

# POLICE DEPARTMENT HANOVER PARK, ILLINOIS



DIRECTIVE: 446-I

REFERENCE STANDARDS: 42.2.8e

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SUBJECT: Electronically Recorded Interrogations

PURPOSE: The purpose of this Directive is to establish guidelines and procedures for the electronic recording of custodial interrogations required by law.

POLICY: It is the policy of the Hanover Park Police Department to electronically record those custodial interrogations required by 725 ILCS 5/103-2.1, and 705 ILCS 405/5-401.

DEFINITIONS: **CUSTODIAL INTERROGATION** - Means any interrogation during which:

1. A reasonable person in the subject's position would consider himself or herself to be in custody and,
2. During which a question is asked that is reasonably likely to elicit an incriminating response.

**ELECTRONIC RECORDING** – includes motion picture, audiotape, videotape or digital recording.

**PLACE OF DETENTION** - Means a building or a police station that is a place of operation for a municipal police department or other law enforcement agency, not a courthouse, that is owned or operated by a law enforcement agency at which persons are or may be held in detention in connection with criminal charges against those persons, or allegations that those persons are delinquent minors.

## I. GENERAL GUIDELINES

A. Custodial interrogations conducted in places of detention **after May 31, 2016** must be electronically recorded and preserved per 725 ILCS 5/103-2.1 in the following incidents:

1. First Degree Murder;
2. Intentional Homicide of an Unborn Child;

3. Second Degree Murder;
  4. Voluntary Manslaughter of an Unborn Child;
  5. Involuntary Manslaughter and Reckless Homicide;
  6. Involuntary Manslaughter and Reckless Homicide of an Unborn Child;
  7. Drug-Induced Homicide;
  8. Predatory Criminal Sexual Assault;
  9. Aggravated Arson;
  10. Aggravated Kidnapping;
  11. Aggravated Vehicular Hijacking;
  12. Home Invasion;
  13. Aggravated Criminal Sexual Assault;
  14. Armed Robbery; and
  15. Aggravated Battery with a Firearm.
- B. Beginning January 1, 2017 the recording requirement also applies to persons under age 18 at the time of the commission of the offense under investigation for an act that if committed by an adult would be a misdemeanor offense under Article 11 of the Criminal Code of 2012 or any felony offense, per 705 ILCS 405/5-401.5.
- C. Beginning January 1, 2017, a minor who was under 15 years of age at the time of the commission of an act that if committed by an adult would be a violation of Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 must be represented by counsel throughout the entire custodial interrogation of the minor. This includes the following offenses:
1. First Degree Murder (9-1)
  2. Intentional Homicide of an Unborn Child (9-1.2)
  3. Second Degree murder (9-2)
  4. Voluntary Manslaughter of Unborn Child (9-2.1)
  5. Involuntary Manslaughter/Reckless Homicide (9-3)

6. Involuntary Manslaughter/Reckless Homicide of an Unborn Child (9-3.2)
  7. Drug-Induced Homicide (9-3.3)
  8. Criminal Sexual Assault (11-1.20 or 12-13)
  9. Aggravated Criminal Sexual Assault (11-1.30 or 12-14)
  10. Predatory Criminal Sexual Assault of a Child (11-1.40 or 12-14.1)
  11. Criminal Sexual Abuse (11-1.50 or 12-15)
  12. Aggravated Criminal Sexual Abuse (11-1.60 or 12-16)
- D. No consent to electronically record a custodial interrogation in a place of detention is required during interrogations of suspects in the above described circumstances after the date identified, as mandated by Illinois Compiled Statutes.
- E. Any electronic recording of an interrogation involving a criminal incident in circumstances other than as described above **will require** the consent of the person being interrogated, (Appendix A).
- F. Any oral, written, or sign language statement of an accused (adult or minor) made as a result of a custodial interrogation at a police station or other place of detention shall be presumed to be inadmissible as evidence against the accused in any criminal proceeding brought under any offense listed in Section I, A. and B. of this directive unless:
1. An electronic recording is made of the custodial interrogation; and
  2. The recording is substantially accurate and not intentionally altered; or
  3. It complies with the exceptions contained in 725 ILCS 5/103-2.1(e) or 705 ILCS 405/5-401.5(e).

## II. RESPONSIBILITIES

- A. The Deputy Chief of Operations, or his designee, will ensure that interview rooms designated for electronically recorded interrogations are properly equipped to comply with the State statute.
- B. The Deputy Chief of Operations, or his designee, will ensure personnel have been trained in the set-up, operation, and monitoring of the recording equipment.
- C. Training records of all personnel trained as described in Section B above will be forwarded and kept on file with the Support Services Sergeant.

- D. The Investigations Division Lieutenant will ensure that instructions for the operation of the computerized PDS Intelligent Stream interview recording system are maintained in a conspicuous location within the interview recording room.
- E The Investigations Lieutenant shall be designated as the Administrator of the computerized recording system.
  - 1. The Administrator will have the authority and responsibility to add and/or delete user accounts in the computerized system for sworn police officers who are authorized to operate the system.
  - 2. The Administrator will have the authority and responsibility for properly submitting into evidence storage, any component of the computerized system that is or was capable of storing interview recordings, that is removed for any reason, including but not limited to periodic equipment upgrades and replacement of defective or damaged components.
- F. The Investigations Division Lieutenant will ensure that the interview room recording system is functioning properly and that a monthly function check is conducted and documented. (Appendix B).
  - 1. In the event that the interview room recording system is not operating properly, the Investigations Division Lieutenant will ensure that proper notice is posted in the interview recording monitoring room that the system is out of service and that the system is repaired as soon as is practicable.

### III. PROCEDURES

- A. Equipment
  - 1. Interrogations will be recorded by utilizing the computerized PDS Intelligent Stream Recorder system housed in the Interview Recording Room.
- B. Recording Protocol
  - 1. An officer from the Hanover Park Police Department trained in the use of the Intelligent Stream Recorder will operate and monitor the recording equipment throughout the interrogation.
- C. Recording Control
  - 1. Recordings of interrogations, regardless of the media upon which it is stored are considered evidence. Original recordings will be stored in the original storage media until such time as it may be disposed of pursuant to section III. D and established law.

2. Three copies will be made of any original recording, one to be submitted into evidence as provided for in Directive 401 I, one to the State's Attorney Office and one to be submitted to the court upon request by a defense attorney pursuant to subpoena.
3. Copies of interrogation recordings shall be made only by or at the direction of the Investigations Lieutenant, Deputy Chief of Operations or the Chief of Police.
4. All recordings shall be confidential and exempt from public inspection and copying, as provided under Section 7 of the Freedom of Information Act, (5 ILCS 140/7), and the information shall not be transmitted to anyone except as needed to comply with the Illinois Compiled Statutes.

D. Preservation of Recordings

1. Every electronic recording required per this Order and State Statute must be preserved until such time as the defendant's conviction or minor's adjudication for any offense relating to the statement is final and all direct and habeas corpus appeals are exhausted, or the prosecution of such offenses is barred by law.