

98-04 RETENTION OF "RAW" VICTIM/WITNESS INTERVIEW NOTES/RECORDINGS



TASKFORCE FOR REGIONAL AUTO THEFT

Unit Order: 98-04

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

Effective Date:	03/16/1998	Last Date Revised:	02/01/2005
Last Date Reviewed:	04/09/2020	Next Review Date:	04/09/2021

PURPOSE

This Unit Order establishes policy regarding the retention of "**raw notes**" from victim/witness interviews by field/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 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.

GUIDELINES

The District Attorney's office reviewed this ruling and concluded that notes recorded **prior** to case filing, (field notes of an initial interview of a victim, a 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, (detectives' notes of additional interviews with suspect, victim, witness, etc.), or 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 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 TRAP that personnel who record suspect/victim/witness statements, either by written notes or electronic recording, as described above shall retain those notes/recordings.**

Tapes and digital recordings containing such interviews shall be booked as evidence in the case. Detectives

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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 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**

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PROJECT DIRECTOR
