



PORTAGE DEPARTMENT OF PUBLIC SAFETY POLICY AND PROCEDURE		ORDER NO. 200-75
SUBJECT: Audio/Visual Recording of Interviews and Interrogations		
EFFECTIVE DATE November 22, 2013	DISTRIBUTION AP	NEW <input type="checkbox"/> AMENDED <input checked="" type="checkbox"/> May 25, 2021 REVISED <input type="checkbox"/> REVIEWED <input type="checkbox"/>
ISSUED BY: <i>Nicholas J. Arnold</i> Nicholas J. Arnold, Public Safety Director		MICHIGAN STANDARDS: 3.2.1 CALEA STANDARDS: 42.2.1

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I. PURPOSE

The purpose of this policy is to establish Portage Department of Public Safety guidelines and procedures regarding the use of video and audio recordings during investigations, including recording of interrogations, interviews, and statements.

II. POLICY

It is the policy of the Portage Department of Public Safety to record all felony interrogations and other significant interviews pertinent to felony investigations, either by in-car video, body worn camera, or in recorded interview/interrogation rooms at police headquarters, Michigan State Police posts, or at the Kalamazoo County Jail, pursuant to Public Act 479 of 2012. Public Act 479 of 2012 requires law enforcement officials interrogating an individual in custodial detention regarding the commission of a major felony to make a time-stamped, audio/visual recording of the entire interrogation. The recording requirement set forth in Public Act 479 of 2012 is a directive to departments and law enforcement officials and is not a right conferred on an individual who is being interrogated.

III. DEFINITIONS

- A. **Custodial Detention:** When an individual is in a place of detention because a law enforcement officer has told the individual that he or she is under arrest or because the individual, under the totality of the circumstances, reasonably believes he or she is under the officer's control and is not free to leave.
- B. **Interrogation:** Questioning in a criminal investigation that may elicit a self-incriminating response from an individual and includes a law enforcement official's words or actions that the law enforcement official should know are reasonably likely to elicit a self-incriminating response from the individual.
- C. **Place of Detention:** A police station, correctional facility, or prisoner holding facility or another governmental facility where an individual may be held in connection with a criminal charge that has been or may be filed against the individual.
- D. **Major Felony:** Any felony punishable by imprisonment for life, for life or any term of years, or for a statutory maximum of 20 years or more, including Criminal Sexual Conduct 3rd degree (MCL 750.520d).

IV. GENERAL

- A. Employees conducting custodial interrogations regarding an individual's involvement in the commission of a felony will make a time-stamped, audio/visual recording of the entire interrogation. The recording will include notification to the individual of Miranda warnings.
- B. Employees conducting non-custodial interviews during the course of a major felony investigation will audio and/or video record the entire interview, preserve the recording, and maintain it as part of the case file.
- C. Individuals may object to the recording; however, the objection must be recorded or must be made in a written statement. If the individual refuses to document the objection by either recording or written statement, the employee will document the objection within the recording. The recording of the statement, interrogation, or interview will still be made despite the objection.
- D. Any failure to record a statement as required by law or failure to preserve a recorded statement does not prevent any law enforcement official from testifying in court as to the circumstances and content of the original statement.

- E. Recordings of interviews and interrogations, which are being conducted at the Portage Department of Public Safety during felony investigations, will be treated as evidence and stored within the electronic media software system pursuant to the retention schedule adopted by the City of Portage. Recordings of custodial interrogations at other locations should be copied and the copy placed into property and Evidence pursuant to Policy and Procedural Order 200-28.
- F. Prior to conviction or acquittal, a recorded interrogation is exempt from disclosure under the Freedom of Information Act.
- G. The audio/visual-equipped interview rooms at the Portage Department of Public Services (PDPS) will be made available to other law enforcement agencies upon request. Any release of recordings for other law enforcement agencies will be made according to bullet F above.

V. PROCEDURE

- A. Employees are encouraged to record audio and/or video of interrogations and other significant interviews during investigations, including witnesses and victims, whenever possible or practical or when specifically required by law:
 - 1. In a recorded interview/interrogation room at PDPS.
 - 2. By in-car video.
 - 3. By body worn camera.
 - 4. By handheld recording device.
- B. Employees are required to record all felony interrogations of individuals in custodial detention by in-car video, body worn camera, or in recorded interview/interrogation rooms, unless the recording equipment is not readily available or inoperative. Department interview/interrogation rooms will be utilized according to Policy and Procedural Order 200-38. All recordings in interview/interrogation rooms will capture all individuals within the room.
- C. The recording will include notification to the individual of Miranda warnings if required by law.
- D. Whenever feasible or practical, once an audio/visual recording has been turned on, the recording device should remain on until the entire incident or primary purpose for the recording is concluded.

VI. TESTING

- A. All interview room recording equipment will be tested and verified at least annually by the Detective Bureau supervisor for operational readiness.
- B. A review of this policy and procedural order will be conducted annually.