

**Maine Criminal Justice Academy  
Board of Trustees Minimum Standards, Policy 7**

**RECORDING OF LAW ENFORCEMENT  
INTERVIEWS OF SUSPECTS AND WITNESSES,  
TO INCLUDE CASES OF MURDER AND CLASS  
A, CLASS B AND CLASS C CRIMES AND THE  
PRESERVATION OF INVESTIGATIVE NOTES  
AND RECORDS IN SUCH CASES POLICY**

**Date Board Adopted: 11/19/2021**

**Effective date: 1/1/2022**

The agency must have a written policy to address the Recording of Law Enforcement Interviews of Suspects and Witnesses to include cases of Murder and Class A, Class B and Class C Crimes and the Preservation of Investigative Notes and Records in Such Cases, to include, at a minimum, provisions for the following:

1. A policy statement that recognizes the importance of recording custodial interrogations of persons involved in cases of Murder and Class A, Class B and Class C Crimes, regardless of where the interrogation is conducted.
2. A policy statement that recognizes the importance of recording interviews of witnesses in murder investigations and Class A, Class B and Class C crime investigations.
3. Definition of recording that, at a minimum, encompasses digital, electronic, audio, video or other recording.
4. Definition of custodial interrogation that, at a minimum, encompasses an interrogation during which (1) a reasonable person would consider that person to be in custody in view of the circumstances, and (2) the person is asked a question by a law enforcement officer that is likely to elicit an incriminating response.
5. Definition of serious crimes that, at a minimum, includes murder and all Class A, B, and C crimes, and the corresponding juvenile offenses.
6. Procedure regarding the preservation of notes, records, and recordings specifically related to such interrogations until such time as the defendant's conviction is final, appeals are exhausted, or the statute of limitations has expired.
7. Procedure regarding the preservation of notes, records, and recordings of witnesses

in murder investigations and Class A, Class B and Class C crime investigations until such time as the statute of limitations, if any, for charges in the relevant crime has passed, if no person has been charged. In the case where a person has been charged, until such time as a charged defendant's conviction is final and any appeals are exhausted.

8. A requirement that an officer of the agency record a custodial interrogation when the interrogation relates to a serious crime.
9. A requirement that when an officer records a custodial interrogation, regardless of the location of the interrogation, the recording includes the administration of any warnings that are given (such as the Miranda warning).
10. The requirement to record a custodial interrogation does not apply to:
  - A situation when recording is not feasible, including, but not limited to, cases in which recording equipment is malfunctioning.
  - Spontaneous statements that are not made in response to interrogation.
  - Statements made in response to questions that are routinely asked during the processing of the arrest of a person.
  - Statements given in response to a custodial interrogation at a time when the interrogator is unaware that a serious crime has occurred.
  - A situation when the person who is the subject of a custodial interrogation refuses, preferably in writing or in a recording, to have the interrogation recorded.
11. A policy statement which encourages the recording of witness interviews in serious crimes but does not require the recording of all witness interviews. The policy statement must factor in the feasibility of recording individual interviews, taking into account the circumstances of:
  - The witness
  - The time and place of the interview
  - The crime
  - The capability of the law enforcement agency to record the interview
12. Procedure for the use of interpreters during a custodial interrogation or witness interview when circumstances indicate a need for an interpreter.
13. Officers are responsible for being familiar with when interrogations must be recorded. Their agency's procedures for recording interrogations, the operation of their agency's recording equipment, and any relevant case law regarding interrogations.
14. Statements as to the availability and maintenance of recording devices and equipment.
15. Procedure as to the control and disposition of recordings of custodial interrogations and witness interviews.

16. Procedures for the law enforcement agency when dealing with discovery requests as they relate to the recordings and the notes or records related to such recordings.
17. Officers must abide by their agency policy as it applies to all standards of the MaineCriminal Justice Academy Board of Trustees.

Note: Any violation of these standards may result in action by the Board of Trustees.