

## ILLINOIS STATE POLICE DIRECTIVE EQP-016, ELECTRONIC RECORDING OF INTERVIEWS AND INTERROGATIONS

<b>RESCINDS:</b> EQP-016, 2016-014, revised 02-17-2016.	<b>REVISED:</b> 02-14-2017 <b>2016-014A</b>
<b>RELATED DOCUMENTS:</b> EQP-002, EQP-015, OPS-203	<b>RELATED CALEA STANDARDS:</b> 42.2.1, 44.2.3

### I. POLICY

The Illinois State Police (ISP) will:

- I.A. Use electronic recording equipment to record certain interviews/interrogations (see Definitions section) in accordance with Illinois law regarding admissible oral, written, or sign language statements of certain individuals during custodial interrogations.
- I.B. Make electronic recording equipment available to officers in each district and zone facility in which persons are, or may be, detained and questioned in connection with criminal charges against those persons.
- I.C. Establish procedures for training officers in the use of electronic recording equipment.

### II. AUTHORITY

- II.A. 705 ILCS 405/5-401.5 "When statements by minor may be used."
- II.B. 725 ILCS 5/103-2.1, "When statements by accused may be used."

### III. DEFINITIONS

- III.A. Certain interviews/interrogations include interviews/interrogations for the following crimes:
  - III.A.1. 720 ILCS 5/9-1, "First degree Murder"
  - III.A.2. 720 ILCS 5/9-1.2, "Intentional Homicide of an Unborn Child"
  - III.A.3. 720 ILCS 5/9-2, "Second degree murder"
  - III.A.4. 720 ILCS 5/9-2.1, "Voluntary Manslaughter of an Unborn Child"
  - III.A.5. 720 ILCS 5/9-3, "Involuntary Manslaughter and Reckless Homicide"
  - III.A.6. 720 ILCS 5/9-3.2, "Involuntary Manslaughter and Reckless Homicide of an Unborn Child"
  - III.A.7. 720 ILCS 5/9-3.3, "Drug-induced homicide"
  - III.A.8. 625 ILCS 5/11-501(d)(1)(F), "Driving under the influence of alcohol (when there was an accident which resulted in a death)"
  - III.A.9. 720 ILCS 5/11-1.40, "Predatory criminal sexual assault of a child"
  - III.A.10. 720 ILCS 5/20-1.1, "Aggravated Arson"
  - III.A.11. 720 ILCS 5/10-2, "Aggravated kidnaping"
  - III.A.12. 720 ILCS 5/18-4, "Aggravated vehicular hijacking"
  - III.A.13. 720 ILCS 5/19-6, "Home Invasion"
  - III.A.14. 720 ILCS 5/11-1.30, "Aggravated Criminal Sexual Assault", if the custodial interrogation is conducted on or after June 1, 2016
  - III.A.15. 720 ILCS 5/18-2, "Armed Robbery", if the custodial interrogation is conducted on or after June 1, 2016
  - III.A.16. 720 ILCS 5/12-3.05(e), "Aggravated battery (based on use of a firearm)", if the custodial interrogation is conducted on or after June 1, 2016
- III.B. Custodial interrogation - an interrogation during which:
  - III.B.1. A reasonable person in the subject's position would consider himself or herself to be in custody, and
  - III.B.2. A question is asked that is reasonably likely to elicit an incriminating response
- III.C. Electronic recording - includes motion picture, audiotape, videotape, or digital recording.

- III.D. Electronic recording equipment - any equipment used to make an audio, video, or audio/video recording, whether operated independently or in concert with other electronic equipment (i.e., audio tape recorder, audio/video tape recorder, camera, microphone, monitor, digital recorder).
- III.E. Place of detention for adults - a building or a police station that is a place of operation for a municipal police department or county sheriff's 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 (725 ILCS 5/103-2.1, "Code of Criminal Procedure of 1963").
- III.F. Place of detention for minors - a building or a police station that is a place of operation for a municipal police department or county sheriff's department or other 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 (705 ILCS 405/5-401.5(a), "Juvenile Court Act of 1987").
- III.G. Recording medium - any recording medium (i.e., audio cassette tape, videotape, VHS, digital videocassette, 8mm tape, DVD, or otherwise) used for the retention and playback of recorded audio, video or audio/video.

**IV. RESPONSIBILITIES**

- IV.A. The District/Zone Commander will:
  - IV.A.1. Ensure electronic recording equipment is stored, maintained, and accessible to officers in each district/zone facility in which persons may be detained and questioned in connection with criminal charges against those persons.
  - IV.A.2. Issue electronic recording equipment to individual officers trained in the use of such equipment, as he/she deems prudent.
  - IV.A.3. Ensure a supply of recording medium is maintained and accessible to officers.
- IV.B. Officers issued and/or using electronic recording equipment will:
  - IV.B.1. Ensure proper care and maintenance of the electronic recording equipment in accordance with the manufacturer's instructions.
  - IV.B.2. Ensure proper security of the electronic recording equipment in accordance with ISP Directive EQP-002, "Department Vehicle Usage."
  - IV.B.3. Follow proper procedures for handling, using, submitting, and storing recording medium.
  - IV.B.4. Immediately report any equipment failure to his/her immediate supervisor. Officers will never attempt to make any repairs that would require them to access any internal parts of the electronic recording equipment.
  - IV.B.5. Ensure they are familiar with the electronic recording equipment and that it is operating properly.
  - IV.B.6. Ensure they are familiar with and adhere to Illinois law as it relates to electronically recording interviews/interrogations, specifically:
    - IV.B.6.a. 705 ILCS 405/5-401.5, "Juvenile Court Act - when statements by minors may be used"
    - IV.B.6.b. 720 ILCS 5/14, "Criminal Code of 2012 - Eavesdropping"
    - IV.B.6.c. 725 ILCS 5/103-2.1, "Code of Criminal Procedure of 1963 - when statements by accused may be used"

- IV.C. Officers conducting interviews/interrogations will:
  - IV.C.1. Take all necessary and reasonable steps to safeguard the court admissibility of information/statements obtained during the interview/interrogation.
  - IV.C.2. Ensure they are familiar with and adhere to Illinois law as it relates to electronically recording interview/interrogations, specifically:
    - IV.C.2.a. 705 ILCS 405/5-401.5, "Juvenile Court Act - when statements by minors may be used"
    - IV.C.2.b. 720 ILCS 5/14, "Criminal Code of 2012 - Eavesdropping"
    - IV.C.2.c. 725 ILCS 5/103-2.1, "Code of Criminal Procedure of 1963 - when statements by accused may be used." Failure to follow these statutory guidelines for recording statements by the accused renders statements by the accused obtained during a custodial interrogation in a place of detention presumptively inadmissible against the accused in any subsequent criminal prosecution. 725ILCS 5/103-2.1(d).
- IV.D. The Division of Operations (DOO) will develop and administer the training process for instructors to train personnel in the legal requirements and the proper use of electronic recording equipment during an interview/interrogation.

## V. PROCEDURE

- V.A. During certain custodial interviews/interrogations of a juvenile or adult suspect occurring at a place of detention, the investigating officer(s) will:
  - V.A.1. Make every reasonable effort to clearly and accurately record the interview/interrogation in its entirety using the best available electronic recording equipment. In the event the suspect requests, prior to making a statement, to respond to the interrogator's questions only if an electronic recording is not made of the statement, then the investigating officer will electronically record the subject's willingness to respond to questions only if a recording is not made of the statement.
  - V.A.2. Document on the appropriate report, or other related documents if the:
    - V.A.2.a. Interview/interrogation was recorded.
    - V.A.2.b. Interview was not recorded, and document the reason for the lack of recording. Include the efforts by the officer to record the interview/interrogation and all relevant circumstances that prevented the recording.
- V.B. During the custodial or non-custodial interview/interrogation at a place of detention of anyone other than a juvenile or adult suspect for an offense listed in Section III.A., the investigating officer(s):
  - V.B.1. May, at his/her discretion or at the direction of a supervisor, electronically record the interview/interrogation, in whole or in part, provided any audio recording is done with the consent of all parties.
  - V.B.2. Will document on an appropriate report, or other related document that an interview/interrogation was recorded, if applicable.
- V.C. The original or an exact duplicate of the original recorded medium resulting from the recording of any interview/interrogation, excluding that covered by ISP Directive EQP-015, "In-Car Video Camera Recording Equipment."
  - V.C.1. Will be secured as evidence and processed in accordance with ISP Directive OPS-201, "Evidence – Collecting and Packaging," and ISP Directive OPS-203, "Evidence - Inspection, Inventory, Retention, and Disposal."

- V.C.2. Will be marked to identify:
  - V.C.2.a. The case number
  - V.C.2.b. The name of the subject interviewed
  - V.C.2.c. The officer's name, ID, and assignment
  - V.C.2.d. Date and time of recording
- V.C.3. May be duplicated for review, other work-related purposes, or dissemination to the court of venue as required by a court order.
- V.C.4. Will **not** be made available, in its original or duplicated form, for public review unless authorized by a supervisor and judicial or statutory authority, in which case the person/firm making the authorized request will provide a blank recording medium that is compatible with ISP equipment.

| Indicates new or revised items.

**-End of Directive-**