

River Bend Police Department

# Criminal Investigations Procedures

## General Order 70

Effective 05/01/2012

**70.01** **Purpose:** To establish guidelines by which the River Bend Police Department personnel shall conduct criminal investigations.

**70.02** **Policy:** It is the policy of the River Bend Police Department to conduct investigations into complaints of criminal activity to the fullest extent possible in order to resolve complaints and present offenders for prosecution as directed by other elements of the criminal justice system.

In order to establish investigative continuity, it is necessary to define those component(s) of the agency which are responsible for conducting the preliminary and follow-up investigations of various categories of crime. Investigations shall be conducted in a thorough, professional manner according to accepted investigative procedures. This directive establishes administrative procedures for all components of the River Bend Police Department involved in criminal investigations.

**70.03** **Definitions**

**Preliminary Investigation:** the investigation conducted by officers upon their initial response to an incident.

**Follow-up Investigation:** an extension of a Preliminary Investigation in which the purpose is to gain additional information.

**Primary Investigator:** the officer who has been assigned the primary responsibility and accountability for an investigation.

**70.04** **Preliminary Investigation:** Uniformed patrol officers are generally responsible for the initial response to crime scenes and conducting the preliminary investigation, except as provided in this section.

**70.04.01** All River Bend Police Department personnel assigned to conduct investigations shall be responsible for seeing that all investigative activities are properly and thoroughly documented and included in the case file.

**70.04.02** If the police officer conducting the preliminary investigation determines that leads exist that may lead to the identification or arrest of a suspect, or the recovery of property, the police officer shall pursue the investigation to the fullest reasonable extent, unless otherwise directed.

**70.04.03** In those cases where there is physical evidence and a clear violation of criminal law, the victim is not to be referred to the magistrate. The investigating officer shall complete the investigation and upon determining that probable cause exists, accompany the victim/witnesses to the magistrate's office and present his/her findings along with the testimony of the victim/witnesses to the magistrate in order that a warrant be obtained.

**70.04.04** In those cases where no probable cause exists after a thorough investigation, or the only evidence is witness testimony and one or more of the parties insist on pursuing criminal charges, the officer will encourage the parties to present the facts of the case to a magistrate at a pre-designated time. In such a case the officer shall be present at the magistrate's office at the pre-designated time to provide investigative testimony.

**70.04.05** Should a magistrate find no probable cause, the case shall be marked **inactive**. Following a determination of no probable cause, the officer will notify the victim of the finding and prepare the proper supplemental report. The officer shall advise the victim to contact the Police Department should additional information concerning the investigation arise.

**70.04.06** The only cases in which victims are encouraged to obtain their own warrants without a police investigation are those dealing specifically with worthless checks, failure to return rental property, and shoplifting or concealment of merchandise which occur at retail stores which have store security personnel.

**70.04.07** In the event that a magistrate finds no probable cause regarding an incident but the Officer and Supervisor agree that the case needs further review, the case will be referred to the district attorney's office. The appropriate supplemental report will reflect the results of the district attorney's decision.

**70.04.08** An officer shall bring to court, on the prescribed court date, only those portions of the original and/or supplemental reports personally written by that officer along with supporting documentation in support of those reports. "Supporting Documentation" shall include, but not be limited to the following: Miranda waivers, written witness statements, and photographs.

**70.04.09** All subpoenas which require an employee of the department to present any documents, photographs, logs, tapes, or any other item must be reviewed by the police department's legal advisor prior to the employee providing the requested materials.

**70.04.10** The following steps are to be followed, at a minimum, in conducting preliminary investigations:

1. Be observant of all conditions, events, and statements and evaluate their significance to the crime.
2. Attempt to locate and identify any witnesses to the crime.
3. Secure the crime scene and protect evidence; arrange for the processing of the scene and/or the collection of evidence.
4. Interview the complainant, victim, and the witnesses.
5. Determine if the victim wants to pursue criminal prosecution and note the response. A victim's refusal to prosecute does not remove the requirement to fully investigate and document the incident.
6. Attempt to identify and locate the suspect; interview the suspect if found.
7. If possible, bring the case to a successful conclusion by arresting the suspect, referral of the victim to the magistrate, or by utilizing an approved non-judicial alternative to arrest, thus eliminating the need for further follow-up investigation.
8. Report the incident fully and accurately.

**70.04.11** In the following cases, an investigator or detective may, based on the seriousness/complexity of the incident, and the availability of personnel, conduct the preliminary investigation:

1. Arson
2. Bank Robberies
3. Check Forgeries
4. Computer Crimes
5. Fraud
6. Homicides
7. Involved White-collar Crimes
8. Vice and Narcotics Offenses

**70.05** **Follow-up Investigations:** Officers assigned to follow-up on a preliminary investigation should exert every effort to bring the case to a successful conclusion.

**70.05.01** At the minimum, the following steps that should be taken when conducting a follow-up investigation:

1. Review and analyze all previous reports prepared in the preliminary investigation, department records, and results from laboratory examinations.
2. Re-contact the victim and conduct additional interviews as required.
3. Seek additional information from other sources, i.e. patrol officers, informants, etc.
4. Plan, organize, conduct searches and collect physical evidence.
5. Identify and apprehend suspects.
6. Determine the involvement of suspects in other crimes.
7. Check suspects' criminal history.
8. Prepare case for court presentation.

**70.06** **Case Status and Disposition:** All cases shall be assigned an appropriate administrative status designation. Officers reporting the initial incident shall review and become familiar with the Case Screening Solvability Factors listed below, and assign each report with an Administrative Status Designation. Once the report is validated and submitted to the Chief of Police or his Designee and shall review each report for accuracy and content as well as Case Status Designation.

**70.06.01** Administrative designations for case status are:

1. **“FURTHER INVESTIGATION”** - Indicates further investigation is warranted. The case is assigned to an officer and investigative efforts are active.
2. **“INACTIVE”** - indicates investigative efforts are inactive. All available leads have been exhausted, but the investigation has not been brought to a satisfactory conclusion and investigative efforts may be resumed.
3. **“CLOSED/CLEARED”** - Indicates the investigation has been concluded satisfactorily. One of the following Uniform Crime Reporting (UCR) case dispositions must be indicated:
  - a. **“UNFOUNDED”** - Indicates that it has been determined that no crime has been committed.
  - b. **“CLEARED BY ARREST”** - Indicates that one or more offenders have been arrested and charged by River Bend Police Department personnel.
  - c. **“CLEARED BY ARREST BY OTHER AGENCY”** - Indicates that another

agency has arrested and charged one or more offenders in a River Bend Police Department case.

- d. **“DEATH OF OFFENDER”** - Indicates that it has been determined who the offender is in a case but the offender is deceased.
- e. **“JUVENILE/NO CUSTODY”** - Indicates that it has been determined that one or more juvenile offenders have committed an offense, and if the offenders were adults would have been taken into custody. (NOTE-This disposition includes juveniles who have been released to adults or referred to other authorities.
- f. **“REFUSED TO COOPERATE”** - Indicates that the offender has been identified, but prosecution is unlikely because the victim is uncooperative or unwilling to prosecute.
- g. **“PROSECUTION DECLINED”** - Indicates that the offender has been identified, but that prosecution has been declined by the District Attorney.
- h. **“EXTRADITION DECLINED”** - Indicates that an out of state agency has arrested an offender, but extradition of the offender has been denied.

#### 70.07

**Case Screening:** All incident reports with an aggregate point total of ten (10) or more points shall be assigned for follow-up investigation. Aggregate point totals shall be determined by positive answers to the following questions:

1.	Is stolen property traceable?	2
2.	Can a suspect be named?	10
3.	Is the suspect known?	7
4.	Can the suspect be described?	2
5.	Can the suspect be identified?	4
6.	Can a suspect vehicle be identified?	5
7.	Was there a witness to the crime?	3
8.	Is there significant physical evidence?	3

#### 70.07.01

Other factors that may indicate a case should be assigned for follow-up investigation include:

- 1. Documented experience of the River Bend Police Department with similar cases.
- 2. Documented experience of other law enforcement agencies with similar cases.
- 3. Development of research and intelligence indicating further investigation is warranted.
- 4. Sensitivity or high profile nature of a case.

#### 70.08

**Mandatory Active Investigations:** Cases assigned for follow-up investigation shall be investigated to the fullest extent possible using all available resources.

#### 70.08.01

The following cases shall be considered as active regardless of aggregate point totals:

- 1. All death investigations
- 2. Rape and associated sexual crimes
- 3. Aggravated robbery
- 4. Kidnaping
- 5. Extortion
- 6. Any complaints determined to be of a sensitive or high profile nature and that the Investigations Section supervisors determine would be in the community's best interest to investigate.

7. All cases assigned by the Chief of Police.

**70.09** **Case Assignments:** Normally, the responsibility for conducting a follow-up investigation in felony cases not successfully concluded by the preliminary investigating officer and marked for "Further Investigation", rests with patrol officer.

**70.10** **Suspension/Inactivation of Investigative Efforts:** All cases assigned for follow-up investigation that are subsequently suspended or inactivated must reflect the reason for suspension and reviewed by the appropriate supervisor. No case will be placed inactive without supervisor approval.

**70.11.01** Criteria for the suspension of investigative efforts by River Bend Police Department personnel include:

1. All leads have been exhausted,
2. Unavailability of investigative resources on low priority cases,
3. Degree of seriousness and/or solvability factors,
4. Other circumstances subject to Chiefs' approval.

**70.12** **Procedures:** All River Bend Police Department personnel shall conduct assigned investigations fairly and impartially. Police officers should conduct investigations as discreetly as possible and be mindful not to endanger the reputation of any person under investigation. Police officers shall contact victims and witnesses promptly upon being assigned a case for follow-up investigation. Procedures to be used in criminal investigations include:

**70.12.01** Information Development: potential sources of information include:

1. Victims
2. Witnesses
3. Neighbors
4. Relatives
5. Informants
6. Other law enforcement agencies
7. Other public agencies

**70.12.02** Interviews: Interviews are conducted with individuals who may have information concerning certain aspects of an investigation whether the individual is a witness, suspect, or may be directly involved in the criminal act. A Miranda warning is required prior to a custodial interview.

**NOTE:** **Officers must cease questioning when the suspect is in custody and makes a clear and unequivocal assertion of his right to counsel. If an officer is presented with a card containing the words "this person is a member of the Legal Shield Program and has 24-hour telephone access to legal representation", this should be considered clear and unequivocal assertion of the right to counsel preventing any further questioning.**

1. Under the terms of the Rothgery v. Gillespie County, Texas decision, a defendant's Sixth Amendment right to counsel attaches at the moment he is taken before a magistrate, advised of the charges against him, and given the terms of his pre-trial release and the defendant therefore cannot be questioned by the police regarding the facts of that particular case.
2. Questioning anyone who is in custody requires that the suspect be advised of his

Miranda Rights and that he waive those rights. If the person has asserted his Miranda Right to counsel under the Fifth Amendment to any law enforcement agency we cannot contact him while he remains in custody. The person must initiate contact with us before we can question him regarding any other case and then only after he waives his Fifth Amendment right to counsel.

3. As a result of Maryland v. Shatzer, once a suspect has invoked his Miranda Rights to counsel, and is released from custody, he may be re-approached once a period of fourteen days has passed. If the suspect is already in custody under a prior incarceration, releasing him to the general population for a period of fourteen days after his interrogation is a sufficient period of time to enable him to be questioned again.

**70.12.03** Collection, Preservation and Use of Physical Evidence: Procedures in the collection, preservation, and processing of physical evidence.

**70.12.04** Surveillance: Surveillance may be used as an investigative tool when it is necessary to observe suspects or conditions in an unobtrusive manner. Surveillance may generate additional information concerning a crime under investigation, intelligence information, or provide first hand observation of criminal activity.

**70.13** **Victim/Complainant Follow-up:** The police officer assigned to conduct a follow-up investigation shall make a reasonable effort to contact the victim at least once in addition to the contact made by the officer conducting the preliminary investigation. This second contact may result in the receipt of additional information not received during the preliminary investigation.

**70.14** **Maintenance of Case Files:** Case files will be maintained only in the approved file format.

**70.14.01** Patrol Investigators and Detectives shall be responsible for updating case files for their assigned cases as necessary to include:

1. A copy of all preliminary and supplemental investigative reports
2. Record of all statements
3. Results of examinations of physical evidence
4. Case status reports
5. All other records and reports needed for investigative purpose

**70.14.02** Criminal Discovery statutes in North Carolina regulate the extent to which a defendant and his attorney may have access to an investigative file. Officers are directed not to include speculation or opinion in reports.

**70.14.03** Case files are an immediate information resource and access is limited to a need to know basis. Files will be secured in the designated file cabinets when not in use. The investigator's or detective's supervisor will maintain a key to the case files and will have access to the files at all times.

**70.14.03** Case files shall be consolidated into the central records system upon the closure or inactivation of cases.

**70.15** **Required Notifications:** The preliminary or follow-up investigation of incidents may require the notification and/or assistance of a supervisor or agencies outside the police department. These notifications should be made according to the following guidelines.

**70.15.01** The investigating officer shall ensure that the Chief of Police is promptly informed of any of the following incidents which come to the officer's attention (this list is not intended to define every conceivable circumstance in which a supervisor should be notified, but only those more serious situations which require notification in every case.) In addition, the supervisor shall ensure the appropriate command staff personnel are notified:

1. Criminal and traffic homicides and potential homicides;
2. Suspicious death cases;
3. Robbery, sexual assault, aggravated battery, extortion, false imprisonment, felony child abuse, arson;
4. Bomb threats and found explosive devices;
5. Hazardous materials spills;
6. Accidents or damage to police vehicles;
7. Officer-involved firearm discharges;
8. Any situation in which an officer is injured or department property is damaged or lost;
9. Any incident in which the actions of an officer resulted in the injury or death to another person; any application of force by an officer through the use of a weapon; any use of force by an officer against another person;
10. High risk situations (hostage situations, barricaded subject, sniper, etc.);
11. Any situation which represents a potential conflict of interest with the officer (i.e. cases involving friends, relatives, etc.);
12. Any incident of violence or property crime involving racial, religious, or ethnic bias;
13. Any situation in which a citizen requests to speak to a supervisor;
14. Any cases in which a Town of River Bend employee is a suspect;
15. Any situation requiring a patrol officer to leave the town limits.

**70.15.02** District Attorney: The Office of the District Attorney should be notified on all cases of criminal homicide and cases in which the actions of a police employee resulted in the death or serious injury of another person. Notification will be made at the direction of the Chief of Police or his designee.

**70.15.03** In those cases in which officers are requested to meet with the defense counsel in matters of discovery, officers are not to meet with defense counsel without the presence of the District Attorney or the assistant district attorney prosecuting the case.

**NOTE:** **All contacts with a defense attorney, including casual conversations regarding a particular case of defendant, shall be handled through the district attorney's office.**

**END**