

**East Lansing Police Department
Policy & Procedure**

Subject: Interview and Interrogation	ELPD Policy #: 300-6
Effective Date: March 1, 2022 Revised Date:	Distribution: Departmental
MACP Accreditation Standard : Interview Room and Interrogation and Interview Room Use and Security	MACP Standard: 3.2.1 & 3.2.2

I. PURPOSE

This policy establishes procedures for the use of the interview room and for interviews and interrogations to provide for the safety of officers, victims, witnesses, suspects, arrestees, and all other persons during the interview and interrogation process.

II. POLICY

It is the policy of the East Lansing Police Department to provide officers with legally sound procedures for conducting custodial interrogations and non-custodial interviews.

Custodial interrogations and non-custodial interviews of suspects and the statements and confessions that are elicited are important to the preparation of criminal cases. To be admissible as evidence, statements and confessions must be given freely and voluntarily and with due consideration for the suspect's right to silence and right to counsel. Therefore, it is the policy of the East Lansing Police Department that all of its officers understand and follow this policy in order to observe due process rights of suspects and to guard against any charges of police coercion or intimidation during interviews and interrogations.

III. PROCEDURES

A. Definitions

1. Custodial Detention means an individual's being in a place of detention because a law enforcement official has told the individual that he or she is under arrest or because the individual, under the totality of the circumstances, reasonably believes that he or she is under a law enforcement official's control and is not free to leave.
2. Non-Custody means an individual being questioned is not under arrest. A functionally equivalent situation exists, when a "reasonable person" in the person's position would feel that his/her

freedom of action has not been restricted and they are free to leave at any time.

3. **Interrogation:** means questioning in a criminal investigation that may elicit a self-incriminating response from an individual and includes a law enforcement official's words or actions that the law enforcement official should know they are reasonably likely to elicit a self-incriminating response from the individual.
4. **Interview:** means a consensual contact, in the absence of reasonable suspicion or probable cause, for gathering information about a matter under investigation and the person is free to leave at any time and is not required to produce identification or answer any questions.
5. **Place of Detention:** means a police station, holding facility for prisoners including the rear of a police car where an individual may be held or detained in connection with a criminal charge that has been or may be filed against the individual.
6. **Interview/Interrogation Room:** A designated room for the sole purpose of interviews or interrogations with recording capabilities and is located across the hall from the Detective Bureau in room 126, labeled "Interview Room A." (3.2.2a)
7. **Major Felony:** A felony punishable by imprisonment for life, or any term of years, or for a statutory maximum of 20 years or more, or a violation of the statute governing Criminal Sexual Conduct Third Degree.
8. **Miranda Warnings:** A statement telling an arrested person about his or her Miranda Rights.

B. Interviews

1. Interviews may be conducted with victims, witnesses, suspects and any other persons who may have knowledge about a criminal matter. (3.2.1a)
2. Officers may detain and interview individuals who through reasonable suspicion, believe may be responsible for a criminal act or who may hold pertinent information regarding a criminal investigation. Such interviews are commonly referred to as *Terry Stops* or *Field Interviews*. (3.2.1b)

- a. These interviews are not designed to invoke a confession or admission.
- b. At the time of the interview the individual is not under arrest but is detained to gather information about a specific event or criminal act.
- c. These interviews are usually used to identify complainants, victims, and witnesses to determine what information is known to accurately complete a report.

C. Custodial Interrogations

1. Miranda Warnings shall be given to all individuals who are subject to a custodial interrogation. When practical, the Miranda Warnings should be read from the East Lansing Police Department Advice of Rights form.
2. Officers should ensure that the suspect(s) understand their right to remain silent and their right to have an attorney present during questioning.
3. Waiver of one or both Miranda Rights must be performed in the affirmative.
4. Written waivers are preferred and should be obtained whenever possible.
5. Officers interrogating a subject who does not speak English, or who is deaf shall procure the assistance of an interpreter in accordance with state and federal laws.
6. Whenever possible, Miranda Warnings should be audio and video recorded.

D. Invoking the Right to Remain Silent

1. When a suspect invokes his/her right to remain silent, all interrogation shall terminate immediately. (3.2.1c)
2. Officers may interrogate a suspect who has previously invoked his/her right to remain silent, if, after the passage of time, the suspect initiates communication with officers. However, prior to questioning, Miranda Warnings shall be re-administered and a waiver obtained.

E. Invoking the Right to Counsel (3.2.1d)

1. If a suspect waives his/her right to counsel, a signed waiver should be obtained, if possible, prior to questioning. When a suspect makes reference to counsel, but his/her intentions are unclear, officers may question the suspect further to clarify his/her intentions.
2. When a suspect invokes his/her right to counsel, all interrogation shall cease immediately. The suspect may not be interrogated about the crime for which he/she is being investigated, other crimes, or by other officers from this department or other agencies unless:
 - a. The suspect's attorney is present at questioning.
 - b. The suspect initiates new contact with the officers. In this case, Miranda Rights must be again administered, and a waiver obtained before any questioning may take place.
 - c. Officers will also document and, if possible, obtain written verification that the suspect initiated the communication.
3. Officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.

F. Custodial Interrogations of Juveniles (3.2.1e)

1. Juvenile subjects shall be afforded the same rights as adults during interrogations. Additionally:
 - a. Prior to beginning any interview with a juvenile, the parent or legal guardian shall be advised when possible.
 - b. The time duration of interrogations shall be reasonable based on the age of the juvenile and the nature of the crime under investigation.
 - c. Generally, not more than two officers shall interview a juvenile at any given time.

G. Interview Room Security (3.2.2b)

1. It will be the sole discretion of the officer, and in certain cases a supervisor, whether or not they maintain their authorized weapon

on their person while in the interview room. Should the officer elect to remove the weapon, it will be properly stored.

2. The interviewer is responsible for the safety and security of persons brought to the interview room.
 - a. Detainees will be thoroughly searched prior to being placed in the interview room by the interviewer.
 - b. A thorough search of the interview room will be conducted for weapons and contraband prior to placing detainees inside the room and after the detainee's removal from the room.
 - c. Individuals not in custody may be searched in accordance with constitutional requirements at the investigators/interviewer's discretion.
 - d. Officers should have their department issued portable radio or other means of communication with them in the interview room and available in order to summon assistance. (3.2.2d)
3. Officers/Detectives will take necessary steps to limit the access of non-essential personnel to the interview room during an interview/interrogation.
 - a. No more than two officers/detectives will be in the room at one time, except in situations of duress. (3.2.2c)
4. In the interview room, officers/detectives may handcuff in-custody detainees.
5. Detainees will be provided access to water, restrooms and other basic needs in a timely manner. (3.2.2e)
6. Detainees that appear to be under a significant amount of duress or appear to be a potential threat to themselves will not be left unattended.

H. Recording Procedure (3.2.1f)

1. Officers interrogating an individual in custodial detention regarding the individual's involvement in the commission of a major felony shall make a time-stamped audio/video recording of the entire interrogation.

- a. This recording shall include the officer walking into the interview room. The recording shall also include the notification of Miranda Rights, if not previously given.
 - b. If a short break is taken during the interrogation the recording shall be continued.
 - c. The recording shall run continuously until both the officer(s) and the arrestee leave the room. This can be after the interrogation is over or because of an extended break.
2. If the recording system is not functioning and for a major felony interrogation:
 - a. The interviewing officer shall make an attempt to record the interrogation on body camera, at an alternate location, a neighboring agency or another room that does have functioning audio and video recording.
 - b. If no reasonable alternative exists based on the circumstances, the interrogation may be conducted without recording.
 - c. All of the above circumstances shall be documented in the officer's report.
3. For interviews or interrogations other than custodial major felony interrogations, recordings are not required and the use of the interview room is not required.
 - a. Officers are encouraged to record all interviews whenever it would be beneficial to the investigative process.

I. Video Release Policy

1. Without the express consent of the Chief of Police, or the Chief's designee, interview recordings shall only be released for the following reasons:
 - a. In response to a court order
 - b. When submitting a complaint/case to a prosecutorial agency or City Attorney's Office for criminal and/or civil charges.
 - c. In response to written/email request from the City Attorney's Office

d. In response to a request by a prosecutorial agency subject to the prosecution of a criminal offender

e. In response to a Freedom of information Act request.

IV. CANCELLATIONS

Authorized By:

A handwritten signature in blue ink that reads "Kim P. Johnson". The signature is written in a cursive style with a horizontal line underneath it.

Kim Johnson, Chief of Police