



PAWNEE COUNTY SHERIFF'S OFFICE
SHERIFF DARRIN VARNELL

Policy # Custodial Interrogation Recordings	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by The Pawnee County Sheriff's Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Oklahoma Statutes SB 636 (2019)	

- I. **PURPOSE:** The purpose of this policy is to provide Deputies of The Pawnee County Sheriff's Office with direction regarding electronic recording of interrogations involving the crimes of homicide and felony sex offenses.
- II. **POLICY:** It is the policy of The Pawnee County Sheriff's Office to electronically record any custodial interrogation conducted at a place of detention when the interrogation concerns a homicide or a felony sex offense, in accordance with [SB 636](#)
- III. **Definitions:**
 - A. "Place of Detention" means a fixed location under the control of a Oklahoma law enforcement agency where individuals are questioned about alleged crimes.
 - B. "Electronic recording" means audio or audiovisual recording; provided, an audiovisual recording shall be used when feasible; and
 - A. "Custodial interrogation" means questioning of a person to whom warnings given pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), are required to be given. Questioning initiated by law enforcement Deputies after a person has been taken into custody or otherwise deprived of their freedom of action in any significant way."¹
- IV. **PROCEDURE:**
 - A. An electronic recording shall be made of an entire custodial interrogation at a place of detention when the interrogation concerns a homicide or a felony sex offense.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

- B.** The Deputy conducting the interrogation shall inform the suspect that the interrogation is being recorded. The entire interaction between the Deputy and the suspect should be recorded. The recording equipment shall be turned on prior to the Deputy entering the interrogation room and will remain on until the interrogation is complete. If the Deputy makes a decision to turn off the recording equipment, he shall state the reason on tape. The Miranda warnings and waiver shall be recorded.
- C.** An electronic recording shall be made of an entire custodial interrogation of an individual suspected of homicide or a felony sex offense that is conducted at a place of detention;
- D.** If the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded;
- E. Exceptions to the requirement to electronically record custodial interrogations, include but are not limited to:**
 - a.** an equipment malfunction preventing electronic recording of the interrogation in its entirety, and replacement equipment is not immediately available,
 - b.** the Deputy, in good faith, fails to record the interrogation because the Deputy inadvertently fails to operate the recording equipment properly, or without the Deputy's knowledge the recording equipment malfunctions or stops recording,
 - c.** the suspect affirmatively asserts the desire to speak with Deputies without being recorded,
 - d.** multiple interrogations are taking place simultaneously, exceeding the available electronic recording capacity,
 - e.** the statement is made spontaneously and not in response to an interrogation question,
 - f.** the statement is made during questioning that is routinely asked during the processing of an arrest of a suspect,
 - g.** the statement is made at a time when the Deputy is unaware of the suspect's involvement in an offense covered by the policy,
 - h.** exigent circumstances make recording impractical,
 - i.** at the time of the interrogation, the Deputy, in good faith, is unaware of the type of offense involved, and
 - j.** the recording is damaged or destroyed, without bad faith on the part of any person or entity in control of the recording.
- F.** Requirements pertaining to the retention and storage of the electronic recording
 - a.** All recordings will be maintained in accord with Oklahoma Records Retention Law.