

ATTORNEY GENERAL DIRECTIVE, 2006-02

SUPERSEDING DIRECTIVE REGARDING ELECTRONIC RECORDATION OF STATIONHOUSE INTERROGATIONS

(January 17, 2006)

On December 17, 2004, the Attorney General and the County Prosecutors' Association amended a prior policy statement so as to require that when a statement is obtained following a stationhouse interrogation in any case involving a first, second or third degree crime (or any case involving a juvenile age 14 or older suspected of committing a crime enumerated in N.J.S.A. 2A:4A-26a(2)(a)), the law enforcement entity involved either video or audio record any final statement obtained, or any acknowledgment by the suspect of the content of a written statement. That Amended Policy also put into effect a staggered time table with regard to effective dates. For all first and second degree crimes, the electronic recording requirement would go into effect on September 1, 2005. For third degree and juvenile cases, the requirement was to go into effect on January 1, 2006. The Amended Policy also noted that the Attorney General, in consultation with the County Prosecutors' Association, would subsequently make a final determination as to whether to issue a law enforcement directive "requiring expansion of the electronic recordation policy so as to cover the entire stationhouse interrogation process in certain cases."

Thereafter, on October 14, 2005, the New Jersey Supreme Court adopted the recommendations of its Special Committee on the Recordation of Custodial Interrogations. Most significantly, the recommendations included a requirement that police electronically record the entirety of all custodial interrogations occurring in a place of detention for cases in which the adult or juvenile being interrogated is charged with an offense requiring the use of a warrant pursuant to R. 3:3-1c. The effective dates for that requirement are staggered so as to go into effect for all covered homicide cases on January 1, 2006, and for all other offenses specified in R. 3:3-1c on January 1, 2007.

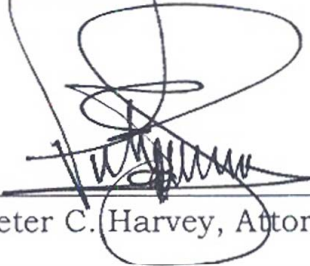
Upon review and consideration of these two sets of requirements, the Attorney General and the County Prosecutors' Association have determined that having different time frames may be difficult to implement and may cause confusion in the law enforcement community. Accordingly, the Attorney General, the Director of the Division of Criminal Justice, and the County Prosecutors have jointly determined that the two sets of requirements must be harmonized to the greatest extent possible. Electronic recording is a valuable tool to law enforcement. It insures that the suspect's or defendant's statement is accurately recorded and voluntarily made. Electronic recording also protects

detectives/investigators and prosecutors from claims of fabrication, omission or lack of thoroughness.

It is hereby adopted that, consistent with the Supreme Court's actions of October 14, 2005, law enforcement officials shall electronically record the entirety of all custodial interrogations occurring in a place of detention. This recording requirement shall apply to all first, second and third degree crimes. Also, it shall apply to adults and juveniles alike.

The effective dates for the above requirements are staggered. The recording requirement for all homicides listed in R. 3:17 shall go into effect on January 1, 2006. The recording requirement for all other first and second degree crimes shall go into effect on October 1, 2006. The recording requirement for all third degree crimes shall go into effect on January 1, 2007.

All existing policy statements and Directives that are in any way inconsistent with the foregoing provisions are hereby superseded and rescinded.



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Peter C. Harvey, Attorney General

ATTEST:



A handwritten signature in black ink, appearing to be 'Vaughn L. McKoy', is written over a horizontal line.

Vaughn L. McKoy, Director

Dated: January 17, 2006