
MONMOUTH COUNTY
UNIFORM POLICY

Notes
Retention

Revised: May, 2012

RETENTION AND TRANSMITTAL OF CONTEMPORANEOUS NOTES OF WITNESS INTERVIEWS AND CRIME SCENES

A. DEFINITIONS

For the purposes of this Policy:

1. **Contemporaneous Notes**: any handwritten or other means of notation made by a detective or officer that describes or memorializes the substantive content of a witness interview, that is, what transpired during the course of the interview.
 - a. **INCLUDED**: any notation, whether handwritten, typed, entered into an electronic note-taking device or audio recorded, that describes or otherwise memorializes the substantive content of a witness interview [that is, what transpired during the course of the interview (e.g., the questions that were posed; what the interviewee said; a description of the interviewee's reaction and physical appearance, such as a notation that the interviewee appeared to be nervous, excited, angry, defiant, sad, etc...)]. The definition is expansive and also includes the note taker's personal perception of what transpired during the course of a witness interview. The definition of the term further includes notations made after the witness interview, provided that they memorialize the officer's personal recollection of what transpired during the interview.
 - b. **NOT INCLUDED**: The definition of the term *does not* include, among other things, notes made during the course of a criminal investigation that do not describe or otherwise document the substantive content of a witness interview (e.g., information learned outside the witness interview; surveillance notes; notations made during the interview concerning investigative tasks to be accomplished such as a "to do" list, or reference to information from outside the interview to be checked against statements made by the interviewee to verify or dispel the witness' account; possible lines of inquiry or specific questions that were not pursued or actually posed to the witness; etc....) and other investigative techniques or deliberative processes.
2. **Crime Scene Notes**: mean any personal observations made by any officers which memorialize the officer's personal observations of the crime scene are to be treated, preserved and communicated to the Monmouth County Prosecutor's Officer in the same manner as notes pertaining to witness interviews as described elsewhere in this policy.

3. **Witness Interview:** means an interview of a witness, done in the course of investigating a crime of the first, second, third, or fourth degree under New Jersey law, whether committed by an adult or a juvenile. This term ***does not*** include an interview of a citizen informant or a confidential informant.
4. **Witness:** includes all persons interviewed during the course of an indictable crime investigation, and is not limited to a suspect or target of the investigation.

B. PROCEDURES

1. All original notes of witness interviews and crime scene observations made by a law enforcement officer in the course of an investigation of an indictable crime shall be retained with the applicable case file;
2. A photocopy of all such original notes shall be provided to the Monmouth County Prosecutor's Office whenever related police reports are forwarded;
3. Unless otherwise covered by a departmental policy, each officer/detective is free to structure his/her note-taking in a manner [i.e. dual notebooks, segregated sections of notebooks or other means] that is best suited to his/her style or needs so long as the specified notes are easily separated so they can be forwarded to the Prosecutor's Office.
4. The original notes are to be maintained with the original police report in the police department's case file.
5. In the event that the notes were created electronically, those notes will be transferred to a disc or other electronic storage device in a manner which prohibits the contents from being altered.
6. The contemporaneous notes shall be clearly marked or otherwise annotated with the applicable case number.

C. GENERAL RETENTION AND TRANSMITTAL RULES

1. Prohibition on Policy or Practice of Destroying Contemporaneous Notes of Witness Interviews and Crime Scene Observations

Any existing policy or practice to destroy contemporaneous notes of a witness interview or of a crime scene observation after the contents of those notes have been incorporated into a final report is prohibited as contrary to the policies of this county and law of this State. Henceforth, when an officer or detective during the course of an

investigation of a crime conducts or participates in a witness interview, the officer/detective shall retain any original contemporaneous notes of the interview that the officer made. The officer/detective also shall retain any original contemporaneous notes made of his or her personal observations of the crime scene. In the event that the notes were created electronically, those notes will be transferred to a disc or other electronic storage device in a manner which prohibits the contents from being altered.

2. Transmittal of Notes of Witness Interviews and Crime Scene Observations to Prosecuting Agency

Whenever a law enforcement officer or a detective transmits a witness statement, report concerning a witness interview or a witness statement that the officer/detective conducted or participated in, or transmits a report concerning crime scene observations made by the officer/detective, to the prosecutor's office, the officer/detective shall also transmit to the prosecutor's office a printed or electronic copy of any contemporaneous notes of the statement, interview and/or crime scene observation by the officer/detective. For ease of identification, the copy of the contemporaneous notes shall be labeled with the departmental case number of the case.

3. Notice to Prosecutor of Material That May be Confidential or Privileged

Whenever an officer or a detective provides a copy of contemporaneous notes to the prosecutor's office pursuant to paragraph 2 of this Section, the officer/detective shall alert the prosecutor's office if the officer believes that the contemporaneous notes may include or otherwise reveal confidential or privileged information, or where the officer believes that further disclosure of the contemporaneous notes or any portion thereof may endanger any person or interfere with an investigation.

It is the responsibility of the prosecutor's office to determine whether the contemporaneous notes are discoverable, and whether any non-discoverable portions of such notes should be redacted prior to providing discovery.

4. Effect on Existing Note-Taking Policies and Practices

Nothing in this policy shall be construed either to require officers or detectives to take contemporaneous notes of a witness interview or of crime scene observations, or to discourage law enforcement officers from taking any such notes. Nor does this policy modify existing requirements for electronic recordation of statements pursuant to the Monmouth County Uniform Policy on Video Recorded Interrogations and the provisions of R. 3:17.

5. All notes shall be maintained in accordance with applicable New Jersey Division of Archives and Records Management records retention schedules.

D. SCOPE, EFFECTIVE DATE AND IMPLEMENTATION

The Attorney General Directive on which this policy is modeled applies to every law enforcement agency and officer operating under the authority of the laws of the State of New Jersey. This Directive took effect on May 27, 2011, and shall remain in force and effect unless and until repealed, amended or superseded by Order of the Attorney General. Every police department and law enforcement agency shall take such steps as may be necessary and appropriate to implement this Directive, and every department and agency shall review and, as necessary, revise its rules, regulations, standing operating procedures, and/or training programs to ensure compliance with this Directive.