



Series 200 Operations	Effective Date 12/09/2022	Review Date Three Years	Directive Number 203.13
Chapter 203 – Criminal Investigations			
Reviewing Office Major Crimes			<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Revised Revisions in <i>italics</i>
References			

ELECTRONIC RECORDINGS OF INTERVIEWS AND INTERROGATIONS

203.13 - 1 PURPOSE

The purpose of this policy is to establish guidelines and procedures for electronic recording and the associated use, management, storage, and retrieval of recordings of interviews and interrogations. Further, this policy is intended to ensure that the highest quality evidence possible is obtained from interviews and interrogations.

203.13 - 2 POLICY

Electronic recording provides persuasive documentary evidence and helps defend against civil litigation and allegations of misconduct by Department members. In addition, such recordings provide crucial evidence to DPD, prosecutors, and the courts to assist in ascertaining the truth. To maximize the effectiveness of electronic recording and the integrity of audio and/or video documentation, members assigned the use of recording devices shall adhere to the operational objectives and protocols outlined in this policy. Members shall be mindful that any electronic recording documented during an interview or interrogation is subject to be viewed by a large audience (i.e. juries, judges, prosecutors, court of appeals, the media, etc.).

203.13 - 3 Definitions

203.13 - 3.1 Analog Recording

An electronic recording typically stored on a VHS, cassette, or micro-cassette tape.

203.13 - 3.2 Custody

For the purpose of this directive, a custodial situation exists when a Department member tells a suspect that they are under arrest. A functionally equivalent situation exists when a “reasonable person” in the suspect’s situation would feel that their freedom or action has been restricted to the same degree as a formal arrest.

203.13 - 3.3 Digital Recording

A digital recording typically stored on a CD, DVD, or microchip.

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203.13 - 3.4 Electronic Recording

An audio or video recording using magnetic tape, digital means, or other recording media.

203.13 - 3.5 Interrogation

An interrogation includes direct questioning of a suspect in custody, as well as any words, actions, or conduct by a Department member while questioning a suspect in custody, which may elicit an incriminating response from the suspect.

203.13 - 3.6 Interview

An interview, as opposed to an interrogation, is any consensual conversation with a witness, victim, or citizen, for the purpose of gathering information about a matter under investigation. In the absence of reasonable suspicion or probable cause, interviews are consensual encounters and the person is free to leave at any time and is not required to produce identification or answer any questions.

203.13 - 3.7 Major Crimes

Homicide, sexual assault, armed robbery, and other Part I crimes as defined in the Federal Bureau of Investigation (FBI) Uniform Crime Reports (UCRs), as well as other crimes as may be defined by this Department, whether committed by adults or by juveniles who could be charged as adults for such offenses.

203.13 - 3.8 Original Digital

For the purpose of this directive, original digital shall refer to any digital copy of an electronic recording that can show bit for bit that they are exactly the same. Examples of original digital are MD5 Hash (message digest 5 algorithm) and SHA (secured hashing algorithm).

203.13 - 3.9 Place of Detention

A police station, jail, or similar holding facility in which suspects may be detained in connection with criminal charges. A police vehicle used to transport arrestees may be deemed a custodial environment but is not a place of detention as defined in this policy. Nevertheless, during transportation of suspects who meet the requirement for electronic recording, transporting members shall observe applicable procedures defined in this policy.

203.13 - 3.10 Recorded Media

Refers to audio and/or video signals recorded on any of several storage media, including analog tape (VHS, SVHS, Hi 8mm), digital tape (DV), or other portable digital storage media (CD, DVD, hard drive, etc.).

203.13 - 3.11 Seizure or Detention

Any restriction on the liberty interest of an individual. A seizure occurs when a Department member's words or actions convey to a reasonable person that they are not free to leave.

203.13 Electronic Recordings of Interviews and Interrogations**203.13 - 4 Electronic Recordings**

Electronic recordings are intended to be used for the following:

- a. Accurately capture statements and events during the course of interviews and interrogations;
- b. Enhance the ability to document and review statements and actions for internal reporting requirements and for courtroom preparation and presentation;
- c. Capture visual and/or audio information for use in current and future investigations;
- d. Document acknowledgement of and rigid adherence to suspects' rights and the law;
- e. Allow the questioning process to become part of the investigation's collection of information, rather than simply a means to secure an admission or a confession;
- f. Allow the opportunity to review the process that led to the confession or admission; and
- g. Preserve the integrity of members and the investigative process.

203.13 - 5 Procedures**203.13 - 5.1 General Requirements**

1. Department members shall electronically record custodial interrogations in a place of detention involving the following crimes unless there is a legitimate reason not to record the interrogation:
 - a. Homicide;
 - b. Armed robbery;
 - c. Criminal Sexual Conduct (1 and 2);
 - d. Kidnapping; and
 - e. Other crimes at the discretion of a supervisor.
2. Members who conduct interviews and interrogations shall be trained in the use of the recording equipment. Department members are not required to record noncustodial interviews with suspects, witnesses, or victims during the initial interview phase of an investigation, but may do so where deemed necessary, in accordance with law and Departmental policy.
3. Electronic recording of juveniles shall be conducted if at the time the crime was committed, the juvenile suspect could be charged with a major crime as an adult.
4. If electronic recordings cannot be conducted due to equipment failure, lack of suspect cooperation, or for other reasons deemed pertinent by the officer in charge of the case, the basis for such occurrences shall be documented *in the form of a tracking note within the incident report*. This includes but is not limited to spontaneous declarations or other statements not elicited by police questioning.

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5. Transporting members need not refrain from questioning a suspect who has indicated a willingness to talk either at the scene or while being conveyed to a DPD facility. However, members shall not purposefully engage in custodial interrogations involving major crimes as defined by this policy in order to avoid the Department's requirement for electronic recording.
6. In deciding whether a witness' statement should be taken at the scene or conveyed to a video-equipped DPD facility to have the interview recorded, the member needs to know if the witness will be cooperative, give a truthful statement, and will appear in court and provide the same statement. The member must obtain consent from the witness and convey the witness to a video-equipped DPD facility to have the interview recorded. The witness is required to sign the Witness Conveyance Consent Form (DPD668).
7. The witness or suspect need not be advised that the interview or interrogation will be audio recorded. Members are authorized to use covert audio recorders when conducting interviews and interrogations. Members must be physically present and a part of interview and interrogation when recording. The recording shall cease when the member leaves the room.

203.13 - 5.2 Recording Protocol

1. If an interview or interrogation is to be recorded, there should be at least two (2) members present. One (1) member who shall talk to the witness or suspect and one (1) member who shall monitor the interview or interrogation, the equipment, take notes, and run L.E.I.N. checks on names given during the interview or interrogation. If the witness, suspect, or a Department member requests to have two (2) Department members present during the interview or interrogation (i.e. officer safety), every effort shall be made to honor this request.
2. The members participating in the interview or interrogation, when conducted at the Detroit Detention Center (DDC) or other secure holding facility, shall ensure that all weapons are secured in a location outside of the interview/interrogation room. If the interview or interrogation is being conducted at a non-secure facility (i.e. Detroit Public Safety Headquarters) where officer safety is a concern (i.e. hostile suspect), members may carry their weapon concealed during the interview or interrogation.
3. Members shall ensure that the volume from electronic devices does not interfere with the recording of the interview or interrogation.
4. Except as previously noted, when recording equipment is activated to document an event, the equipment shall not be deactivated until the event has been concluded. The following guidelines should be followed by members while using recording equipment:

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- a. The content and circumstances of statements obtained shall be recorded in an accurate manner. The member conducting the interview or interrogation shall ensure that the recording equipment is activated prior to the witness or suspect entering the room;
- b. The reading of the suspects' constitutional rights from the Constitutional Rights Certificate of Notification Form (DPD342b) shall be documented on the recording;
- c. If the person being interrogated agrees to talk but refuses to sign the Constitutional Rights Certificate of Notification Form, one member will prepare a synopsis of the interview and shall indicate that the person refused to sign; and
- d. All notes and photographs taken during the interview or interrogation shall be retained.

203.13 - 5.3 Questioning

1. Organizing to take a video statement is the same as preparing for any interview. Some areas become important as a result of the visual aspect associated with a video interview.
2. Through accurate groundwork, the value of the final product improves. Members may have only one (1) occasion to interrogate the suspect. For that reason, it is vital that all possible scenarios are covered, all significant questions are asked, and most of all, responses to all questions asked are acquired.
3. Written statements are important because they can provide clear and concise evidence of guilt. Statements also tend to demonstrate that incriminating statements were made voluntarily. To help ensure accuracy and consistency of accounts, members shall review recordings when preparing written reports of events. It is not necessary for written statements to include all the details of an interview or interrogation. Members shall generate a summary of statements obtained in all electronic recordings on an Inter-Office Memorandum (DPD568).
4. Appearance of the suspect is important during videoed interrogations so members should ensure the suspect is made as comfortable as possible (remove handcuffs but secure leg restraints for officers safety).
5. When commencing the recording, the primary interrogator shall ensure that voice identification is made of Department members, suspect, and any others present, and the date, time, and location (including room number, if applicable) of the interrogation is verbally recorded. When beginning a new recording, the interviewer shall announce the date and time that the interrogation is being resumed.
6. Each recording shall include the following:
 - a. Declaration of the current date and time;
 - b. Verbal identification of member conducting interview or interrogation;
 - c. Verbal identification of person being interviewed or interrogated;
 - d. Introduce others present in the room (attorney, other members, etc.);
 - e. Notification of Miranda rights;

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- f. If the interview or interrogation needs to be stopped prior to its conclusion for any reason, the recording must continue. The member involved shall verbally announce that a break is about to take place and the reason for the break (e.g. restroom, meal and/or refreshment);
- g. It is important to remember that the recording may be utilized as evidence in a court proceeding and that others will evaluate the events captured on the recording. Therefore, members conducting the interview or interrogation shall endeavor to ensure that there is only one person speaking at a time. Ask the question, and then wait for the answer. If the interviewee pauses, wait a moment then continue;
- h. While conducting the interview or interrogation, questions should be direct. Avoid compound questions, which may require complex answers. When wanting a description of events, ask open-ended questions. When you want a direct answer, ask close-ended questions; and
- i. Keep the interviewee from talking low, mumbling, or slurring their speech. You may wish to restate the subjects' answer. Don't interrupt the subjects' answer unless it is advantageous to your interview. Don't anticipate the subjects' answer. Remember, this is the subject's statement so allow them to completely answer.

(Members shall refer to MCL 760.1 to 777.69)

203.13 - 5.4 Interview Details

Detailed questions are left to the style of the member conducting the interview or interrogation. Members need to be mindful that any notes, maps, drawings, etc. captured on camera during an interview or interrogation may be subject to questioning. The following is offered as a general checklist of potential areas in which the member should attempt to develop in detail from the subject being interviewed or interrogated:

- a. **Persons referred to.** First and last names, aliases, nicknames, as well as descriptions of all persons mentioned must be developed. Gather complete details of these individuals.
- b. **Locations.** Get addresses whenever possible and add a general description. Are they familiar with the location, how?
- c. **Weapons.** Get descriptions. Does the subject know the difference between firearms, calibers, revolver, or automatic? Where the weapon was purchased or from whom was it obtained. Are there sale receipts, if so, where? Discuss knowledge of weapon operation, prior practice, how was it used in the incident. Where are the weapons now, where are they kept?
- d. **Vehicles.** Get full descriptions of all vehicles by make, model, color, license number, and other characteristics. Who is the owner, how does the subject know of the vehicle?
- e. **Injuries and wounds.** Get descriptions and locations of injuries and wounds. Distinguish between fresh and prior injuries. Have the subject exhibit the injuries if possible.

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- f. **Statements.** Be aware of all prior statements made by others as well as those made by the current interviewee.
- g. **Motive.** Attempt to determine any motive of the crime.
- h. **Crime preparation.** Did any planning occur as it relates to this criminal event? If so, what? Were tools or weapons obtained for this crime? Were locations under surveillance? Were there any plans documented by the subject(s)?
- i. **Post incident actions.** Did the subject talk with anyone about the incident prior to the interview? What happened to any evidence used in the incident?
- j. **Crime Event Details.** After covering the basic story, go into greater detail of the incident as much as possible. It is important to consider that the subject will tell the story their way.
- k. **Multiple Crimes.** If covering crimes not related to each other, cover them separately. If they are connected, compartmentalize them as much as possible for editing purposes. Cover one crime as much as possible prior to moving to the next.
- l. **Demonstrations.** As much as practical, have the subject demonstrate any actions, which may help clarify the statement (i.e. the holding of a weapon, position of people involved, distances, voice tone, etc.).
- m. **Defenses for conduct.** Challenge the subject concerning any defenses raised or which could be raised concerning the incident. Be sure to thoroughly develop the facts in this important area. If alibi is a defense, the investigation must begin immediately to prove or disprove this allegation.
- n. **Multiple Suspects.** If the subject indicates that there were multiple suspects, when their portion of the statement is complete, have them “re-tell” the story focusing on what the other’s particular involvement was.

203.13 - 5.5 Recordings as Evidence

1. The disk of the recording must be properly labeled in permanent ink. The label must contain the following:
 - a. The date, time, and location (including room number, if applicable) of the recording;
 - b. The case file number;
 - c. Incident report number;
 - d. The suspect/witness name; and
 - e. The equipment operator’s name.
2. The recording shall be entered into the TRACKER system and maintained by Property Control. This record shall not be destroyed and shall be a permanent part of the file. These records shall be maintained in accordance with the retention requirements contained in the DPD Manual.
3. Members shall not erase, alter, reuse, modify or tamper with recordings. Only an Information Technology (ITS) technician may erase and reissue previously captured recordings and even then may only do so pursuant to the provisions of this policy.
4. Each interview and/or interrogation shall be copied to a new disk.

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5. An original digital copy of the video recording shall be utilized in court proceedings. Defense attorneys may demand the use of the original recording; however, the original recording shall be kept with Property Control. The original copy of the video recording shall NOT be released without an official signed court order.
6. Designated Department members shall be trained to extract video and will be available to testify in court if necessary.
7. Because of the digital nature of the captured interview, an endless number of copies can be produced in the exact quality. If this process is properly explained to the defense attorney, any denied requests for the protected original, should be understood.
8. Defense attorneys that desire a copy of video recordings must make their request through the Wayne County Prosecutor's Office (WCPO). The WCPO can then notify the officer in charge of the case and a copy of the recording shall be provided.
9. The WCPO is provided a copy of relevant video recordings at the time the case is provided for review.
10. All recording media, recorded images, and audio recordings are the property of this Department.
11. Unofficial or unauthorized dissemination outside of this Department is strictly prohibited without specific written permission of the Chief of Police or designee.
12. At the conclusion of any trial proceedings or as otherwise authorized by the WCPO for which the media was required, all copies shall be submitted to Property Control for retention and storage.

203.13 - 5.6 Malfunctions, Damage, or Theft of Recording Equipment

Malfunctions, damage, or theft of recording equipment shall be immediately reported to the member's immediate supervisor. In addition, the member shall document on an Inter-Office Memorandum (DPD568) any malfunctions, damage, or theft of recording equipment, including information on the suspected cause(s) of equipment failure, as available, and any recommendations for corrective action.

Related Forms:

- Constitutional Rights Certificate of Notification Form (DPD342b)
- Evidence Property Tag (DPD53)
- Inter-Office Memorandum (DPD568)
- Witness Conveyance Consent Form (DPD668)