

SCRANTON POLICE DEPARTMENT POLICY

Effective Date:
March 9, 2020

Policy Number:
17-003

Policy Subject:
RECORDING CUSTODIAL & NON-CUSTODIAL INTERVIEWS

Expiration Date:
Until Amended or Rescinded

No. Pages:
5

PLEAC Standard(s):
1.2.2, 3.2.5, 3.2.6

I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for the electronic recording of custodial and non-custodial interviews at Scranton Police Headquarters. This policy rescinds the previous policy under the same name and policy number 08-022.

II. POLICY

- A. The Scranton Police Department shall electronically record custodial interviews for major crimes as defined in this policy in their entirety when the Scranton Police Department is the lead investigating agency.

This policy does not prevent officers from conducting field interviews with suspects and is not intended to delay, interfere with or prevent officers from acting when suspects make spontaneous utterances or statements. It also does not prevent officers from conducting interviews at other facilities or locations when conducting investigations.

III. DEFINITIONS

Alternative Recording Device – A portable electronic recording device that shall be used in the event of a system failure of the recording equipment in the Scranton Police Headquarters interview rooms.

Custodial Interview – Interview that occurs when a suspect has been formally arrested and is still in custody, or an interview that occurs when the restraint on the suspect's freedom of movement is to such a degree as that associated with a formal arrest. This does not include questioning during the booking process.

Designated Custodian of the Recordings – An employee designated by the Chief of Police that is assigned to manage the electronic recordings stored in the secure server vault.

Electronic Recording – Audio or video recording that is an authentic, accurate, unaltered record.

Interview Room – A room at Scranton Police Headquarters specifically designated for interviews and equipped with electronic recording equipment.

Major Crimes – The following Part I crimes as defined in the Federal Bureau of Investigation (FBI) Uniform Crime Reports (UCRs); Criminal Homicide, Rape (to include all Chapter 31 crimes of Title 18 of the PA Crimes Code), Robbery, Aggravated Assault and Arson, whether committed by adults or by juveniles who could be charged as adults for such offenses.

Privileged Conversation – Any private conversation made between a suspect and a lawyer, a member of the clergy, or a spouse.

Secure Server Vault – Storage for the electronic recordings as defined by the Information Technology Department of the City of Scranton.

IV. PROCEDURES

A. Electronically Recorded Interviews

1. Custodial interviews for major crimes as defined in this policy conducted at Scranton Police Headquarters shall be electronically recorded in their entirety.
2. An electronic recording of the following types of statements is not required:
 - a. Spontaneous statements that are not made in response to a question.
 - b. Statements made during arrest processing in response to a routine question.
 - c. Statements made during custodial interviews that are conducted by law enforcement officers of another agency.
 - d. Statements obtained by federal law enforcement officers.
 - e. Statements given at a time when the interviewing officers are unaware that the person is suspected of a major crime.
 - f. Any other statements made where time and/or exigency would prohibit recording under this policy.

B. The following procedures shall be followed for electronically recording interviews:

1. During a custodial interview officers will activate the interview recording equipment prior to securing the subject in the interview room.
2. If, during the course of a non-custodial interview, the officer determines that the interviewee may be a suspect in a major crime investigation, the recording equipment may be activated at the discretion of the interviewing officer. The recording equipment is required to be activated during circumstances in which the situation becomes custodial and the interview involves a suspect in a major crime investigation.
3. If the suspect is involved in a privileged conversation that is protected by law, the suspect will be removed from the interview room; the recording equipment will remain on. The suspect will be placed in an available room that is not recorded

for the duration of the privileged conversation and will be returned to the interview room to complete the interview.

4. Brief periods of recess, upon request by the person in custody or the law enforcement officer, do not constitute an "interruption" of the record. The recording equipment will remain on during breaks even if the suspect briefly leaves the interview room.
5. If the recording is a visual recording the suspect must be placed within view of the camera. All other persons in the interview room not in view of the camera will identify themselves for the electronic recording.
6. In the event of a system failure, officers shall use an approved alternative recording method. Only departmental approved devices may be used as an alternative recording device. The alternative recording devices will be stored in both the Patrol and Detective Supervisors offices. Officers will continue to interview suspects and document any equipment failure in their report. At the conclusion of the recorded interview the alternative recording device will be processed in accordance with Policy 07-012 Digital Media Evidence.
7. Detectives/Officers may employ a wide range of techniques and procedures to establish dialogue, build rapport and conduct the interview. These techniques and procedures shall be consistent with the Interviewing and Interrogation best practices for law enforcement.
8. Routine maintenance and trouble shooting of the recording system will be the responsibility of the Information Technology Department for the City of Scranton.
9. There is no requirement that Miranda Warnings be video recorded if those rights have been previously administered. Under such circumstances, detectives shall make an effort, where practicable, to have the subject acknowledge the advisement and waiver of his or her constitutional rights during the recorded interview process and advise the subject that the interview is being recorded.

If Miranda Warnings have not been given previously, advise the subject of the Miranda Warnings and that the interview is being recorded.

If the interview is non-custodial and the interview is going to be electronically recorded the interviewer shall advise the subject that the interview is being recorded at the beginning of the electronic recording.
10. If the subject requests the interview to not be electronically recorded the detective/officer will note on the recording the date, time and reason for stopping the recording. The detective/officer will then stop the electronic recording. The

detective/officer will document the subject's request to stop the recording in the police report.

11. Under no circumstances will detectives/officers engage in any of the following conduct in an effort to obtain a statement from a suspect:
 - a. Physical abuse
 - b. Deprivation of physical needs
 - c. Promises of reduced sentencing or leniency
 - d. Threats of stricter penalties for failure to give a statement

12. When conducting a custodial interview in an interview room at Scranton Police Headquarters the interview room will be considered a temporary holding facility. Use of the interview room for that custodial interview shall be governed by Policy 08-020 Temporary Holding / Cell Areas.
 - a. Detectives/Officers conducting a custodial interview, regardless of the location, shall do a thorough search of the person prior to entering an interview room.
 - b. Detectives/Officers conducting a non-custodial interview should ask the person if they have any weapons prior to entering an interview room. It may be necessary for officers, at their discretion, to conduct a "frisk" or "pat-down" of a person under certain circumstances.
 - c. Detectives/Officers shall secure their weapons in a secured location prior to conducting a custodial interview in an interview room.
 - d. Detectives/Officers shall possess a portable radio to summon assistance if necessary.

C. Retrieval and Dissemination of Recordings

1. The designated custodian of the recordings or his/her designee shall be responsible for managing all recordings stored in the secure server vault in accordance with Policy 07-012 Digital Media Evidence.
2. The lead detective/officer shall notify the designated custodian of the recordings of a recorded interview and request the interview be tagged as evidence. At the request of the lead detective/officer, the designated custodian of the recordings shall provide copies of recorded interviews. The designated custodian of the recordings shall then write a supplement report to the requested case indicating what files were copied, what media they were downloaded to, how many copies were made and who the copies were given to.
3. All recorded interviews remain the property of the Scranton Police Department and any unauthorized copying or distribution of a recorded interview is prohibited. An electronically recorded interview will be released externally only

to the District Attorney, other agencies as authorized by the case Detective, or otherwise as required by law.

D. Retention Schedule of Recordings

1. Electronic recordings of custodial interviews shall not be destroyed or altered by the Scranton Police Department when the suspect was convicted of any offense related to the recorded interview until one year after the completion of all State and Federal appeals of the conviction, including the exhaustion of any appeal or motion for appropriate relief or habeas corpus proceedings, or upon prior approval from the Attorney for the Commonwealth. For convictions of criminal homicide, the appeal period shall be deemed to extend until the conclusion of the sentence or the death of all convicted accused in the same case. If this period exceeds the retention schedule set forth above, the electronically recorded interview should be maintained by the Scranton Police Department for the longer period of time.
2. Electronic recordings in unsolved Homicide investigations shall be held indefinitely. Electronic recordings in all other cases shall be held until one year after the completion of all State and federal appeals of the conviction. If no arrests were made then the electronic recording shall be held until the statute of limitations for that crime expires.

By Order Of:

Chief Carl R. Graziano
Superintendent of Police
Scranton Police Department