

WOONSOCKET POLICE DEPARTMENT

Thomas J. Oates, III
Chief of Police



TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	340.09	8/19/2021	8/22/2021
SUBJECT		PREVIOUSLY ISSUED DATES	
Electronic Recording of Custodial Interrogations		6/16/2015	
ACCREDITATION		RE-EVALUATION DATE	
CALEA Standards: RIPAC Standards: 8.10		6/7/2021, 8/21/2023	
INDEX		DISTRIBUTION	
Investigations		Sworn Personnel	

ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS

I. PURPOSE

The purpose of this policy is to provide guidelines for the conduct of custodial interrogation to enhance the quality of the investigation of capital offenses, as well as to minimize the likelihood of a wrongful conviction caused by a false confession.

II. POLICY

This policy governs the custodial interrogation of persons suspected of having committed a capital offense crime, punishable by up to life in prison.

Within the guidelines provided in this policy, all custodial interrogations of capital offense crimes will be electronically recorded at a place of detention, under the control of the Woonsocket Police Department.

The determination of the crime being investigated shall be based upon the facts known to the officer(s) interrogating at the time the interrogation begins.

RI 8.10.b Capital offenses are crimes that carry a maximum penalty of life in prison which include:

<u>§ 11-4-2</u>	Arson – First degree
<u>§ 11-5-4</u>	Assault with a dangerous weapon in a dwelling house
<u>§ 11-8-1</u>	Burglary
<u>§11-16-5</u>	Poisoning with intent to kill
<u>§ 11-23-1</u>	Murder
<u>§ 11-23-2.1</u>	Murder of a kidnapped person under the age of eighteen (18)
<u>§ 11-23-6</u>	Controlled substance transaction resulting in the death of a minor
<u>§ 11-26-1.4</u>	Kidnapping of a minor
<u>§ 11-26-2</u>	Kidnapping with intent to extort
<u>§ 11-37-2</u>	First degree sexual assault
<u>§ 11-37-8.1</u>	First degree child molestation sexual assault
<u>§ 11-39-1</u>	First degree robbery
<u>§ 11-39-2</u>	Robbery of the owner, lessor, or occupant of a motor vehicle
<u>§ 11-43-1</u>	Treason
<u>§ 11-43-7</u>	Unlawful exercise of functions of state office
<u>§ 11-47-3</u>	Carrying dangerous weapons or substances when committing a crime of violence (upon a third or subsequent conviction)
<u>§11-47-3.1</u>	Carrying a stolen firearm when committing a crime of violence (upon a third or subsequent conviction)
<u>§ 11-47-3.2</u>	Using a firearm when committing a crime of violence (upon a second or subsequent conviction, or if use results in injury to police officer engaged in the performance of his or her duty or the death or incapacity of any person.)
<u>§ 11-47-20.3</u>	Use of armor-piercing bullets resulting in injury or death of law enforcement officer

- [21-28-4.01\(a\)\(2\)](#) Delivery of a Schedule I or II controlled substance by a non-drug-addicted person.
- [21-28-4.01.2](#) Minimum sentence – Certain quantities of controlled substances
- [21-28-4.07](#) Distribution to persons under age 18
- [21-28-4.08](#) Conspiracy to violate the Uniform Controlled Substances Act (if the substantive offense is punishable by life in prison)
- [21-28-4.15](#) Employment of person under age 18 (Schedule I and II controlled substances punishable by up to life in prison)

III. DEFINITIONS

RI 8.10.a ***Custodial Interrogation:*** Express questioning or its functional equivalent including words or actions on the part of the police other than those normally attendant to arrest and custody that the police should know are reasonably likely to elicit an incriminating response from the suspect initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way such that a reasonable individual in the same circumstances would consider themselves in custody.

Electronic Recording: Audio recording or audio and video recording that accurately records a custodial interrogation. “Record electronically” and “recorded electronically” have a corresponding meaning.

Law Enforcement Officer: Any sworn member of a law enforcement agency, such as:

- The Rhode Island State Police;
- Any municipal or local police department;
- The Rhode Island Airport Corporation Police;
- The Rhode Island Capitol Police
- The Rhode Island Department of Environmental Management Division of Law Enforcement;
- The Rhode Island State Fire Marshal;
- Providence Fire Department Arson Investigators;
- Brown University Police Department;
- Rhode Island School of Design Public Safety Department;
- University of Rhode Island Campus Police;
- Rhode Island College Campus Security;
- Community College of Rhode Island Campus Security;

- Rhode Island Sheriff's Department;
- Rhode Island Attorney General's Office Inspectors appointed under [42-9-8.1](#).

Place of Detention: A fixed location under the control of a law enforcement agency where individuals are questioned about alleged crimes. The term includes a jail, police station, holding cell, and correctional or detention facility.

Statement: A communication whether oral, written, electronic, or nonverbal.

IV. PROCEDURES

- RI 8.10.c**
- A. Custodial interrogations required by this policy will be audio and video recorded in their entirety from the time the suspect enters the interview room until the suspect leaves the interview room.
 - B. All custodial interrogations required by this policy should be conducted in designated interview rooms. Exceptions can be made, with supervisor approval, if a suspect is incarcerated at a place of detention that allows for audio/video recording of the interview.
 - C. Interrogations shall not be conducted unless the suspect has waived their Miranda rights.
 - D. At any time before or during the interrogation, if a suspect invokes their constitutional rights, all questioning shall stop immediately.
 - E. If a request is made for counsel, that request must be afforded immediately.
 - F. The suspect shall be informed that the interview is being recorded.

- RI 8.10.d**
1. Under circumstances where the suspect agrees to give a statement but refuses to be recorded, their refusal of recording shall be documented either electronically or in writing in the case narrative.
 2. Because Rhode Island is a "one-party consent state" it is generally legal for a custodial interrogation to be electronically recorded in its entirety without the knowledge of the suspect. If the suspect has agreed to give a statement but refuses to be recorded, supervisor approval to record the statement without the suspect's consent is required and such exception shall be documented in the case narrative. When the suspect refuses to be recorded, the department is permitted to dispense with the requirement of electronically recording the custodial interrogation and nothing in this policy obligates the law enforcement agency to attempt to surreptitiously record the interview.

G. Exceptions to Audio and Video Recording (Audio Only/Typed)

1. When the use of audio and video recording is impossible or impractical, members shall use an audio-only recording. Such instances shall be documented in the case narrative.

RI 8.10.e

2. A statement may be taken by other means, such as audio-only or written format, when exigent circumstances exist that would cause a reasonable person to believe that prompt action was necessary to prevent physical harm to officers or other persons, the destruction of relevant evidence, the escape of a suspect or some other consequence interfering with legitimate law enforcement efforts.
 3. If the use of audio/video or audio-only recorder will cause the defendant not to provide a statement, a typed statement will be permitted. Such instances shall be documented in the case narrative.
 4. In situations where the interview is not recorded because the suspect refuses to be electronically recorded, the interrogator must have the suspect fill out the Electronic Recording of Interview form before the interview commences. This form must also be completed by the suspect if, during the interview, they decide they no longer want to be electronically recorded. If possible, the interrogator shall electronically record all warnings and waivers, along with any refusal.
- H. The recording equipment shall not be turned off unless:
1. The subject states that they do not want the interview to be recorded.
 - a. If the subject requests that they do not want to be recorded, the interviewer will record the subject making this request.
 - b. Electronic Recording of Interview form must be completed by the suspect if, during the interview, they decide they no longer want to be electronically recorded.
 - c. The recording shall be preserved following the provisions contained in this directive and shall include everything that was recorded in the interview room up to and including the subject's request that the interview not be recorded
 2. The subject, or both subject and interviewer, leave the interview room.
 - a. The purpose for which a subject leaves the interview room shall be included in the recording before it is turned off.
 - b. When the recording is turned back on, the interviewer shall state the length of the break, what transpired during the time that the recording was turned off, and anything other than the stated purpose.
- I. When dealing with non-English speaking/hearing impaired persons, department members shall obtain and utilize a qualified interpreter during the recording of the custodial interrogation.
- J. Upon the arrest of the subject, the arresting officer must ensure that there is not an unreasonable delay in the arraignment.

V. EQUIPMENT

- RI 8.10.f**
- A. Department members will use only those recording systems approved by the department for the recording of custodial interrogations. The department has equipped the interview rooms in the Detective Division and the Juvenile Division with a video and audio recording system.
 - B. When using equipment other than a digital recording system, only new and unused recording media shall be used.
 - C. At no time, and under no circumstances, will a department member use a personally owned recording system (i.e. cell phone, smartphone, digital audio recorder, or camcorder) to record a statement.
 - D. Before use department members will ensure the equipment is in proper working order and have reason to believe the equipment will remain in working order throughout the interview.

VI. STORAGE, PRESERVATION, AND TRANSCRIPTION

- RI 8.10.g**
- A. Digitally recorded audio and video interviews shall be preserved on the department server following the guidelines for the device. Two copies of the original digital recording file will be downloaded to a digital video disc (DVD) from the server in DVD-R format which will prohibit deletion or addition of data.
 - 1. One DVD will be marked “original”, logged into the Records Management System (RMS) as property, and tracked following department protocols for property and evidence.
 - 2. One copy will be kept as a “working” copy with the case file.
 - B. If a record of the interview is not preserved in a digitally recorded format per this directive, a non-digitally recorded record may be utilized. In that instance:
 - 1. One copy of the original will be produced in a format that will prohibit deletion or addition of data and kept as a “working” copy with the case file.
 - 2. The “original” recording will be logged into the Records Management System (RMS) as property and tracked following department protocols for property and evidence.
 - C. The “original” recording shall be labeled as such and authenticated by the interviewer with the following information:
 - Date and time recording is initiated and concluded
 - Name of person being interviewed
 - Name of all person(s) present during the interview

Location of interview
Incident report number
The nature of all interruptions

- RI 8.10.h** D. Transcription of a recording should be accomplished when necessary, or requested by the Attorney General's office. The name of a party to whom a transcript is issued shall be noted in the case file.

Per order,

Thomas F. Oates, III

Chief of Police

Written directives published within PowerDMS are in full force and effect on the referenced dates and have been approved by the Chief of Police.