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|  MIDDLETON POLICE DEPARTMENT | DATE May 29, 2012 | POLICY 6.3.06 |
| | SUBJECT: Recorded Interviews | REVIEWED November 20, 2017 |

Refer to: SS [968.073\(2\)](#)
History: 2012; 06/2015, 11/2017
WILEAG (5th Ed.) Standards: 6.3.6

When possible and practical, all custodial questioning should be recorded. Recording should begin at the start of questioning and continue without interruption until questioning ends.

Recording is mandatory for:

1. Any custodial questioning of juveniles (persons under 17 years of age) for an offense that could be a crime if prosecuted under state statute.
2. Any custodial questioning of adults (persons 17 years of age and older) for a crime that is a felony.
3. Any situation or incident that the officer, through training and experience, believes should be audibly and/or visually recorded.

Officers should prepare written summaries (police reports) of interviews and continue to obtain written statements from suspects.

The Incident Report Worksheet has been modified so that officers can check two boxes to indicate there is a recorded interview and the location of that interview. Records will denote that there is a recorded interview and its location by entering the appropriate code (for example: P1) in the "Other Number" field in RMS. This field appears on every viewed and printed police report and can be found in the upper left hand corner under the incident number.

A. The locations are:

| | | |
|----------------------------|------------------------------|--------|
| Formerly West Interview | Prisoner Processing Room 1 | = P1 |
| Formerly Midwest Interview | Prisoner Processing Room 2 | = P2 |
| Formerly Mideast interview | Prisoner Processing Room 3 | = P3 |
| Formerly East Interview | Prisoner Processing Room 4 | = P4 |
| Formerly Group Interview | Prisoner Processing Room 5 | = P5 |
| Formerly Interview Lobby | Conference Room (east Lobby) | = C1 |
| Formerly Soft Interview | Interview Room 1 | =Int-1 |
| Formerly West Interview | Interview Room 2 | =Int-2 |
| Formerly East Interview | Interview Room 3 | =Int-3 |
| Squad | | =S-550 |

- B. Interview recordings are retained for two years. In the event of a recorded interview relating to a serious felony, please notify the Court Officer to render a DVD for evidence. The Court Officer will coordinate/assign the task.
- C. To activate the recording of an interview, swipe your ID card when entering the room. For the east lobby conference room, use the right (east) reader to activate a recording. To end the recording, you must notify the dispatcher.
- D. When you speak of the interview in your police report, please mention the approximate start time at the beginning. This will help searchers locate the video.
- E. Routine prisoner and OWI processing are not considered recorded interviews.

- F. The DA requests that sensitive crime victims not be recorded. The west lobby conference room, patrol conference room, and major case room in ISB are not recorded.
- G. Consent need not be obtained to record a custodial interrogation [972.115(4)].
- H. There is no expectation of privacy in a police station or marked squad car.
- I. Communications between attorney and client; health care provider and patients; spouses; and statements to the clergy are privileged and should not be recorded.
- J. An audio or audio and visual recording of a custodial interrogation is not subject to the open records law until the person interrogated is convicted or acquitted, or all related criminal investigations and prosecutions are concluded [972.115(5)].

Exceptions to Recording

Privileged conversation (attorney/client) (in person or by phone) should not be audibly recorded. The District Attorney has requested that sensitive crime victims not be recorded. In these cases, use the cut off system for the soft interview room, move the party to an unrecorded area (west lobby conference room, patrol conference room, administrative conference room, major case room). If it is not technically possible to terminate recording in an area where a privileged or sensitive conversation is to take place, and impractical or unsafe to move the conversation, the parties should be notified that the area is recorded.

Areas where there is an expectation of individual privacy should not be recorded without consent or court order, unless the officer is overtly and legitimately in the area while equipped with a recording device (see Body Worn Camera Policy 6.1.09).

Recording may not be possible if:

- the recording device does not work and there is no other device reasonably available;
- the officer operating the recording device inadvertently fails to operate it properly;
- during the interrogation, the recording device malfunctions without the officer's knowledge; or
- a person makes a statement to law enforcement spontaneously or in response to a routine administrative or booking question.

Occasions and incidents will occur when an officer is unable to or does not activate recording, or if already activated, must temporarily suspend recording. When exercising this discretion, an officer must be prepared to articulate his/her reasoning, and in the case of temporary suspension of a recording, the officer should declare on the recording the reason for suspension prior to deactivation. Situations when recordings might be inappropriate include but are not limited to:

- Protect the anonymity of an informant or other confidential source of information.
- Officer safety concerns.
- Administrative conversations.
- Conversations involving law enforcement sensitive information.