



MONTGOMERY COUNTY FIRE AND RESCUE SERVICE  
MONTGOMERY COUNTY, MD.

**DIVISION OF COMMUNITY RISK REDUCTION SERVICES  
DIRECTIVE**

**Date: August 11, 2006**

**Number: 06-13**

**TO:** All Fire and Explosive Investigations Section Personnel  
**FROM:** Division Chief Michael T. Love *Michael Love*  
**SUBJECT:** Adoption of Montgomery County Police Department Directive  
FC No: 622, Date: 06-23-04 – Statements and Confessions

All Fire and Explosive Investigations personnel must comply with and follow Montgomery County Police Department Directive (Function Code) 622, Statements and Confessions, June 23, 2004, with one amendment:

The language in MCP Function Code #622, Statements and Confessions, June 23, 2004, Section III.C.3 is replaced with:

“Make a duplicate of the recording and submit the original recording as evidence.”

When a new MCP Department Directive or Headquarters Memorandum is issued that affects the Function Code 622, the FEI Section Chief will determine the applicability and will amend this Directive as required.

MTL:MD:ss



# STATEMENTS AND CONFESSIONS

FC No.: 622  
Date: 06-23-04

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, ~~the contract prevails~~ except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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**I. Officer Responsibility**

A. In the course of investigations, officers obtain information in the form of statements from both witnesses and defendants. These statements take a variety of forms including, but not limited to, *spontaneous utterances* (impulsive comments), notes, and confessions. The responsibility of the officer is to record this information by an appropriate method as soon as possible.

B. Once recorded, the officer should ensure that the information is made available to the appropriate unit or investigator. However, it is necessary that the confidentiality of the investigation be maintained. In this regard, information should be released to individuals only on a need-to-know basis. The original of any statement should be kept in the case file. Copies of the written statements and/or duplicates of the recorded statements will be forwarded to the State's Attorney's Office.

C. When videotaping a statement or confession, the officer will refer to FC 450, "Electronic and Photographic Surveillance Equipment," and FC 728, "Videotaping Evidence," for additional guidance *and legal limitations*.

**II. Methods of Recording Statements**

The department realizes that no two cases are exactly the same. Further, not all officers utilize the same investigative methods. Therefore, the department does not require the use of one specific method of recording statements.

**A. Procedure**

It is required that one of the following procedures be utilized in recording statements:

- 1. Write the statement verbatim.
- 2. Take notes during the interview.
- 3. Make notes as soon after the interview as possible.
- 4. Brief witness statements can be recorded directly in an event report.
- 5. Record the statement on an audiotape or videotape.

6. If the subject is literate, allow the subject to write and sign the statement in the subject's own handwriting.

An MCP 237, "Statement Form," may be used for written statements.

**B. Included in a Written Statement**

When taking a written statement, the following should be included (MCP 237 can be used):

- 1. On the first page:
  - a. Subject's identification: name, address, phone, DOB, place of employment, etc.
  - b. *Advise* of rights when required per Miranda
  - c. Name(s) of the investigator(s) present
  - d. Location of the interview
- 2. On each page, including the first:
  - a. Date and time
  - b. Subject's initials by any corrections, written by the subject
  - c. Subject's signature
- 3. Ensure the subject reviews, corrects any discrepancies, and signs each page. If the subject refuses to sign the statement, it will be noted in the statement.

**III. Audio/Video Taped Statements**

**A. Annotated Code of MD**

When a statement is audio taped or videotaped for a crime not enumerated in the Annotated Code of Maryland, Courts and Judicial Proceedings, Section 10-402C.2.(2) (refer to FC 450), the following should be recorded on the tape at the beginning of the statement:

- 1. A statement that the interview is being taped and the subject consents to the taping.
- 2. Subject's identification: name, address, phone, DOB, place of employment, etc.
- 3. The *advice* of rights when required per Miranda.
- 4. Name(s) of investigator(s) present, and
- 5. Location of the interview.

For a crime that is enumerated, number one above is not necessary.

**B.** At the conclusion of an audio taped or videotaped statement, the following questions and statements, asked by the investigator, should be recorded on the tape:

- 1. Have the suspect acknowledge any earlier comments, lies, or inconsistent versions given prior to the start of the taping.
- 2. Have the suspect acknowledge that prior to this statement, the suspect was advised of the suspect's rights and signed an MCP 50.
- 3. "Since your arrest and until this moment, has anyone threatened you in order to get you to make this statement?" If the answer to this question is yes,

then the investigator should ask who made the threat and exactly what the threat was.

4. "Since your arrest and until this moment, has anyone promised you anything in order to get you to make this statement?" If the answer to this question is yes, the investigator should ask who made the promise and what the promise was.
5. If this is a situation where the suspect has agreed to make a statement, and the suspect has been told the suspect is not under arrest, have the suspect state on the tape that the suspect has been told and is aware that the suspect is not under arrest at this time, *and is free to leave.*
6. Other questions the investigator should ask the subject are: "Do you understand everything that has been said to you? Are you sober at this time? Is there anything that would prohibit you from understanding what just happened?"

- C. After recording (audio or video) a statement, the investigator should:
1. Remove the plastic tabs from the back of the tape to prevent re-recording.
  2. Have the defendant initial the original tape.
  3. Make a duplicate of the tape. Submit the original tape as evidence per FC 721, "Evidence/Recovered Property." Retain possession of the copy.
  4. Have the duplicate tape transcribed and/or synopsize the interview in the investigator's notes or an event report.

#### IV. Dealing with Non-English Speaking Subjects

- A. Officers should refer to FC 1121, "Interpreters/Language Services," for available language services.
- B. When taking a statement from a non-English speaking subject, the officer may use one of the following methods:
1. Make an audio recording of the statement.
  2. Use a recorded language line or other commercial service.
  3. Have the subject write out the statement in the subject's language.
  4. Use an interpreter (*certified*) from the department.
- C. With an audio recording of a statement there is no question of what was said. This is the best method to use. Telephone language lines can also be audio recorded. Refer to FC 1121 for guidance.
- D. Due to similar words having different meanings, using an interpreter without audio recording could present a problem when the statement is used in court.

V. **Proponent Unit:** ISB Administration

VI **Cancellation**

*This directive cancels Function Code 622, effective date 08-11-99.*

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J. Thomas Manger  
Chief of Police