

# UW Whitewater Police



## Interrogation and Interview of Juveniles

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### I. Purpose

The purpose of this General Order is to provide officers with direction for custodial interrogations of a juvenile and non-custodial interviews of a juvenile.

### II. Definitions

**Juvenile:** According to the Wisconsin State Statutes, a juvenile is someone who is less than 18 years of age. The exception to this is for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, including UW System Chapter 18 Administrative Code. In these cases, persons will be considered an adult if they have attained 17 years of age.

**“Custodial Interrogation” (Wis. Stats. 968.073(1)(a):** An interrogation by a law enforcement officer or an agent of a law enforcement agency of a person suspected of committing a crime from the time the suspect is or should be informed of his or her rights to counsel and to remain silent until the questioning ends, during which the officer or agent asks a question that is reasonably likely to elicit an incriminating response and during which a reasonable person in the suspect’s position would believe that he or she is in custody or otherwise deprived of his or her freedom of action in any significant way.

**“Place of Detention” (Wis. Stats. 938.195(1)(c):** A juvenile detention facility, jail, municipal lockup facility, or juvenile correctional facility, or a police or sheriff’s office or other building under the control of a law enforcement agency, at which juveniles are held in custody in connection with an investigation of a delinquent act.

### III. Policy

It is the policy of the Department that all officers shall video and audio record all interviews or interrogations of juveniles that occur within a “place of detention”.

### IV. Procedure

#### A. Custodial Interrogations

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1. Per Wisconsin State Statute 938.195(2)(a), any custodial interrogation of a juvenile that is conducted at a place of detention shall be audio and video recorded unless a condition under 938.31(3)(c)1-5 applies.
  - a. The juvenile refused to respond or cooperate in the custodial interrogation if an audio or audio and visual recording was made of the interrogation, so long as a law enforcement officer or agent of a law enforcement agency made a contemporaneous audio or audio and visual recording or written record of the juvenile's refusal.
  - b. The statement was made in response to a question asked as part of the routine processing after the juvenile was taken into custody.
  - c. The law enforcement officer or agent of a law enforcement agency conducting the interrogation in good faith failed to make an audio or audio and visual recording of the interrogation because the recording equipment did not function, the officer or agent inadvertently failed to operate the equipment properly, or, without the officer's or agent's knowledge, the equipment malfunctioned or stopped operating.
  - d. The statement was made spontaneously and not in response to a question by a law enforcement officer or agent of a law enforcement agency.
  - e. Exigent public safety circumstances existed that prevented the making of an audio or audio and visual recording or rendered the making of such a recording infeasible.
2. If possible, officers should interview/interrogate juveniles at the UW-Whitewater Police Department (UWWPD), in Interview Room 126B. Prior to entering Interview Room 126B, an officer will activate the video/audio recorder for Interview Room 126B.
  - a. Prior to beginning the interview/interrogation, an officer will read to the juvenile the Miranda Warning and the Waiver of Rights.
  - b. The officer will explain the recording requirement to the juvenile. Explain that it is required by law and it is done to protect the juvenile and to ensure that what the juvenile says is accurately captured.
  - c. If a juvenile refuses to answer questions because of the recording requirement, fully document this refusal both on the Refusal of Recorded Statement form (Addendum A) and in your written report. Turn off the video/audio recorder and take the statement anyway.
3. In addition to the recording the officer must summarize the substance of the interview/interrogation in a written report. The officer must include information about the recording including start and stop times, location, and persons present.
4. Officers should be cognizant that the courts will view the voluntariness of the juvenile's confession based on numerous factors such as their age, intelligence, educational level, mental capacity, physical condition, prior experience with police and justice system, injuries and ailments, duration of the questioning, time of day, threats or promises made by officers, parents participation, language and culture

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barriers. Officers should start the process by determining these factors to show the juvenile understood their rights, what was going on, and that the statement was voluntary.

5. When a juvenile asks for his/her parent(s) to be present, during the interview/interrogation, you should honor their request. When a parent demands to be present, during the interview/interrogation of a juvenile, and the juvenile has not made the same demand, there is no requirement that you have to allow the parent to be present during the interview/interrogation.
  6. If the interview/interrogation occurs at a “place of detention” other than UWSPD, the officer shall utilize the video/audio recording equipment of that “place of detention” and get a copy of the video/audio recording prior to leaving.
    - a. Prior to leaving UWSPD to interview/interrogate a juvenile at another “place of detention”, the officer should take a body camera with them, in case the “place of detention” is not equipped to take video/audio recordings, or their video/audio equipment is not functioning properly.
    - b. If at a “place of detention” other than UWSPD, and if a juvenile refuses to answer questions because of the recording requirement, fully document this refusal both on the Refusal of Recorded Statement form (Addendum A) and in your written report. Turn off the video/audio recorder and take the statement anyway.
  7. If an officer begins an interview/interrogation without recording and later determines that they should have been recording, they should immediately turn on the video/audio recorder and make a notation on the record that what was said earlier was true and correct, and that the statement by the juvenile was offered without being coerced.
  8. If the juvenile is subsequently transported to jail, officers should make a notation in their Arrest Report that the summary of the juvenile’s interview/interrogation is “in substance” and not verbatim.
- B. Non-Custodial Interview
1. Officers conducting a non-custodial interview of juvenile(s) shall record the interview by means of audio and video recording. If recording via video means is not feasible, the officer shall advise dispatch they need another officer with a functioning body-worn camera.
  2. Interview of juveniles should be done with consideration of the juvenile’s age, mental state, or other factors or influences experienced by the juvenile.
- C. When in doubt – video and audio record the interview/interrogation.

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## Attachment A

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### **REFUSAL OF RECORDED STATEMENT**

Officer \_\_\_\_\_ has informed me that Wisconsin State Statutes require statements that I make to police are to be recorded. However, at this time I refuse to let the police record any statements I make to them. This is my choice and the police have not forced, threatened, or made any promises to not record my statements.

I give this permission of my own free volition without any promises, or threats being made to me.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ Time:\_\_\_\_:\_\_\_\_am/pm

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Signature

Witnesses:

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Signature