

SAN DIEGO POLICE DEPARTMENT IN-SERVICE TRAINING MENU PROGRAM

CLASS DESCRIPTION AND STRATEGY

10440 BLACK MOUNTAIN ROAD

SAN DIEGO, CA 92126

Instructor: Detective Carlton Hershman (Ret.)

Revised: August 31, 2017

Thesis:

A successful investigation is thorough and professional. Applied to the criminal realm, the criminal investigation refers to the process of collecting information about a crime in order to determine if a crime has been committed, identify the perpetrator, apprehend the perpetrator and provide evidence to support conviction in court.

Investigate, to search or inquire systematically. Investigations are common sense however can be difficult if not completed properly. There are two kinds of investigations, investigations that is solved and an investigation that is proved.

There are three goals in every investigation, discovery of the truth, conviction and punishment of the guilty and exoneration of the innocent. Each investigation starts with a victim or witness interview. The legal collection of evidence via a search warrant or a warrantless search will be attacked in court. The proper writing in execution of a search warrant is crucial in every investigation. Collection and testing will also be attacked in court.

There are many components to an investigation each are linked and all are critical to be successful no matter what type of crime that is being investigated. Evidence collecting is one of the most important aspects of the investigation. There are three types of evidence, physical evidence, testimonial evidence and confessional evidence. Knowing and following the law and the proper collection of evidence is a must.

The collection in seizure or of evidence and following the rules of law is the backbone of any investigation. There are four types of seizures, contraband, evidence, fruits of a crime and instruments of the crime. Evidence is always attacked in court especially the collection (lawful access) and testing of any evidence.

In order to investigate the case properly the investigator needs to know what kind of defense that the suspect would probably use. The three main defenses in a criminal case are, no crime occurred, misidentification and there is no legal bar to convict. Knowing the background of these defenses will give the investigator a head start in their investigation.

After the investigation is done the goal is to get charges filed with the prosecuting agency. Decisions on prosecuting anyone falls with the strength and the weakness of the investigation.

Module total time: 4 hours

Resources required for this module:

- Computer with PowerPoint Presentation
- Projection Screen
- Laptop Clicker
- Power Point handout

Course content	Instructor Notes
<p>I <u>Introductions</u> A. Instructor and Student Introductions (5 min) 1. Student Expectations a. Learning topics b. Learning activities</p> <p> I. Criminal Investigation Goals.</p> <p> A. Discovery the truth.</p> <p> B. Exoneration of the innocent.</p> <p> C. Conviction and punishment of the guilty.</p> <p> II. Four Parts of an Investigation.</p> <p> A. Detailed victim and witness interviews.</p> <p> B. Comprehensive Inquiry.</p> <p> C. Collection of Evidence.</p> <p> D. Detailed suspect’s interrogation.</p>	<p>Instructor introduces to class, listing experience and qualifications to present this topic. Instructor covers basic expectations of students.</p> <p>The three goals in any criminal investigation will be explained. How important it is to understand each one and where it applies.</p> <p>Detailed victim and witness interview is crucial to any investigation. Law enforcement should write a report as a “word picture” to explain the victim statement in a report.</p> <p>Comprehensive inquiry meaning leave no stone unturned.</p> <p>The law and rules of collecting evidence.</p> <p>Details suspect interrogation and corroborating the suspect statement.</p>

<p>III. The Four Components.</p> <ul style="list-style-type: none"> A. The elements of the crime. B. Jurisdiction of the crime. C. Statute of limitations. D. Identity of the perpetrator. 	<p>Every offense will have two or more elements that must be shown to constitute the crime. The officer must read the Penal Code for the crime she or he is investigating.</p> <p>Jurisdiction geographical requirements, at least some portion of the planning, preparation or execution of the crime must have occurred within the courts geographical area.</p> <p>Statute of limitations the crime has time requirements, the crime must be charged within the statutory time limit of the execution of the crime. All crimes have a statute of limitation except homicide.</p> <p>Identity of the perpetrator, assuming that admissible evidence will prove each element of the commission of the crime within the agency's jurisdiction, there also must be proof that the person arrested, charged and tried is the person who committed the crime.</p>
<p>IV. Evidence.</p>	<p>Evidence is anything presented in support of a declaration. The support may be strong or weak. The strongest type of evidence is that which provides direct proof of the truth of a declaration.</p> <p>At the other extreme is evidence that is merely consistent with a declaration but does not rule out other, contradictory declaration, as in circumstantial evidence.</p>
<p>V. The Means of Proof.</p> <ul style="list-style-type: none"> A. Physical Evidence. B. Testimonial Evidence. 	<p>Physical evidence sometimes called trace or transfer evidence. This includes items of property such as guns computers vehicles etc.</p>

<p>VIII. Descriptions.</p> <ul style="list-style-type: none"> A. Getting a description for a victim or witness, immediately after the event, minutes or hours later. B. “I think, I can identify him officer.” C. Was there something distracting the victim/witness? <p>IX. Memory.</p> <ul style="list-style-type: none"> A. Is very important. <p>X. Being Descriptive.</p> <p>XI. The Investigation.</p> <ul style="list-style-type: none"> A. Report on fact. B. It does make assumptions. C. Go where the evidence leads you. D. Don’t draw a conclusion until you complete your investigation. 	<p>Getting a description of the suspect from a victim or witness immediately after the crime occurred can be tricky depending on the type of crime in the involvement of the victim or witness.</p> <p>Was there something distracting the victim or witness such as multiple suspects, a suspect holding a weapon, was the victim or witness injured and worthy under stress.</p> <p>Obtaining a detailed description from someone is not as easy or as accurate as people believe it to be. (Video)</p> <p>Memory is very important, but not just for the investigator, but also for the people you’re dealing with.</p> <p>Sometimes, law enforcement asked too much for someone to remember in detail an event that occurred hours, days, weeks and/or years in the past.</p> <p>The student will be asked to identify four pictures. The student will write down their description of each photo.</p> <p>The investigator should report on fact and their findings. The investigator should not make assumptions. Go where the evidence leads you that may be many directions.</p>
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<p>XII. Plan of attack.</p> <ul style="list-style-type: none"> A. Depend on the type of crime. B. Who are the victims, witnesses and suspects? C. Is the suspect is identified? D. Do you have evidence? E. What kind of evidence do you have? F. Lab Work need to be done. G. Search warrant(s). 	<p>Starting in an investigation the investigator should anticipate what defense a suspect would use.</p> <p>It depends on the type of crime on how you would start your investigation. Who and what your victim, witnesses and suspects are.</p> <p>Does the investigator have evidence in this case and if so what type? Is there evidence out there that needs to be still collected? Does lab work need to be done on that evidence?</p> <p>Will the investigator need to obtain a search warrant?</p>
<p>XIII. Arrest.</p> <ul style="list-style-type: none"> A. Is the arrest legal? B. Is the search legal? C. Are the elements of the crime met? D. Was the evidence obtained and maintained legally? 	<p>Investigators have to read other officers arrest reports. They have to consider, was the arrest legal and was the search legal?</p> <p>Investigator has to make sure that the elements of the crime were met and there was probable cause to make the arrest.</p> <p>Was the evidence obtained and maintained legally?</p>
<p>XIV. Three types of defenses.</p> <ul style="list-style-type: none"> A. No crimes were committed. B. Misidentification. C. There is a legal bar to conviction. 	<p>If any one of the essential elements cannot be proven, then the acts did not constitute a crime.</p> <p>The crime was committed, but some other person committed it. Also, there is a third-party defense. The suspect produces evidence of a possible third-party who committed the crime.</p>

<p>XVII. Search and Seizure.</p> <ul style="list-style-type: none"> A. Search warrants. B. Probable cause. C. Search warrant has two parts, the affidavit and the search warrant. D. Have 10 days to serve warrant. E. Return's receipt and inventory to the judge. 	<p>Search warrant is a court order, obtained by law enforcement, from a judge to search a particular place, to seize particular items and return it to court.</p> <p>The law prefers searches through judicial warrant, such searches are looked at as reasonable, whereas the opposite is true of warrantless searches.</p> <p>If the officers search without a warrant, the burden is on the government to justify the search.</p> <p>If the search is authorized by warrant, the burden is on the person challenging the warrant.</p>
<p>XVIII. Fourth amendment.</p>	<p>The right of the people to be secure in their persons, houses, papers, effects, against unreasonable searches and seizures.</p> <p>Persons shall not be violated, no warrants shall be issued, but upon probable cause.</p>
<p>XIX. Search.</p>	<p>Search generally means a hunt, exploration, or examination, into places of concealment, for a hidden object.</p> <p>The legal definition is geared towards protection of privacy, otherwise known as expectation of privacy.</p>
<p>XX. Seizure of property.</p>	<p>A seizure of property occurs when there is some meaningful interference with an individual's possessory he interests in the property.</p>

<p>XXI. Exclusionary rule.</p>	<p>The fourth amendment says that the right against unreasonable searches and seizures shall not be violated.</p> <p>It does not say what should happen if a violation occurs. The Supreme Court considered this problem in a 1914 decision and decided the consequence should be exclusion of the resulting evidence from the prosecution case as proof of guilt.</p> <p>Exclusion would apply to all evidence derived from the violation sometimes called the fruit from the poisonous tree doctrine.</p>
<p>XXII. Property seizures and non-searches.</p>	<p>The seizure of evidence without a search warrant in the seizure of evidence through the use of the senses and took technological devices.</p> <p>There are four categories of items that are subject to seizure.</p> <p>There are three requirements for a lawful seizure of property.</p>
<p>XXIII. Four seizable things.</p>	
<p>XXIV. Contraband.</p>	<p>Statutes make certain designated objects illegal to possess. If such things are legitimately discovered and accessed, they may be collected by police.</p> <p>Examples of contraband are such things as cocaine, child pornography, sawed-off shotguns etc.</p>
<p>XXV. Evidence.</p>	<p>Any item that might establish some link in the chain of proof a crime occurred or a particular person was involved in criminal activity, could be seizable</p>

<p>XXX. Access versus seizure.</p>	<p>Not only must an officer have lawful access to make an observation of seizable evidence, he or she must also have a right to get to the evidence.</p>
<p>XXXI. Immediately recognizable character.</p>	<p>Weather is no justification for a search, the evidentiary nature of an object must be immediately apparent before it may be seized.</p> <p>If the object must be first touched or inspected in some manner in order to determine his contraband or evidentiary character, the seizure is only lawful if the officer had acceptable basis for the inspection. (Hicks v. Arizona)</p>
<p>XXXII. PC to associate with criminal activity.</p>	<p>Officers must have probable cause to believe the item is evidence, contraband or the fruits or instruments of the crime. (Ornelas v. United States)</p>
<p>XXXIII. Abandoned property.</p>	<p>One long established seizure rule is the rule allowing police to retrieve, examine and retain as evidence any property that reasonably appears to have been abandoned by the suspect.</p>
<p>XXXIV. Third-party delivery.</p>	<p>When a criminal entrusts incriminating property to a third-party, he or she assumes a risk that the third-party will reveal this to officers.</p>
<p>XXXV. Probable cause.</p> <ul style="list-style-type: none"> A. The level of suspicion to make an arrest. B. More than the reasonable suspicion necessary to support a temporary detention. 	

