assign the case to the appropriate investigator. Such specialized skills may include, but are not limited to: fingerprint technology, photography, rape and sexual abuse investigation, juvenile offenders, check and credit card fraud, and crime scene forensics. All cases have an incident number already assigned to them. The assigning officer will note the date of assignment.

b. CASE STATUS: [42.1.3b]

The Commanding Officer - Investigation Division or their designee shall supervise the status of case assignments, utilizing the administrative designations appearing on all Investigative Reports. [82.2.1]

1. **OPEN:** Shall indicate that the case is assigned to a detective and that investigative efforts are active.
2. **SUSPENDED:** Shall indicate that all available leads have been exhausted but the case has not been brought to a satisfactory conclusion and investigative efforts may be resumed.
3. **CLOSED:** Shall indicate the case has been satisfactorily concluded.

c. **CRITERIA FOR SUSPENDING INVESTIGATIVE EFFORTS: [42.1.2]**

A designation of suspended or a decision of continuation of a case shall not be made without an evaluation by the case officer of the following:

1. Absence of further leads or solvability factors.
2. Unavailability of investigative resources.
3. Negative interviews with victims/witnesses.
4. Inconclusive physical evidence found at the scene of the crime/incident.
5. The exhaustion of all other information sources.
6. The degree of seriousness of the offense/incident.

In all cases, the case officer shall have the approval of a ranking officer of the Investigation Division, prior to the suspension of investigative efforts.

d. **CRIME VICTIM NOTIFICATION OF STATUS:**

It shall be the responsibility of the assigned investigator to personally notify the victim of a crime of any changes in the status of a case. An official notification shall be made in person, by mail, or by telephone. The notification to the victim shall be made whenever the case changes from OPEN to SUSPENDED or CLOSED. Adequate explanation of the reason for the change shall be made to the victim by the assigned investigator. The investigator making the victim contact shall note this on his report.

e. **CASE FILE MAINTENANCE: [42.1.3c]**

All investigative case files shall be maintained in the case file drawer, located within the Investigation Division. Cases may be removed from the case file drawer by the case officer, by department prosecutors, or by other Investigation Division personnel for any legitimate purpose. The assigned case number shall be the

incident number assigned to the file at the time it is originated. The case file shall contain, but not be limited to, copies of preliminary investigation reports; statements of victims/witnesses and perpetrators; examination results; photos; status reports; all other records needed for investigative purposes. These files shall not be made public in accordance with Waltham Police Department Regulations, and Massachusetts State law.

Confidential cases involving rape and sexual assaults shall be maintained in a separate limited access file cabinet. This file cabinet shall be kept locked at all times when not in actual use and access to the keys shall be limited to rape investigators and the Commanding Officer - Investigation Division. All other cases, when closed or suspended, shall be periodically consolidated into the central records system. [42.1.3d, e]

f. INVESTIGATIVE CASE CONTROL SYSTEM: [42.1.3a]

The Commanding Officer - Investigation Division shall maintain, or cause to be maintained, a recorded case status control system. The information contained therein shall include the case number, the subject matter, the investigator assigned, and the administrative designation of the case, as required.

g. CASE-SCREENING SYSTEM/SOLVABILITY FACTORS:

Cases to be followed up will be determined by the Commanding Officer - Investigation Division, or his designee, who shall base such determination on factors such as past experience and research of our own department, as well as degree of seriousness and solvability factors. [42.1.2]

h. CASE PROGRESS REPORTING:

Investigators will periodically report the progress of investigations assigned to them to the Commanding Officer - Investigation Division, or his designee. Such reports shall be made at least once each week, and more frequently if necessary. It shall be the responsibility of such ranking officer to determine if additional resources shall be expended in the investigation of such cases.

i. CASE FILES TYPES AND PURGE PROCESS: [42.1.3c, e]

CASE FILES: Case files will be maintained in a case file drawer cabinet located in the Investigation Division. The case files will be maintained for a period of two years in the Investigation Division. Upon the expiration of the two-year period, the files will be removed and filed in the Waltham Police Department Archives, or consolidated into the central records system. The files destruction shall be conducted under the direction of the Commanding Officer - Investigation Division or his designee, and in accordance with all applicable Mass. Gen. Laws.

3. FOLLOW-UP INVESTIGATIONS:

Follow-up investigations are usually the result of the report review process. The criteria used to determine if a follow-up investigation will be conducted includes, but is not limited to, the nature and seriousness of the offense, solvability factors, and the availability of department resources.

It shall be the responsibility of the Commanding Officer - Investigation Division, or his designee, to determine how many investigators are assigned to any particular investigation, and how many hours are expended thereon. [42.1.4]

a. PRINCIPAL INVESTIGATOR:

Any ranking officer of the Investigation Division who assigns a follow-up case for investigation shall designate one particular investigator as the Principal Investigator/Case Officer. [42.1.4]

b. GUIDELINES FOR CONDUCTING FOLLOW-UP INVESTIGATIONS: [42.2.2]

The following listed procedures should be used as a guide when conducting complicated investigations, at the discretion of the Commanding Officer - Investigation Division. Investigators shall conduct as thorough an investigation as possible, including as many of the following steps as appropriate, although all of the steps may not be necessary in every investigation:

1. Review and analyze all previous reports prepared in the preliminary phase. [42.2.2A]
2. Conduct additional interviews with victims, witnesses, reporting parties, and preliminary investigating officers, if necessary. [42.2.2D]
3. Conduct interrogations of all suspects.
4. Review departmental records for incidents of a similar nature for the purpose of developing a suspect. [42.2.2B]
5. Review results from laboratory examinations. [42.2.2C]
6. Seek additional information from informants, or from officers from this and neighboring police agencies. [42.2.2E]
7. Plan, organize, and conduct crime scene searches for the purposes of gathering additional physical evidence. [42.2.2F, G]

8. Check criminal records of potential suspects. [42.2.2J]
9. Identify and apprehend suspects. [42.2.2H]
10. Interview apprehended suspects in order to determine involvement in, and clearance of, other crimes. [42.2.2I]
11. Arrange for dissemination of pertinent information obtained to other components and agencies, as appropriate.
12. Assist department prosecutors and/or Assistant District Attorneys in preparing cases for court presentation. [42.2.2K]
13. Assist in prosecution of cases in District or Superior Court. [42.2.2K]

c. FIELD REPORT/INVESTIGATIVE CHECKLIST:

To ensure that critical factors are not overlooked, an investigative checklist Form #42-2 listing the above steps will be available for the investigator. The Form #42-2 will be used at the discretion of the Commanding Officer - Investigation Division. [42.2.3], [82.2.1]

d. SECOND CONTACT / VICTIMS, WITNESSES, COMPLAINANTS:

Investigators shall maintain a policy of a "second contact" with principals involved in a case requiring a follow-up investigation whenever possible. The contact should be timely to ensure the building of public confidence in the department, as well as indicating a genuine concern about the welfare of the victim and others involved in the case. This procedure may result in the receipt of information leading to the clearance in a case.

e. INVESTIGATIVE TASK FORCES:

Whenever it is necessary to form a task force to deal with a particular crime, type of crime, or series of incidents, a memorandum shall be issued explaining the activities of the task force. [42.2.5a, b]

The memorandum will identify: the purpose of the unit [42.2.5a]; the commanding officer [42.2.5b]; its responsibility and authority [42.2.5b]; personnel and resources to be assigned; a starting and ending date; and the requirement that the commanding officer of the task force submit a report to the Commanding Officer - Investigation Division at the conclusion of the assignment evaluating its results and giving recommendations, including a determination of whether or not the task force needs to be continued.[42.2.5c]

In the event that the task force will involve a lengthy assignment, the commanding officer of the task force will report verbally to the Commanding Officer - Investigation Division at least every two months, and more frequently, if necessary, on the status of the task force. [42.2.5c] The Commanding Officer - Investigation Division shall determine, based upon the circumstances, if any written report will be required. These procedures will apply for multi-jurisdiction task forces as well.

An exception to this procedure shall be whenever the assignment of personnel to a task force is of a confidential nature.

4. INTERVIEWS/INTERROGATIONS:

a. INTERROGATIONS: [42.2.0-2C]

All officers shall strictly adhere to the policy of the department prior to any interrogation of suspects. The Waltham Police Department will seek to ensure that the information it elicits in criminal investigations is accurate and complete. To further this goal, all members of the department are encouraged to document statements made by victims, witnesses and suspects. That documentation may take several forms depending on the circumstances in which it is obtained.

In the case of *Commonwealth v. DiGiambattista*, 442 Mass 423 (2004), the Supreme Judicial Court has indicated its preference for the electronic recording of a suspect's interrogation if the prosecution seeks to introduce a defendant's confession or statement at trial. Failure to do so will require a judge to instruct the jury to weigh the statement made by the defendant with great caution and care, as well as scrutinize the circumstances in which the confession or statement was obtained for evidence that the confession or statement was not voluntary. [42.2.0]

b. QUESTIONING AT THE STATION:

The preferred method of documenting statements made during the interrogation of a suspect, while at the police station, is to electronically record the interrogation. This preference shall apply regardless of whether the interrogation is custodial or non-custodial. Uniformed or non-uniformed officers or detectives of the Investigation or Patrol Division [42.2.10-2A] shall utilize the interview room located within the Investigation Division, whenever practical. [42.2.10-1B] Two officers should be the maximum number allowed in the interview room unless extenuating circumstances exist. [42.2.10-3C] If the individual is not a detainee, the uniformed/non-uniformed officer shall not lock their weapons. Water should be offered and will be provided to the individual if requested. In the event that the individual needs a comfort or restroom break, the officer(s) shall escort the individual [42.2.10-3F]. [42.2.10-3B] The interview room contains a desk, two to three chairs, and video/audio recording device [42.2.10-3G]. In the event that assistance is needed, a portable recorder can be used. [42.2.10-3D, E]

c. **QUESTIONING OUTSIDE THE STATION:**

The decision whether to electronically record an interrogation of a suspect outside the police station should be made by the interrogator, preferably in a consultation with his supervisor when feasible, and shall consider such factors as practicability, location, permission of the suspect, and severity of the crime.

d. **QUESTIONING OF A DETAINEE:**

In the event that a detainee needs to be removed from the cell block area to be interviewed/interrogated by a uniformed or non-uniformed detective or patrol officer, the designated interview room in the Investigation Division or the booking area may be used. The interviewing officer(s) shall notify the OIC of the Detective or Patrol Division anytime a suspect is being interviewed in the interview room. This allows personnel to monitor both the subject and the officers during the interview. In the event of emergency officers may use the telephone in the interview room, portable radio to summons assistance from Operations or Dispatch. They may also make notifications via portable radio. [42.2.10]

All officers are to follow normal procedures in removing and safely locking their weapons prior to removing the detainee from the cell block. The detainee will then be searched, handcuffed, and escorted by two officers to the Investigations Division or to the booking area where a telephone is present as well as video cameras in the event that assistance is needed. The individual is audio/video recorded in the booking area and will have access to water in the fountain if needed. He or She has access to a restroom in their respective cells. [42.2.10a, b, c, d, e, f]

e. **RECORDING PROCEDURE: [42.2.0]**

If the decision is made to offer a suspect the opportunity to have his or her interrogation electronically recorded, the interrogator shall ensure that the appropriate department forms have been completed. These forms may include, but are not limited to the following:

1. Miranda Warning and Waiver Form.
2. Waiver Prompt Arraignment Form.

The interrogator shall, whenever possible, electronically record the original administration of all applicable warnings and waivers.

In situations where the interrogation is not recorded from the beginning, but the suspect later elects to have it electronically recorded, the interrogator shall note "on tape" the time that the initial interrogation began and the time the suspect elected to be recorded. If the interrogation is custodial, every effort should be made to

review or repeat the administration of appropriate warnings and waivers. If the initial interrogation was not recorded due to the suspect's election not to be recorded, the interrogator shall review this fact "on tape" as well as the fact that no threats, promises, inducements, or rewards were offered to the suspect prior to taping.

Notes of all "off tape" statements by a suspect shall be taken and preserved.

f. MIRANDA WARNINGS: [42.2.0-2E]

Miranda Warnings shall be given in an unhurried manner to assure that the suspect has heard and understood what constitutional and statutory rights he or she is entitled. Miranda Warnings shall be read from an approved Miranda Card or from a Waltham Police Department Miranda Form. A suspect who requests the aid or presence of an attorney shall not be questioned until an attorney is present, regardless of when the request is made. A suspect's right to summon, meet with, or speak to his attorney shall not be delayed or denied. [42.2.0-2D, E]

It should be remembered that a waiver of Miranda warnings may be suppressed because of language understanding difficulties, youthful age of the suspect, mental condition, drug or alcohol consumption by the suspect, wounds, shock or other medical impairment, and the lack of a clear, understanding, intelligent, and competent waiver. No coercion, threats, or promises shall be used under any condition to obtain a confession, statement, or admission from any individual. [42.2.0-2F]

g. VOLUNTARY STATEMENTS:

The officer may take voluntary statements after a valid waiver of Miranda Warnings, or whenever a voluntary statement is made when the Miranda warnings are not a prerequisite for admissibility in court.

When a suspect voluntarily makes a statement, officers do not have to prevent him/her from continuing to talk.

Voluntary statements:

1. Are those not made in response to questioning by an officer.
2. Are statements made by a suspect of his or her own free will.
3. May be taken after a suspect is in custody and before or after actual interrogation, so long as the statements are clearly voluntary.

h. ACCESS TO COUNSEL: [42.2.0-2D]

1. REQUEST FOR COUNSEL:

A suspect who requests the aid or presence of an attorney shall not be questioned until an attorney is present regardless of when the request is made. A suspect's right to summon, meet with, or speak to his attorney shall not be delayed or denied. **[42.2.0]**

If a suspect has voluntarily waived his or her right to remain silent, he or she may still invoke this right by refusing to answer any further questions or by requisitioning an attorney. At this point the police questioning must cease.

A suspect may answer some questions and refuse to answer others. The officer is not required to discontinue questioning unless the suspect indicates that he wishes to remain totally silent, to stop the questioning or to consult with a lawyer.

2. REPRESENTATION BY COUNSEL:

If the police are aware that the suspect is represented by an attorney, even on other matters, and that the attorney desires to be present with his or her client during any questioning, the police shall inform the suspect that his or her attorney wishes to be present during questioning.

If at any point during an interview an attorney desires to be present with his or her client during any questioning, the police shall inform the suspect that his or her attorney wishes to be present during questioning.

The attorney's call should be recorded, logged and saved.

This obligation exists even where the suspect has been informed of his Miranda rights and agreed to talk to police without an attorney present, and where the suspect does not know that an attorney has been appointed or retained on his behalf.

If the attorney asks that a message be passed on to the suspect, officers must stop questioning and comply with the attorney's request. The message need not be transmitted verbatim, but the substance must be transmitted to the suspect.

If after receiving the message, the suspect invokes his rights to silence, or to counsel, police must stop the interrogation. If the suspect chooses to continue the interview, it may proceed.

Officers should make a record of their communication of an attorney's message to a suspect. The officers' relaying of the message and the suspect's decision to continue or terminate the interview should be recorded. If the suspect has declined to allow the interview to be recorded, a complete written record should be made of the advisement, conditions, and suspects decision.

An attorney's message shall be passed on to the suspect immediately; officers may not delay transmitting the message for the purpose of consulting an ADA or a superior officer.

Commonwealth v. McNulty, 458 Mass. 305 (2010) [42.2.0-2K]

i. INTERVIEW TECHNIQUES: [42.2.0-2A]

To promote the success of the interview, the investigator should remember that peculiar characteristics of witnesses may affect their statements (for example: hysteria, belligerence, evasiveness, age, etc.), and that the officer's own demeanor the use of tact, patience, reassurance, etc. - is very important. When conducting an interview or an interrogation, officers shall do so in an area in which distractions are limited or eliminated.

Uniformed or non-uniformed officers or detectives of the Investigation or patrol Division shall utilize the interview room located within the Investigation Division, whenever practical. In the event this room is unavailable, the booking room shall be used. It is important to note the interview room is equipped for audio and videotaping. Whenever possible, interviews of suspects and/or victims shall be audio and video taped when using interpreter services: *Commonwealth v. Glenis A Adonsoto* [42.2.0-2I]. The following minimum standards for interviewing will be maintained:

1. Questions should be simple and in plain language.
2. Only one question at a time should be asked.
3. Avoid questions that imply an answer.
4. Avoid sarcasm, rudeness, or antagonism.
5. Avoid interruptions.

j. TECHNICAL AIDS FOR THE DETECTION OF DECEPTION:

Technical aids for the detection of deception may be used in an investigation if appropriate. The Waltham Police Department will seek assistance from other law

enforcement agencies that have detection of deception devices, and investigators trained and certified for operation of such devices as necessary. No unauthorized personnel shall be allowed to use such technical aids for investigations.

k. INTERVIEWING WITNESSES:

- 1.** Witnesses should be interviewed as soon as possible after the incident under investigation.
 - a.** An officer should not hesitate to instruct a witness to remain at the scene until interviewed.
 - b.** It is important at the onset to obtain the names, addresses, and telephone numbers of all persons present. This will ensure that they can be located during any follow-up investigation. Record the place, time, and date of the interview.
 - c.** As soon as possible, witnesses should be separated to ensure independent statements.
 - d.** It should be noted that eyewitness identification is not considered the most reliable form of evidence and will be closely scrutinized by the court. Mistaken identifications are not uncommon occurrences.
 - e.** Eyewitness identifications must be made under strict legal requirements and must avoid any suggestiveness by the police on impressionable witnesses.
- 2.** An officer interviewing a victim or witness should immediately identify himself/herself or show his/her credentials if he/she is not in uniform.
- 3.** Considerations should be given to the physical and emotional needs of witnesses.
 - a.** Calm the excited and emotionally upset witness (if necessary, delay the interview until the witness has regained composure).
 - b.** Create a favorable atmosphere for the witness to talk freely.
 - c.** Conduct the interview in a quiet area, if available.
 - d.** Maintain privacy to the greatest degree possible.
 - e.** Do not distract the witness or interrupt his story unnecessarily.

- f. Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.
4. The immediate objective of the interviewing officer should be to establish a cooperative relationship. To this objective, an officer should:
 - a. Display a sincere interest.
 - b. Be patient and tactful.
 - c. Be respectful.
 - d. Control personal feelings.
 - e. Provide reassurance.
 - f. Encourage an un-talkative witness by asking appropriate questions.
5. Encourage witnesses to give a full description of everything that occurred with a minimum of interruption.
 - a. At times it may be necessary to ask a question or to make a brief comment in order to keep a witness talking or to keep the interview confined to the subject under investigation.
 - b. When the conversation lags or stops, be patient and wait for the witness to volunteer additional information.
 - c. Do not take anything for granted and do not jump to conclusions.
 - d. Listen for and note any obvious omissions or gaps in the statements made by a witness, or for any conflicting or inconsistent statements.
 - e. Note any extreme nervousness or unusual behavior on the part of a witness, or for any unguarded or spontaneous remarks made by a witness.
 - f. Do not exhibit surprise or dismay at anything said by a witness.
6. Withhold any direct questioning until after the witnesses have given a complete account; then ask specific questions to clarify earlier statements or to fill in any omissions.
 - a. Questions should be clear, definite, and in plain language.

- b.** Ask only one question at a time, and wait for a complete reply.
 - c.** Avoid leading questions that imply or suggest a particular answer.
 - d.** Avoid rapid-fire questions that can confuse or bewilder the witness.
 - e.** Avoid questions that can be answered by "yes" or "no," which limit response.
 - f.** Do not ask questions critical or derisive manner, which could deter previously cooperative witnesses.
 - g.** Do not correct the grammar or the language of the witness, which could cause resentment.
 - h.** Do not permit your own emotions, attitude, or opinions to distract the witnesses or to interfere with your evaluation of their response to your questions.
- 7.** It is important to not only listen to what is said but also to know how it is said. Emotional outbursts and inflections of the voice may give a clue to sensitive areas of the interview. Sudden silence, uncertainty or confusion, or the shifting of conversation to an unrelated subject may indicate that information is being withheld. Nervous bodily reaction or facial characteristics may also signal a sensitive area has been reached.

By noting these things, an officer will know what portions of the statements may require further probing or clarification.
- 8.** Interviews should be ended in a courteous manner. Do not terminate the interview abruptly or dismiss the witness in a curt manner. This helps to assure further cooperation, particularly if the witnesses may be needed to testify at a later date.
 - a.** Summarize what has been covered. Ask the witnesses if there is anything he wishes to add or emphasize.
 - b.** Thank him/her for his cooperation.
 - c.** Impress upon him/her the value of his service.
 - d.** Inform the witness that it is very important to contact police if the witness recalls or uncovers additional information about the crime or criminal at a later time.
 - e.** Inform the victim or witness of the phone number and location of

any victim/witness assistance program or similar programs available. (See Waltham Police Department Manual, Chapter 58, and the Victim/Witness Resource Directory, located in Operations area.)

- f. Where appropriate, inform the victim or witness of the phone number and location of the District Attorney's Office, especially if the victim or witness has questions of a legal nature.
- g. Where appropriate, inform the witness that it is a criminal offense for anyone to threaten or intimidate the witness into altering or changing his testimony or not to testify. If anyone attempts to do so, the witness should be told to contact the police immediately.

l. COURT PROSECUTIONS:

The ultimate goal when an investigation is conducted is to identify, arrest, or bring into court by means of a complaint, and assist in the successful prosecution of, the offender in a court of law.

All suspects who are arrested by members of this department shall be arraigned as soon as is reasonably possible following arrest.

m. COURT DISMISSALS:

In the event that any action is dismissed in court, or the prosecutor declines to prosecute because of alleged mishandling by a Waltham Police Officer, the Officer in Charge - Prosecution Unit shall review the case and take immediate corrective action by personally speaking to the officer involved. If the Officer in Charge - Prosecution Unit is satisfied that the officer understands his error and that it will not be repeated, this action will be sufficient.

In the event that the Officer in Charge - Prosecution Unit feels that further action is necessary, he shall refer the matter to the officer's Division Commander.

The officer's Division Commander shall take whatever action he/she feels is necessary to correct the situation, including but not limited to:

1. Personally, speaking to the officer.
2. Having the officer's immediate supervisor speak with him/her.
3. Referring the matter to the Training Unit for remedial action.

In the event that the particular division commander feels that the error has resulted

from a fault in the policies and procedures of the Waltham Police Department, he/she shall refer the matter to the Administrative Division for appropriate police revisions.