Investigation and Prosecution

600.1 PURPOSE AND SCOPE

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

600.2 POLICY

It is the policy of the Fargo 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 INITIAL INVESTIGATION

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 conducting, 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 Shift 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 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, but if the civilian employee encounters any resistance, or if any conditions indicate the presence of danger, the assistance of an officer shall be requested.

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600.3.3 PATROL SUPERVISOR/SHIFT COMMANDER RESPONSIBILITIES

The following applies in all major cases/incidents:

(a) It will be the responsibility of the on-duty patrol supervisor or shift commander to take all steps necessary to ensure that a sufficient and complete preliminary investigation has been completed.

(b) To report to the scene and assume command of all major incidents.

(c) Ensure that investigative duties are conducted in a thorough manner.

(d) To relinquish "functional control" of the crime scene investigation to an investigator called to the scene.

(e) The on-duty supervisor or shift commander will still have incident command until properly relieved by another Field Services supervisor or CID supervisor.

(f) Remain on scene until he/she is assured that all necessary preliminary responsibilities have been coordinated and assigned.

(g) Be responsible for the timely notification of the PIO of the main facts and releasable information surrounding the incident.

(h) Ensure that a thorough, complete, and professional case report is prepared by patrol personnel involved in the incident. This will include coordinating the preparation of the initial case report to ensure that all the necessary information is documented.

(i) Review and approve the case report as soon as practical to ensure the report is accurate and complete.

600.3.4 INVESTIGATIONS RESPONSIBILITIES

The following incidents require the immediate notification of the Investigations Unit commander or Narcotics Unit commander. An investigator will be assigned to respond to the scene and will assume responsibility for the completion of the preliminary investigation and any follow-up investigation.

(a) All homicides

(b) Suspicious deaths

(c) Apparent drug overdose deaths

(d) Aggravated assaults or sexual assaults where there is a likelihood the victim may die.

(e) Any critical injury caused by or received by law enforcement officers, on or off duty.

The following incidents may require immediate response by an investigator:

(a) Armed robberies of bank or loan institutions

(b) Burglaries where there is an excessive loss

(c) Kidnapping/extortion

(d) Missing persons with suspected foul play

(e) Hostage situations

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(f) Bombings or bomb discovery

(g) Other situations upon the approval of the shift commander or supervisor

(h) Suspicious fires

(i) Major drug incidents (Narcotics)

(j) Major gang activity/incidents (Street Crimes)

(k) Fatal crashes

600.4 INVESTIGATIVE FOLLOW-UP

One of the Investigations Unit supervisors will have the responsibility of assigning criminal investigations follow-ups to either investigators or to patrol officers based on the type of investigation.

Officers assigned follow-up investigations on cases are responsible for the timely follow-up of their assigned reports. The investigation should proceed from the point where the preliminary investigation has been completed and may include, but is not limited to:

(a) Re-interviews of victims and witnesses and/or additional interrogation of suspect(s) as required.

(b) Collection of additional information/evidence and arrangement for evidence analysis and evaluation.

(c) Recovery and preservation of stolen property.

(d) Arrangement for polygraph examination if needed.

(e) Review similar cases to determine if other crimes have been committed by the suspect

(f) To identify and apprehend the suspect(s)

(g) Proper case documentation and presentation to prosecutors.

600.5 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.

600.5.1 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.

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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.

600.6 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 case has been submitted to the appropriate prosecutor but no charges have been filed and further investigation is not reasonable and/or has not been requested by the prosecutor.

(c) 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.

(d) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.

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

600.7 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 take reasonable steps to prepare for such seizure and use the resources that are available.

600.8 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

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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 Street Gangs policies).

600.8.1 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. The case report shall document such access was used in the investigation and list the name of the supervisor who approves the use.

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 case 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.

600.8.2 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.

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