

Electronic Recording of Interrogations

Policy Statement

Effective January 2nd 2022, RCW 10.122.030 requires that law enforcement electronically record custodial interrogations of juveniles, or adults suspected of a felony crime. Such recordings will include:

1. Notice that the interrogation is being recorded (consent is not required).
2. The advisement of constitutional rights.
3. The waiver of these rights by the suspect.

The only exceptions to this law are:

1. Exigent circumstances exist that prevent immediate electronic recording. In the case of exigent circumstances, the involved deputy shall electronically record an explanation detailing the circumstances before conducting the interrogation, if feasible, or as soon as practicable after the interrogation is completed.
2. The suspect indicates that they will not participate in the interrogation if it is recorded, or indicates during an interrogation that they will no longer participate if recording continues. If the suspect agrees to participate without recording, that agreement must be recorded.
3. The involved deputy or their supervisor reasonably believes that recording would disclose the identity of a confidential informant or jeopardize the safety of the involved deputy, the suspect, or another individual. If feasible and consistent with the safety of a confidential informant, an explanation of the basis for the belief that electronic recording would disclose the informant's identity must be recorded at the time of interrogation.

Custodial interrogations at a place of detention must be audio and video recorded. All other interrogations must be audio recorded. When an interrogation is conducted outside a place of detention, the involved deputy shall include an explanation of this decision in the case report.

Persons Affected

All certified peace officers and specially commissioned deputies

Definitions

Custodial Interrogation – Express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody.

Electronic recording: An audio recording or audio and video recording that accurately records a custodial interrogation.

Place of detention: A fixed location under the control of a law enforcement agency where individuals are questioned about alleged crimes or status offenses. The term includes a jail, police or sheriff's station, holding cell, correctional or detention facility, police vehicle, and in the case of juveniles, schools. (RCW 10.122.020)

Recording Methods

Deputies with issued body-worn cameras should use those cameras to record custodial interrogations as required by this special order and the Portable Audio/Video Recorder policy.

When audio and video equipment is not available at a place of detention, deputies without an issued body-worn camera should use one of the spare cameras that are available at the Downtown and Laurel offices.

Deputies without an issued body-worn camera should use the Axon Capture application on their agency issued cell phone to complete audio only recordings of custodial interrogations.