



POLICY & PROCEDURE

UW-GREEN BAY POLICE DEPARTMENT

SUBJECT:	Electronic Recording of Interrogations	SCOPE:	All Employees
CHAPTER:	6 Operations	NUMBER:	6.3.6
DISTRIBUTION:	Policy Manual	EFFECTIVE:	06/01/2013
APPROVED:	Tony Decker, Chief of Police	REVIEWED:	
REFERENCE:	§968.073, 10.3.1,	REVISED:	06/17/2016, 05/01/2022

I. PURPOSE

The purpose of this policy is to ensure compliance with state law regarding the recording of adult and juvenile interviews and interrogations.

II. POLICY

It is the policy of the University of Wisconsin Green Bay Police Department to electronically record custodial interrogations of any person suspected of committing a felony and all juveniles suspected of committing a felony, misdemeanor, or an act alleging the juvenile to be delinquent. The electronic recording process shall be conducted in accordance with state law and the guidelines established in this policy.

III. DEFINITIONS

Custodial Interrogation: An interrogation by a law enforcement officer of a person suspected of committing a crime from the time the suspect is, or should be, informed of his or her rights, during which the officer asks a question that is reasonably likely to elicit an incriminating response and during which the person reasonably believes he or she is in custody.

IV. PROCEDURE

A. Legal Requirements

1. §968.073(2), Wis. Stats., mandates audio or audio and visual recording of a custodial interrogation of any person suspected of committing a felony, unless one of the following conditions exists, as outlined in §972.115(2)(a)1-6, Wis. Stats.
 - a. The person refuses to respond or cooperate in the interrogation if an audio or audio and visual recording is made, as long as the officer makes an audio, audio and visual, or written record of the subject's refusal.
 - b. The statement was made in response to a question asked as part of the routine processing of the person.

- c. The recording was not made because the officer conducting the interrogation in good faith failed to make a recording because the equipment did not function, the officer inadvertently failed to operate the equipment properly, or, without the officer's knowledge, the equipment malfunctioned or stopped operating.
 - d. The statement was made spontaneously and not in response to a question by an officer.
 - e. Exigent public safety circumstances prevented a recording from being made or made the process infeasible.
 - f. The officer reasonably believed at the beginning of the interrogation that the offense for which the person was taken into custody was not a felony.
2. §938.195(2), Wis. Stats., mandates audio or audio and visual recording of any custodial interrogation of a juvenile that is conducted in a place of detention and, if feasible, any custodial interrogation of a juvenile that is conducted at a place other than a place of detention, unless one of the conditions outlined in §972.115(2)(a)1-6, Wis. Stats. exists.
 3. §968.073(3) and 938.195, Wis. Stats., state an officer conducting a custodial interrogation is not required to inform the person being interrogated that the officer is making an audio or audio and visual recording of the interrogation.
 4. §972.115(5), Wis. Stats., establishes that an audio or audio and visual recording of a custodial interrogation will not be subject to release as a public record before the person interrogated is convicted or acquitted of the offense that is the subject of the interrogation or all criminal investigations and prosecutions to which the interrogation relates are concluded.

B. General Guidelines

1. The fundamental purpose of recording interviews and interrogations is to provide an evidentiary record of statements made during the course of a criminal investigation.
2. For the purpose of this policy, there is no distinction between the terms interview and interrogation if either is conducted in a custodial setting.
3. This policy is directed at recordings generated using formal, semi-permanent, and permanent recording systems. Nothing in this policy shall affect the use of vehicle based or body worn cameras in accordance with their applicable policies and when such records are required by state law.

- a. The use of vehicle based or body cameras may fulfill statutory requirements detailed within this policy on an emergent basis.

C. Juvenile Custodial Interrogations

1. A custodial interrogation of a juvenile, under the age of 17, suspected of committing an act considered a misdemeanor or felony, or alleging the juvenile to be delinquent, under Wisconsin law shall be electronically recorded, unless one of the exceptions outlined in §972.115(2)(a)1-6, Wis. Stats. applies.
2. For the purpose of determining whether an interrogation is custodial in nature, officers should carefully consider the juvenile's age and experience with the criminal justice system. If in doubt, the interrogation should be recorded.
3. A custodial interrogation of a juvenile for an offense other than a misdemeanor or felony, e.g., an ordinance violation, may be recorded at the officer's discretion if doing so would prove beneficial to the investigation. If the officer is uncertain about whether the charge will be for an ordinance violation or a crime, the interrogation should be recorded.

D. Adult Custodial Interrogations

1. A custodial interrogation of an adult, 17 years of age or older, suspected of committing a felony shall be electronically recorded, unless one of the exceptions outlined in §972.115(2)(a)1-6, Wis. Stats. applies.
2. A custodial interrogation of an adult for a misdemeanor or other lesser offense may be recorded at the officer's discretion if doing so would prove beneficial to the investigation.

E. Recording of Other Interviews

1. Officers are not required to record noncustodial interviews with witnesses or victims, but should do so when it may be beneficial to the investigation or result in evidentiary disclosures.
2. Officers should consider electronically recording interviews with certain witnesses or victims, such as young children or vulnerable adults, in situations where doing so might aid in conveying the impact of the crime.

F. Recording Equipment

1. The preferred equipment for recording a custodial interrogation is the digital audio/visual recording system available in the interview rooms. Absent exceptional circumstances, this equipment shall be used if the interrogation is conducted at the UW-Green Bay Police department.

2. In the event the interrogation must be conducted away from the department, or it is impractical to return to the department, the officer should choose the best statutory compliant option available.
3. Officers are responsible for ensuring the recording equipment they are using is functional and sufficient recording space is available for the anticipated length of the interrogation.

G. Recording Procedures

1. There no requirement that a suspect be informed the interrogation is being recorded, but if a suspect asks, he or she should be told. Absent an inquiry, it shall be the officer's discretion as to whether to inform a suspect he or she is being recorded.
2. If a suspect is willing to participate in an interrogation, but requests it not be recorded, the officer should record this request prior to turning off the recording device.
6. An interrogation should be recorded in its entirety.
 - a. If possible, the recording device should be turned on prior to the suspect entering the room and should continue running until the interrogation concludes.
 - b. The recording should include the interaction prior to the Miranda warning being read.
7. During an interrogation, any lapses for rest breaks or other reasons should be explained on the recording. During short breaks, the recording should be allowed to continue uninterrupted.
 - a. Officer should be cognizant not to records any privileged conversations or those between any non-sworn individuals whom are unaware they're being recorded.
8. Upon conclusion of the interview, the interrogating officer should complete a thorough report that includes the details of the interrogation.
9. Each interview or interrogation should be its own unique recording, created by starting and stopping the recording process, not a series of interviews or interrogations in a single large recording.

H. Storage and Retrieval of Electronic Recordings

1. All audio and/or visual recordings created in conjunction with an investigation constitute evidence and should be handled in accordance with policy.

2. Upon completion of an interview or interrogation the digital recording will be transferred onto or into a long-term storage media and the officer should include a retention time period (if known), reference date, the incident number, and Officer badge number.

I. Retention and Security

1. All audio and/or audio-visual recordings stored in digital format should be regularly backed up and in secure storage environment.
2. All audio and/or video recordings, and any associated images, created in accordance with this policy are the property of the University of Wisconsin Green Bay Police Department. Unofficial or unauthorized dissemination of any electronic recording outside of the agency without specific written permission of the Chief of Police or his or her designee is strictly prohibited.
3. As outlined in Wisconsin Statute, an audio or audio and visual recording of a custodial interrogation will not be subject to release as a public record before the person interrogated is convicted or acquitted of the offense that is the subject of the interrogation or all criminal investigations and prosecutions to which the interrogation relates are concluded.



April 13, 2022

TONY DECKER, CHIEF OF POLICE

This policy shall become effective either immediately upon my signature or on the last date noted in the Revised Date field of page one. When a revision becomes effective, it shall be the standard and shall supersede all previous versions of the policy. Historical policies shall be maintained for no less than 7 years.