98-003 Retention of "Raw" Victim/Witness Interview Notes/Recordings

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

RETENTION OF "RAW" VICTIM/WITNESS INTERVIEW NOTES/RECORDINGS

This Field Operations Directive establishes policy regarding the retention of "raw" notes from victim/witness interviews by field and detective personnel.

On March 12, 1997, the Court of Appeals filed a decision in Thompson v. Superior Court, 53 Cal App 4th 480 that "raw written witness interview notes, to the extent they record the witness' statement, are 'statements' as defined in [Penal Code] section 1054.3 and thus subject to discovery." In its decision the court also included witness statements that are "recorded electronically" as discoverable.

Recently, the District Attorney's office reviewed this ruling and concluded that notes recorded **prior** to case filing (field deputy's notes of initial interview of victim, witness, etc.) do not fall within the scope of this ruling provided they are reduced to a report. However, notes recorded **after** the case is filed (detective's notes of additional interviews with suspect, victim, witness, etc.) or that are recorded prior to a filing but are **not** reduced to a report are discoverable and must be retained.

It is highly desirable, and strongly advised, that personnel retain all their field notes regardless of their apparent importance. However, in light of the above case and the District Attorney's conclusion, **it shall be the policy of this Department that personnel who record suspect/victim/witness statements, either by written notes or electronic recording, that are discoverable as described above, shall retain those notes/recordings**.

Tapes containing such interviews shall be booked in as evidence in the case. Written notes shall be maintained according to the following guidelines:

FIELD PERSONNEL

Discoverable notes taken by field personnel shall be copied and included in the case file whenever they contain suspect/victim/witness statements.

Original notes shall be retained by personnel in a location of their choice that ensures they are maintained damage-free and readily retrievable until the case has been adjudicated, but in no case less than (2) years.

DETECTIVE PERSONNEL

Detectives taking discoverable notes shall include the original notes in the case file.

The following quick reference is provided for convenience:

- Notes taken prior to case filing that have been included in a report **- Not Discoverable - Not required to maintain**
- Notes taken prior to a case filing that have not been included in a report - **Discoverable - Must Retain**
- Notes taken after a case has been filed, whether or not they are included in a report - **Discoverable - Must Retain**