



RECORDING OF INTERVIEW & INTERROGATIONS						
<table border="1"> <tr> <td rowspan="2"> ✓ new: rescinds: amends: All previous </td> <td> cross-reference: </td> </tr> <tr> <td> accreditation standards: NYSLEAP Standard(s): 50.1 </td> </tr> <tr> <td> effective date: January 2024 </td> <td> amend date: </td> </tr> </table>		✓ new: rescinds: amends: All previous	cross-reference:	accreditation standards: NYSLEAP Standard(s): 50.1	effective date: January 2024	amend date:
✓ new: rescinds: amends: All previous	cross-reference:					
	accreditation standards: NYSLEAP Standard(s): 50.1					
effective date: January 2024	amend date:					

I. PURPOSE

The purpose of this policy is to establish guidelines for the video and audio recording of statements made during interviews and interrogations and the associated use, management, storage, and retrieval of such recordings. While these guidelines endorse the practice of recording interviews, they also recognize the dynamics of police work, field operations and suspect encounters. These guidelines provide latitude for officers in conducting interviews or interrogations at times that may not lend themselves to the availability of recording equipment. Personnel conducting interviews and taking statements from juveniles will follow *G.O. 1004 Juvenile Contact & Arrest Procedures*.

II. POLICY

It is the policy of the Office to electronically record specific interviews and interrogations to provide an evidentiary record of statements made in qualifying offenses. Such electronic recordings can help protect both the person interviewed and the interviewer against potential assertions of police coercion or related interrogation misconduct and may increase the likelihood of successful prosecution. It is understood that circumstances may arise that preclude recording a particular interview/interrogation and the investigating officer **MUST** be able to articulate a reasonable explanation why such interview was not recorded (i.e., confidentiality of a drug informant). These guidelines are not meant to discourage field interviews. Gathering real-time field information can be critical for an investigation. If information is gathered from a subject in the field regarding a qualifying event, efforts should be made to memorialize the statements at the earliest practicable time.

III. DEFINITIONS

Electronic (Digital) Media: Audio and/or video signals recorded on any sort of electronic storage media or drive.

Electronic Recording: A digital, electronic audio and/or video or other recording on electronic media

Interview/Interrogation Room: A room designated for the sole purpose of interviews or interrogations with recording capabilities.

Qualifying Offense: All felonies, any violent misdemeanor offense, domestic violence related offense, any child abuse related offense and any sexually based offense.

See *G.O. 1001 Interview & Interrogations Procedures* for other relevant definitions.

IV. PROCEDURES

- A. When practical, video/audio recordings shall be utilized when conducting a custodial interrogation of someone suspected of committing a qualifying offense and shall be conducted in an interview room. Non-custodial interviews of subjects in qualifying offenses may be recorded at the discretion of the investigating member.
 - 1. This includes the use of digital handheld audio recorders and bodycams.
- B. Absent authorization from a supervisor, or a representative of the District Attorney's Office, no audio and/or video recording of interviews of victims or witnesses shall be made. Written supporting deposition are to be taken instead. This does not preclude the use of a bodycam during routine preliminary investigations.
- C. Personnel conducting interviews/interrogations of subjects, and/or taking statements shall do so in accordance with *G.O. 1001 Interview & Interrogations Procedures*.
- D. The following guidelines shall be strictly followed when electronically recording an investigative interview or interrogation in an interview room.
 - 1. At least one person conducting the interview shall be responsible for operating the recording device used during the interview/interrogation.
 - a. Before the interview begins, the responsible officer shall ensure there is enough capacity to record the entirety of the interview.
 - 2. Consideration should be given to the arrangement of the room to provide maximum visibility of the suspect's whole body, maximum visibility of the interview room, maximum comfort of the interviewer, and minimization of potential distractions (e.g. clocks or other items on the wall, paperwork from unrelated cases on a table, etc.)
 - a. A notepad, pen, or a laptop shall be brought into the interview room for immediate use when possible.
 - 3. Consideration should be given to having an additional person monitor the interview from a secondary location.
 - a. This provides increased officer safety in the event the person being interviewed becomes combative.
 - b. This allows a subsequent interviewer to be fully familiar with the interview

to date to relieve a previous interviewer should it become appropriate.

- c. This allows the monitoring person to later testify to the content of the interview should the primary interviewer be unavailable later at the time of the court proceeding.
4. Prior to any custodial interrogation, the interviewer or person in control of the suspect shall ensure the suspect was searched for weapons, contraband, evidence electronic devices, or telephones and any such items found have been removed and secured.
5. Officers must avoid any circumstances where conversations are recorded in which no party is aware of the recording.
6. The names of all parties present in the interview room during the interview should be documented.
7. If the subject requests a translator or if the investigator deems that a translator is necessary, the interviewer will seek a translator, in conformance with the existing office policy. The translator used during the interview should be identified on the recording by name and affiliation.
8. The recording equipment should be turned on prior to the subject being placed in the interview room if possible and should only be turned off after the subject has left the room after the interview/interrogation is completed. The person(s) being interviewed need not be informed that they are being recorded. All discussion in the interview room, including any pre-interview/interrogation discussions, even if they occur before the reading of Miranda warnings, must be included in the recording. Should the need arise for either the subject and/or the interviewer to leave the interview room the recording devices shall continue to operate without interruption. If the recording is temporarily stopped, the reason for stopping the recording and the duration shall be documented.
9. At the discretion of the person conducting the questioning, recorded interview/interrogation may be done with the equipment in view or hidden. If hidden, the person conducting the interview/interrogation shall make no reference to the presence of the recording equipment or the recording of the interview/interrogation. If the subject asks if the interview/interrogation is being recorded, the interviewing member should answer truthfully and continue the interview/interrogation.
 - a. If the subject refuses to participate in the interview/interrogation if it is being recorded, the refusal should be documented on the recording. If the subject insists the recording be ended immediately, this should also be documented in writing. The interview/interrogation would then continue without being recorded and should be documented in a normal written fashion.
10. If the subject of a recorded interview/interrogation has an attorney visit, the subject

and attorney shall be offered a separate private area in which to confer if one is available. Unless no other area is available, the recording shall continue during their absence to memorialize the event until such time the interview is terminated. If the visit takes place in the same room as the recording, the recording shall be suspended for the duration of the visit and documented accordingly. If the interview recommences after the attorney visit, there should be documentation of the attorney's agreement to allow the questioning to continue and the time the recording began again.

11. All accommodations made during an interview/interrogation, such as offers or providing of food/drink, cigarettes, access to a telephone, bathroom, etc. shall be memorialized in some form on the recording, whether referred to informally (to not disclose the presence of the recording) or formally declared during the recording.
12. If the interviewer obtains a written statement after the oral interview/interrogation is completed that statement shall be done prior to terminating the recording. If the person makes a verbal statement, but refuses to give a written one, that refusal should be recorded.

E. When Recording may not be Practicable

1. It is understood that recording may not always be possible. The following are some, but not all, of the practical reasons which may prevent a qualifying offense from being recorded. If an officer is not able to record an interview/interrogation in compliance with this policy, they shall include a synopsis of the reasoning in their case report. If an officer is unable to conduct the interview/interrogation in an interview equipped with recording equipment they should utilize a digital handheld audio recorder or bodycam if practicable.
 - a. Recording equipment malfunctions.
 - b. The interview room is already in use.
 - c. Statements made are in response to questions routinely asked during the arrest/booking process.
 - d. Spontaneous statements are made, but not in response to police questioning.
 - e. Statements are made at a time when the interviewer is unaware a qualifying offense occurred.
 - f. Statements are made during an interrogation conducted at another location not equipped with recording devices and the reasons for using that location are not to subvert the intent of this policy.
 - g. Statements are made at a location other than the interview room identified in this procedure because the defendant cannot be in the interview room (e.g. the subject is out of the state, in a hospital, or is in a correctional facility).
 - h. Statements are made after a subject has made a documented refusal to participate in further questioning and officers have subsequently turned off the recording equipment.

V. **PRESERVATION & DISSEMINATION OF EVIDENCE AND DISCOVERY**

A. Preservation

1. Digital Video Recording (DVR): Upon completion of any digital video recording using the currently issued equipment, the following sequence shall be adhered to relative to proper securing of an original recording and of true copies:
 - a. Providing it does not exceed the available media capacity, a single DVD shall be burned containing the entire content of the interview. This DVD shall be marked as an original, along with the date/time, case number and subject's name then placed into evidence pursuant to existing policy.
 - b. If the recording exceeds a single DVD, either a suitable USB drive or multiple DVD's may be used. The primary DVD shall contain the playback viewer software and all underlying files and the additional DVDs shall contain only the time indexed content files.
 - c. An additional DVD copy of the entire recording shall be made and added to the case file. Once the case has been closed, the DVD copy can be destroyed. The master copy shall be maintained in evidence.
 - d. Additional copies may be made upon request as appropriate, such as for the District Attorney's Office.
2. Audio Recording (e.g., handheld devices)
 - a. The recording shall be copied to the appropriate storage folder on the network.
 - b. Proceed as in 1 (a-d) above.

B. No person shall, in any manner or for any purpose, alter any original "master" electronic recording.

C. Dissemination

1. Any request for a copy of any audio and/or video recording in any pending criminal action shall immediately be referred to the District Attorney's Office.
2. Any other dissemination of any recording shall be carried out according to agency rules and procedures (e.g. approved FOIL requests, directives by the County Attorney's Office, etc.)

VI. **TRAINING & MAINTENANCE**

A. The Investigations Lieutenant shall be responsible for the use and maintenance of the video recording equipment. The tasks will include:

1. Always maintaining an adequate supply of recording media.
 2. Planning when necessary for the servicing, repair, or replacement of equipment by a qualified repair service.
- B. Members who will likely have regular occasion to use the recording equipment shall be given familiarization training for the equipment, to include at minimum, operating the equipment and how to migrate recordings onto digital media as prescribed above. Additional training should be offered to all officers, as permissible.

By Order Of



Derek Osborne
Sheriff