



University of Pennsylvania Police Department 4040 Chestnut Street, Philadelphia, Pa 19104		 
Directive: 113	Subject: Electronic Recordings of Custodial Interrogations	Effective Date: 01/31/2020
Order of: Gary Williams, Chief of Police		Amended Date: 08/01/2023

I. Purpose

The purpose of this directive is to provide procedures and guidelines for the digital recording of interrogations administered by the University of Pennsylvania Police Department (UPPD).

The UPPD is responsible for the investigation of all felony and misdemeanor crimes occurring in the Penn Patrol zone in conjunction with our MOU with the Philadelphia Police Department (PPD). This shall include the responsibility to digitally record interrogations of persons arrested or whose freedom of movement has been restrained to the degree associated with a formal arrest that is being investigated by UPPD.

Other law enforcement investigators shall be approved to use the equipment on a case-by-case basis by the Chief of Police.

The purpose of recording custodial interrogations conducted in the UPPD interrogation room is to:

- A. Create an exact record of what occurred during the course of a custodial interrogation;
- B. Preserve exculpatory or inculpatory evidence;
- C. Document the suspect's physical condition and demeanor;
- D. Preserve evidence tending to refute allegations of police distortion, coercion, misconduct, or misrepresentations;
- E. Reduce the time required to litigate suppression motions; and
- F. Enable investigators to more effectively use the information obtained to advance other investigative efforts.

II. Scope

This directive shall affect all digitally recorded custodial interrogations of persons suspected of committing crimes that are being investigated by UPPD Detectives.

III. Definitions

A. When used in this Directive, the following terms shall have the meanings designated:

1. **Bookmark:** Refers to a feature in the Digital Recording System, similar to the conventional bookmarks you place within the pages of a book, that allows the investigator to indicate points of interest in a video clip thereby allowing future viewers to quickly locate the points of interest without the need to view the entire video.
2. **Custodial Interrogation:** Express questioning, initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of their freedom of action in any significant way, about a crime or suspected crime, as well as any words or actions on the part of law enforcement officers that are reasonably likely to elicit an incriminating response. All custodial interrogations shall be preceded by the issuance of the Miranda warnings.
3. **Custody:** The test for determining if a person is in custody is whether the person is physically deprived of their freedom of action in any significant way or is placed in a situation in which they reasonably believe that their freedom of action or movement is restricted.
4. **Digital Evidence Custodian:** The personnel given the authority by the Chief of Police to receive, store, protect, review, redact, and disseminate all digital recordings made or obtained by the UPPD.
5. **Interrogation Room:** A room at a UPPD facility that is equipped with electronic recording equipment, including, but not limited to, recorders or cameras that use audiotape, videotape, film, CDs, DVDs, or digital equipment.
6. **Suspect:** A person who has been arrested, or whose freedom of movement has been restrained to the degree associated with an arrest.
7. **Digital Recording System:** The collection of hardware, software, firmware and other components utilized to create a digital audio/video recording of events that transpire within an interrogation room.
8. **Digital Evidence Management System:** The collection of hardware, software and other components designed for the purpose of storing, safeguarding, organizing, and distributing digital evidence (recordings, etc.).
9. **Crimes:** For purposes of this Directive, this term shall include any felony or misdemeanor crime investigation by Detectives.

IV. General Guidelines

- A. Custodial interrogations of persons suspected of committing a crime shall be recorded in their entirety, from the time the suspect first enters the interrogation room until the suspect leaves the interrogation room.
- B. The Deputy Chief of Investigations may elect in his/her discretion to electronically record interrogations for offenses other than those specified in this Directive in extraordinary circumstances or other circumstances in which such election is deemed in the best interest of the UPPD or the person being questioned. All recordings will otherwise be conducted in accordance with the procedures listed in this Directive.
- C. All custodial interrogations shall be conducted by Detectives or approved Investigators.
- D. At no time shall a member of any law enforcement agency be armed while conducting a custodial interrogation in an interrogation room. All firearms shall be secured outside of the interrogation room in the lock box. (42.2.8a)
- E. Custodial interrogations shall not be conducted unless the suspect has waived Miranda rights.
 - 1. If the suspect has not previously been given their Miranda rights, the recording shall include the reading of these rights to the suspect and their waiver of those rights, if any.
 - 2. If Miranda rights have been waived before the suspect enters the interrogation room, prior to any interrogation, the investigator shall, on the recording, state that the suspect has previously waived his or her Miranda rights and shall review the Miranda rights card with the suspect and ask the suspect to affirm that they were informed of, and waived, those rights. Investigators shall bookmark or otherwise note the time of the event from the video.
 - 3. As indicated, the administering of Miranda rights and the responses of the suspects, including any reaffirmations of previously made waivers shall be recorded. Investigators shall bookmark or otherwise note the time of the event from the video (Refer to the system operational guide for instructions).
 - 4. No Detective shall intentionally circumvent placing a suspect in an interrogation room to avoid recording any interrogation. Except for spontaneous utterances, all custodial interrogations, as required in this Directive, are to be conducted in the UPPD interrogation room equipped with digital recording equipment and shall be video and audio recorded.
 - 5. If the video/audio recording equipment is not working, the Detective responsible for conducting the custodial interrogation shall conduct the interrogation on associated BWC.
 - 6. If the equipment malfunctions or is inadvertently not turned on, or for some other reasons the recording cannot be made, the circumstances shall be immediately reported to the

Detective Supervisor on duty or the Deputy Chief of Investigations and documented in the unit's S&R and a UPPD-10 will be completed.

7. Each failure to electronically record a custodial interrogation due to equipment failure shall be explained and documented in a UPPD-10 report to the Deputy Chief of Investigations.
8. The Pennsylvania Wiretap and Electronic Surveillance Control Act (18 Pa.C.S. 5701, et seq.) generally prohibits anyone from secretly recording another person's oral statements. Accordingly, unless one of the narrow exceptions to the wiretap statute applies, a law enforcement officer who electronically records a suspect's interrogation must inform the suspect that their statements are being recorded.

V. Use Of Recording Equipment, Preserving Evidence And Locating Points Of Interest

A. Use of the Recording Equipment

1. A Detective Supervisor shall test the recording equipment, including the quality of both the video and audio recordings, daily. This can be accomplished by viewing the external interrogation room monitor to ensure both audio and video components are functioning properly.
2. The Detective conducting the interrogation shall test the recording equipment, including the quality of both the video and audio recordings, prior to recording a custodial interrogation to ensure it is operating properly.
3. Any video/audio recording equipment that is faulty, or in need of repair, shall be immediately reported to the Deputy Chief of Investigations.
4. The Deputy Chief of Investigations or designee shall submit requests for repair or report other technical issues to the vendor, which will facilitate and document repairs.
5. If the video/audio recording equipment fails to operate properly before or during a recorded custodial interrogation, a Detective Supervisor shall be notified as soon as possible and determine if the interrogation shall be continued without being recorded or use a body camera.
 - a. If the interrogation is authorized to continue, the Detective shall document the incident by preparing a memorandum to the Deputy Chief of Investigations along with the nature of any irregularities that occurred with the equipment. Even if there is a problem with the digital media file(s), the digital media must be preserved.

B. Preservation of Evidence

1. All recordings of suspects made in interrogation rooms equipped with recording devices will be automatically saved to the Digital Recording System.

2. For tracking purposes, when logging into the Digital Recording System, investigators shall insert the following information:
 - a. The District Control Number(s) and Unit Control Number,
 - b. The name of the person who was recorded,
 - c. The name of the investigator logging onto the system,
 - d. The name of the investigator conducting the interrogation and names of any other investigators who assisted in the interrogation,
 - e. The date and time the interview began and ended, and the location of the custodial interrogation.
 - f. The name(s) of any other person present in the interview room during the custodial interrogation, such as attorneys or interpreters.
3. The Office of the District Attorney for Philadelphia may be given access to specific interrogation footage with the prior approval of the Chief of Police.

C. Locating Points of Interest

1. Mandatory Bookmarking – To efficiently identify and view the specific points of interest in a recorded interrogation necessary for the District Attorney’s Office to make charging decisions. The following points of interest SHALL be bookmarked:
 - a. The beginning of the interrogation,
 - b. Any statement claiming self-defense,
 - c. Any re-enactments made during the interrogation by the suspect,
 - d. Any injuries on the suspect documented by the Detective during the interrogation,
 - e. Any confessions,
 - f. The end of the interrogation.
2. Discretionary Bookmarking – To efficiently identify and view specific points of interest in a recorded interrogation. The Detective MAY bookmark any point of interest that he or she believes is useful, important, or may become important during the investigation or prosecution.

VI. Conducting A Digitally Recorded Custodial Interrogation

- A. When the offense requires a digital recording as described in this Directive, the assigned Detective shall notify a detective supervisor on duty, prior to recording any interrogation.
1. The Detective Supervisor shall review the assigned Detective's completed paperwork to ensure interrogations are being electronically recorded for offenses as required in this Directive.
 2. If the Detective needs to record a custodial interrogation of a non-English speaking/hearing-impaired person, they shall obtain and utilize a qualified interpreter.
 3. No digital recording of juvenile interrogations shall be conducted in the UPPD building. (42.2.3)
 4. The suspect shall be thoroughly searched prior to being placed in the interrogation room. (42.2.8a/b)
 5. Prior to placing a suspect in any interrogation room that has a digital recording device, the detective shall inform the suspect that they will be recorded and ensure the interrogation room is properly posted with notice stating that everything in the room is being recorded. (42.2.8f)
 6. All interviews and/or interrogations will be monitored in the adjoining room by a Detective Supervisor or Deputy Chief of Investigations for safety reasons. If there is no Detective Supervisor or Deputy Chief of Investigations on duty, another Detective will be assigned to sit in the adjoining room to monitor. (42.2.8d)
 7. The Detective shall activate the recording equipment just prior to a suspect being placed in an interrogation room with a digital recording device.
 8. During an interrogation, only one suspect shall be in an interrogation room at any given time.
 9. During an interrogation, there will be a minimum of one (1) detective in the interrogation room. Other personnel shall be allowed in the interrogation room, on a case-by-case basis, as approved by the Deputy Chief of Investigations or his designee. (42.2.8c)
 10. The suspect shall be seated in the interrogation room so that their face is clearly visible on camera.
 11. Before starting the interrogation, the Detective will again inform the suspect that they are being recorded.
 12. The Detective shall verbally state:
 - a. The date, time, and location of the interview,

- b. The identity of all person(s) present,
 - c. The case number, and
 - d. The crime under investigation.
13. The suspect shall be read their Miranda rights and acknowledgement questions of these rights. If the suspect indicates they previously waived their Miranda rights prior to the electronic recording of the custodial interrogation, the Detective shall inquire whether the suspect has been advised of their rights and affirm that the suspect waived their Miranda rights.
 14. Where possible, the Detective should make clear on the recording if a suspect has been provided with food, drink, access to facilities, or cigarettes; or if the suspect has requested and been given prescribed medication. (42.2.8g)
 15. The Detective shall ask the suspect whether any promises have been made, and whether the suspect has been threatened or mistreated in any manner.
 16. If a suspect refers to any injuries or marks on their body during the recorded session, or if the Detective observes any injuries or marks, the Detective shall ask the suspect how they received the injuries, and request that they be displayed (if practicable), so they may be recorded.
 17. When attempting to document any injuries or marks, the Detective should have the suspect move as near as possible to the camera to effectively capture the images.
 18. In instances where the suspect suggests that they may have acted in self-defense, the Detective should request that the suspect demonstrate what the respective parties allegedly did, including the manner in which the suspect used a weapon, when applicable.
 19. In all interrogations, the suspect shall be given an opportunity to explain, in their own words, what occurred during the commission of the offense.
 20. If the Detective uses or refers to documents or other items during the interrogation, the Detective should describe those documents or items on the record and mark them with a unique number (e.g. similar to an exhibit used at trial) and the Detective's initials and badge number. If the Detective is unable to write on the actual document or item, the Detective may write on a bag, envelope or case in which the document or item is placed or on a piece of tape or other form of label attached to the document or item.
- NOTE: Detectives are permitted to take notes during any recorded interrogation. As with any Interrogation, these notes will become part of the investigative file.
21. The recording equipment shall not be turned off unless the suspect is willing to answer questions but refuses to do so if recorded.

- a. If the suspect refuses to be recorded but is willing to answer questions if not recorded, the Detective shall notify a Detective Supervisor and will record the suspect making this statement.
 - b. The recording shall be preserved in accordance with the provisions in this Directive and shall include everything that was recorded in the interrogation room up to, and including, the suspect's request that the interrogation not be recorded, including the giving of or affirmation of Miranda rights and the waiver or those rights.
 - c. The Detective Supervisor notified shall document the circumstances via a memorandum to the Deputy Chief of Investigations.
22. If the suspect or both suspect and Detective leave the interrogation room, the purpose for which a suspect leaves the interrogation room shall be included on the recording before leaving the interrogation room. The recording will NOT be turned off. Upon returning to the interrogation room, the Detective shall state the length of the break, and what transpired during the period of time that they were out of the room, if anything other than the stated purpose transpired.
- a. If the Detective must suspend an interrogation for any reason, the Detective shall state the time and reason for the interruption (e.g., "The time is now 10:23 a.m. and we are going to take a short break so that _____.") Upon re-entering the interrogation room, the Detective shall again state the time. (e.g., "The time is now 10:30 a.m.; we have completed our break and will now resume the custodial interrogation"). The Detective shall ask the suspect whether anything occurred during the break other than the stated purpose of the break.
 - b. If any relevant spontaneous statements or blurt outs are made while on a break, once the interrogation begins the Detective shall question the suspect regarding the statement and attempt to have the suspect repeat it so that it can be recorded.
23. The Detective shall conclude the recording by stating the date and time the interrogation is completed.
24. The Detective conducting the interrogation shall indicate in the appropriate box of the Suspect Log that a digital recording of the interrogation was made.
25. At the conclusion of the interrogation, the mandatory and any discretionary bookmarks shall be made of the recording and the file of the digitally recorded interrogation shall be moved to the appropriate folder on the DEMS to allow sharing with the District Attorney's Office.
26. At the conclusion of every digitally recorded interrogation, the assigned Detective shall contact the District Attorney's Office Charging Unit and advise that the interrogation is available to be viewed on the DEMS.

VII. Recording Of Witness Statement

- A. Interviews with victims, witnesses, and other persons who are not under arrest, or whose freedom of movement has not been restrained to the degree associated with a formal arrest, are not required to be recorded under this Directive. Detectives are not required to activate the recording equipment if a witness is placed in an interrogation room with a recording device but shall have the discretion to do so if they believe it is necessary.
- B. A Detective may record a witness statement if they believe the witness may later recant a statement or will otherwise become unavailable if requested by the District Attorney's Office. If a witness is recorded, the same procedures shall be followed for the preservation of evidence in Section VI-B.
- C. If a witness, who is in a police facility and not currently being recorded, becomes a suspect based upon newly acquired evidence, the Detective shall provide the name, address, and any other available information on the unit's Suspect Log. Before this suspect is placed in an interrogation room with a recording device, the recording equipment will be activated. (Follow all procedures in Section VII).

VIII. Deputy Chief Of Investigations

- A. The Deputy Chief of Investigations or designee shall:
 - 1. Ensure Detectives are made aware of, and act in accordance with the provisions of this Directive.
 - 2. Ensure all interrogation rooms have a posted notice that the rooms are being recorded both visually and audibly.
 - 3. Ensure Detective Supervisors, for each tour of duty, are reconciling the arrests and interrogations that require electronic recordings according to this Directive.
 - 4. Ensure that the recording equipment is secure and maintained and/or replaced as applicable.
 - 5. Compile monthly statistics on custodial interrogations that include, but are not limited to:
 - a. The total number of custodial interrogations conducted;
 - b. The number of custodial interrogations that were not recorded as required,
 - c. The reasons given for not recording as required;
 - d. The sanctions imposed, if any, for failing to record as required.

6. Forward the compiled statistics, through the chain of command, to the Chief of Police and by the 10th day of each month.

IX. Compliance

Violations of this directive, or portions thereof, may result in disciplinary action as determined by the UPPD.

X. Officers Assigned To Other Agencies

Officers of this department assigned to or assisting other law enforcement agencies will be guided by this directive.

XI. Application

This directive constitutes department policy, and shall not form the basis for civil or criminal liability except with respect to disciplinary actions as provided above. It shall not be construed as establishing or altering any duty or legal standard of safety or care, nor shall it create any right in any third party (including but not limited to any suspect or witness). Violations of policy may constitute a basis for departmental administrative sanctions and/or employee discipline. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.