01-016 Witness Detention or Transportation

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

WITNESS DETENTION OR TRANSPORTATION

PURPOSE

The purpose of this directive is to reaffirm the Department's existing policy and practice and to establish a procedure for the proper detention or transportation of a witness from the scene of a crime to a patrol station or other location, pending further investigation (e.g. transporting potential homicide witnesses to the station for homicide investigations).

OVERVIEW

In the past, law enforcement agencies have been sued for the involuntary transportation of a witness from a crime scene to a patrol station for investigative questioning. The Supreme Court has indicated its view that the line between detention and arrest is crossed when the police act without probable cause or a warrant, and forcibly remove a person from a location and transport him or her to a patrol station, where he or she is detained, although briefly, for investigative purposes. [*Michigan v. Summers*, 452 U.S. 692 (1981); *Orozco v. County of Yolo,* 814 F. Supp. 885 (1993)].

POLICY

Upon arriving at a crime scene, deputies may conduct a brief investigatory detention of persons who may have been in the immediate vicinity to determine their involvement in the crime, if any (i.e. persons may be suspects, aiders, or abettors).

Once a person is determined to be a witness only, deputies cannot detain the witness involuntarily. In the event that a witness possesses valuable information but will not consent to voluntarily remain at the scene or await interview by the handling detective or investigator, patrol deputies should attempt to do the following:

- Briefly determine the nature of the witness's information;
- Obtain valid identification;
- Determine when and where the witness can be contacted.

However, no individual believed only to be a witness may be forced to remain at the scene or provide identifying information. In these cases, deputies should attempt to document identifying information [e.g. vehicle license numbers, photographs (see below)].

Photographing Witnesses

No individual believed only to be a witness may be forced to **pose** for a photograph without their consent. Area photographs, including individuals in plain view, may be taken without consent. Personnel equipped with “cop-cams” or vehicles equipped with “in-car video systems”, may record information, including a witness’ refusal to cooperate or provide information.

Written Consent to Transport Witness for Interview

The Fourth Amendment is violated when the line between detention and arrest is crossed once a witness is involuntarily transported to a patrol station and detained for investigative purposes.

Therefore, it shall be the policy of this Department that a consent waiver authorizing the voluntary transportation of the witness shall be signed by the witness, or by a person authorized to give consent, prior to transporting the witness to the patrol station for investigative or other purposes. The consent waiver may be typed or hand written and should contain language similar to that in the attached sample consent waiver form.

At the Station

Witnesses should be separated and/or monitored to prevent information contamination or witness intimidation. Treat witnesses as guests and not as suspects. Witnesses should be allowed to use the telephone to notify a friend/family as to their whereabouts, and they should have access to restrooms, food, and drinks.

Upon request, the witnesses should be promptly transported back to their home or desired reasonable location.

LOS ANGELES COUNTY SHERIFF’S DEPARTMENT

WITNESS TRANSPORTATION CONSENT FORM

File No._____

CONSENT

I,_____, understand that I am being asked by deputies from the Los Angeles County Sheriff’s Department to go to the

_____

_____station for an interview.

Transportation to be by __ my own personal means.

__ police vehicle, for transportation only.

I hereby freely consent to this voluntary trip to the station, with the understanding that I have the right to refuse to consent. I acknowledge that I am<u>not</u> under arrest, that I am free to leave the station at any time I choose, and that return transportation will be provided for me, if requested.

Date:_____Signed:_____

<u>PARENTAL CONSENT FOR MINORS</u>

I,_____, am the parent or guardian of the minor named above. I understand my rights as mentioned above and hereby consent to my child's voluntary transportation to the station.

Date:_____

Name:_____

(Print Name)

Signature:_____

Deputy Witness:_____ Emp. No:_____