

KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING

Policy: 202 Electronic Recording of Interrogations

Issue/Rev: May 3, 2022

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Issuing Authority: Executive Director Doug Schroeder

I. PURPOSE

Although unlikely due to the administrative nature of Kansas Commission on Peace Officers' Standards and Training investigations, the purpose of this policy is to establish guidelines and procedures for the electronic recording of custodial interrogations in cases involving major crimes per Kansas Statute 22-4620.

II. POLICY

It is the policy of the Commission on Peace Officers' Standards and Training (KSCPOST) to create an electronic recording as an evidentiary record when conducting custodial interrogations in a place of detention for cases involving major crimes.

III. DEFINITIONS

Custodial Interrogation: An interrogation of a suspect who is required to be given Miranda warnings [Miranda v. Arizona, 384 U.S. 436 (1966)].

Major Crimes: Criminal investigation of any case known at the time of interrogation to involve a death, an off-grid felony, or a felony sexual offense.

Place of Detention: A fixed location under the control of a Kansas law enforcement agency where individuals are questioned about an alleged crime.

Electronic Recording: An audio or audiovisual recording.

IV. PROCEDURES

A. General Requirements

1. In cases involving major crimes, officers shall make an electronic recording of custodial interrogations conducted in a place of detention.
2. This procedure applies to both adult and juvenile suspects.
3. Officers are not required to record noncustodial interviews with suspects, witnesses, or victims but may do so when deemed appropriate, in accordance with law and agency policy.
4. The office of the prosecutor, the investigator in charge, or other authorized agency official may request a recording be made of a specific interrogation or case not covered by this policy.

B. Recording Protocol

1. Interrogations should be recorded in their entirety starting as soon as practicable upon the suspect's entrance into the interview room and concluding upon departure of the interrogator and suspect.
2. Each custodial interrogation recording should verbally include the administration of Miranda warnings.
3. Any lapse in the recording for comfort breaks or other reasons shall be verbally accounted for on the recording by a statement of the reason, time the recording is stopped, and the time the recording resumes. It is acceptable to allow the recording to continue without interruption.

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4. Recording or observing attorney-client conversations is prohibited unless such conversation is part of the interrogation process with an officer present.
 5. Original recordings shall be retained in their original unedited form.
- C. Written Documentation
1. If an electronic recording is not created as otherwise required by this policy, the reasons shall be documented.
 2. The reporting officer's follow-up report shall note if and how the interview was recorded.
 4. Document where the interrogation took place, who was present, and the date and time it occurred.
 5. Document the reasons leading to any of the listed exceptions in subsection D.
- D. The procedures of subsection A are not required if:
1. An unforeseen equipment malfunction prevents recording the interrogation in its entirety and replacement equipment is not immediately available;
 2. The suspect affirmatively asserts the desire to speak with officers but not while being recorded;
 3. The suspect makes a spontaneous statement not in response to an interrogation question;
 4. The suspect makes a statement following a question routinely asked during the processing of the arrest of a suspect;
 5. The suspect makes a statement at a time when the interrogator is unaware of the suspect's involvement in an offense covered by this policy; or
 6. Exigent circumstances make recording impractical.

END