



Video Recording of Statements Equipment *SFY 2017-18 REQUEST FOR PROPOSALS (RFP)*

KEY DATES AND NOTICES:

RFP Release Date: Friday, October 6, 2017

Submission Deadline: Friday, November 8, 2017

Deadline for Final Submission
of Questions: Wednesday, October 11, 2017

Response to Questions Posted: On or about Wednesday, October 18, 2017

Notification of Award(s): On or about Wednesday, November 22, 2017

Anticipated Contract Start Date: January 1, 2018

1. Proposals must be received by the submission deadline on-line using the DCJS Grants Management System (GMS). **Applicants who are not registered to access GMS will need to obtain user access in advance in order to respond to this Solicitation.** See Appendix: *DCJS Grants Management System (GMS) Instructions and Helpful Hints.*
2. Questions regarding this RFP must be emailed to dcjsfunding@dcjs.ny.gov. Responses to the questions will be posted on the DCJS website at <http://www.criminaljustice.ny.gov/ofpa/index.htm> on or about date indicated above. If the applicant has any general questions such as, "Did DCJS receive my e-mail?" please call (518) 457-9787. Please note that DCJS cannot answer substantive questions concerning this solicitation in any manner other than the e-mail method.
3. Approximately five hundred thousand dollars (\$500,000) will be made available to fund the purchase of video recording equipment.
4. Eligible applicants include District Attorneys' Offices in all 62 counties of New York State and local law enforcement agencies (e.g.: County Sheriffs and County, City, Town and Village Police Departments) located outside of New York City.
5. Unless otherwise modified by DCJS, the contract period for this grant opportunity will be January 1, 2018 to December 31, 2018.
6. Applicants will be advised of award decisions via a letter of notification, which will be emailed to the address provided by applicant in GMS. Where applicable, applicants not receiving an award will receive notification via email and by U.S. Postal Service mail. A debriefing is available to any entity that submitted a proposal in response to this solicitation who is not successful in receiving an award. (See Section: Notification of Awards.)

SFY 2017-18 Request for Proposals

Video Recording of Statements Equipment

Table of Contents

I.	Introduction	3
II.	Funding, Applicant Eligibility and Contract Term.....	4
	A. Funding	
	B. Applicant Eligibility	
	C. Contract Term	
III.	Evaluation and Selection	4
IV.	RFP Questions	6
V.	Notification of Awards.....	7
VI.	Reporting Requirements.....	8
VII.	Administration of Contracts.....	8
VIII.	Application Submission and Requirements.....	12
IX.	Application Checklist	13

APPENDICES:

- *DCJS Grants Management System (GMS) Instructions and Helpful Hints*
- *Sample Work Plan*
- *Municipal Police Training Council (MPTC) Video Recording Model Policy Memo*
- *Municipal Police Training Council (MPTC) Video Recording Model Policy*
- *Chapter 59 of the Laws of 2017/Video Recording of Statements*
- *Offenses Requiring Videotaping Pursuant to CPL §60.45 and FCA §344.2*

I. INTRODUCTION

The New York State Division of Criminal Justice Services (DCJS) seeks proposals to fund new video recording equipment for custodial and non-custodial interviews and statements. Approximately five hundred thousand dollars (\$500,000) will be made available to fund the purchase of video recording equipment by District Attorneys' offices in all 62 counties of New York State and local law enforcement agencies located outside of New York City.

To better ensure the reliability of evidence and integrity in the criminal justice system, New York State has encouraged law enforcement to video-record interviews and interrogations in cases involving certain designated offenses since 2013, when it promulgated a model policy on the subject (see *Appendices: Municipal Police Training Council (MPTC) Video Recording Model Policy Memo and Recording of Custodial Interrogations Model Policy*). Additionally, in April 2017, new provisions were added to the Criminal Procedure Law and the Family Court Act requiring the recording of certain custodial interrogations by local law enforcement officials, which become effective April 1, 2018. After that date, the failure to record such interrogations could result in a court determination that a confession, admission or other statement is inadmissible as evidence (for more information on the enacted legislation and the offenses for which interrogations must now be recorded, see *Appendix: Chapter 59 of the Laws of 2017/Video Recording of Statements and Appendix: Offenses Requiring Videotaping Pursuant to CPL §60.45 and FCA §344.2*). Please also note that DCJS' MPTC model policy will be updated in the future to reflect recent statutory changes.

Through this RFP, DCJS will make funding for equipment available to both jurisdictions and departments where video recording capabilities do not currently exist, and to jurisdictions and departments that have limited capability but anticipate an increase in the number of interviews that need to be video recorded as a result of the new statutory provisions. Agencies that previously received DCJS funding for equipment and choose to apply to this RFP will be expected to provide justification illustrating the need for the additional equipment.

DCJS enhances public safety by providing resources and services that inform decision making and improve the quality of the criminal justice system. DCJS is a multi-function criminal justice support agency with a variety of responsibilities, including collection and analysis of statewide crime data; operation of the DNA databank and criminal fingerprint files; administration of federal and state criminal justice funds; identifying and funding programs that reduce crime, recidivism, and victimization. Additionally, DCJS administers the state's Sex Offender Registry. DCJS conducts research on critical criminal justice issues and provides training, legal guidance and regulation to the State's law enforcement, community corrections and prosecution communities.

DCJS is committed to providing programs that improve the effectiveness of New York's justice system. Proposals will be rated and selected for funding consistent with the best interest of the state.

II. FUNDING, APPLICANT ELIGIBILITY AND CONTRACT TERM

A. Funding

Approximately \$500,000 will be made available to support the purchase of video recording equipment by District Attorneys' offices in all 62 counties of New York State and local law enforcement agencies located outside of New York City. Applicants are eligible to apply for an amount consistent with the requested purchase of equipment, which is supported by demonstrated need and reasonableness of cost. All funding must support program efforts that will be accomplished during the contract period. Funding under this program must supplement, not supplant, non-grant funds that would otherwise be available for expenditure.

Video Recording of Statements Equipment grant funds are only available for the purchase and installation of video recording equipment and necessary infrastructure such as wiring, and cannot be utilized for the construction or renovation (including, but not limited to, soundproofing) of interview rooms.

Applicants requesting to purchase data storage as part of their proposal should provide need justification and demonstrate that the requested data storage purchase(s) is only associated with the equipment capacity applicants propose to purchase with grant funds.

Please note that this grant opportunity will be supported with federal Edward Byrne Memorial Justice Assistance Grant (JAG) funding. Recipients of awards supported with federal Byrne/JAG funding will be required to abide by all applicable federal terms and conditions, including submission of quarterly reports through the federal Performance Measurement Tool (PMT) to the federal Bureau of Justice Assistance (BJA).

B. Applicant Eligibility

Eligible applicants include District Attorneys' Offices in all 62 counties of New York State and local law enforcement agencies (e.g.: County Sheriffs and County, City, Town and Village Police Departments) located outside of New York City.

C. Contract Term

Grant award agreements will be for a term of one year and the contract period for this grant opportunity will be January 1, 2018 to December 31, 2018 unless otherwise modified by DCJS.

III. EVALUATION AND SELECTION

Tier I Evaluation – Threshold Pass/Fail

The Tier I Evaluation assesses whether proposals satisfy minimum "pass/fail" criteria for funding.

All proposals will be initially screened by DCJS reviewers to determine their completeness using the following criteria:

- Proposal was received by the published deadline;
- Applicant is eligible as defined by this solicitation; and
- The submitted proposals shall include:
 - Answers to all questions as presented;
 - Applicants other than District Attorneys' offices must provide a Letter of Support for their proposal from the District Attorney in their respective counties at the time of proposal submission;
 - Budget detail and justification provided in GMS itemizing operating expenses in support of the program;
 - Completed Program Work Plan, according to instructions provided; and
 - All attachments and required documents – (see check list at the end of this document).

Tier I Evaluation criteria will receive pass/fail ratings. Any proposal that does not meet each of these conditions may be subject to disqualification from further review. DCJS may, at its discretion, request additional information from an applicant as deemed necessary.

Tier II Evaluation – Evaluation and Scoring

DCJS staff reviewers will evaluate proposals that successfully pass the Tier I Evaluation. A standard rating tool will be used to score responses to questions provided in the proposal (see *Questions* section for additional information). The aggregate scoring value assigned to all questions equals a total possible score of 50 points. Applicants must attain a minimum proposal score of 35 points to be eligible for funding. Each response will be scored and all scores will be totaled, resulting in an overall score. The final score will be determined by averaging Team Reviewers' overall scores for each proposal. Also, in the event of a substantial scoring disparity of total available points, an additional reviewer may rate the affected proposals and the average of all of the scores will determine the final average score of the proposal. In the event of a tie score among applicants, and where both applicants cannot be selected, an additional reviewer will rate the affected proposals and the average of the scores will represent the final score.

Tier III Evaluation

The Tier III Evaluation assessments will be conducted by designated DCJS executive staff. The Tier III Evaluation will select applicants for funding and determine the award amount through consideration of the Tier II Evaluation scoring and comments, strategic priorities, available funding and best overall value to New York State. Final award decisions will be made by DCJS in accordance with the best interests of the State. Nothing herein requires DCJS to approve funding for any applicant.

The DCJS' Executive Deputy Commissioner or his designee will make final decisions regarding approval and individual award amounts based on the quality of each submission, the

recommendations of the reviewers and specific criteria set forth in this solicitation.

IV. REQUEST FOR PROPOSAL QUESTIONS

Applicants must respond to the following questions in the DCJS Grants Management System (GMS), as instructed. **GMS instructions are located as an Appendix to this solicitation.** Please also prepare prospective responses in a Microsoft Word Document using Arial, 11-point font and 1.5-line spacing.

Responses should then be copied and pasted to GMS under the *Questions* module “tab” of the application. Applicants are also required to attach the Microsoft Word document with responses to these questions using the *Attachments* module on GMS. The maximum number of pages allowed for each question is indicated.

Responses to the following questions will be scored and are the basis for Tier II Evaluation funding recommendations. Note: The aggregate scoring value assigned to all questions equals a total possible score of 50 points. Applicants must attain a minimum proposal score of 35 points to be eligible for funding. All questions, including sub-sections and those which have no point value, must be answered.

1 – 4: Program Narrative Questions (1-4) (35 points total)

Question #1 (20 points) – Not to exceed 5 pages – Answer 1a or 1b

1a: If your agency is requesting equipment where equipment does not currently exist, provide justification of that need in detail. The justification should include a plan to address any anticipated increases in the number of interviews that will need to be video recorded as a result of the new legislation, and include a description of the type(s) of equipment to be purchased and the physical locations where the equipment will be installed.

1b: If your agency is requesting funding for equipment where equipment currently exists, provide justification of the need for the additional equipment in detail, including a plan to address any anticipated increases in the number of interviews that will need to be video recorded as a result of the new legislation, and include a description of the type(s) of equipment to be purchased and the physical locations where the equipment will be installed.

Question #2 – Enter a work plan into GMS. A sample work plan for this grant program can be found under Appendix: *Sample Work plan*. **(5 points)**

Question #3 - Describe how your agency will collaborate with other agencies to maximize the success of the project. - **(5 points) Not to exceed 5 pages.**

Question #4 - Provide copies of any protocols and/or procedures in effect at your office or agency regarding video recording of statements OR a plan to develop office/agency protocols and/or procedures regarding video recording of statements that are consistent with applicable statutory and regulatory requirements. **(5 points)**

Operating Budget Detail and Justification Questions (15 points total)

Question #5 - Provide justification as to the reasonableness of the costs associated with the proposed project as outlined in the project budget. (Note: A vendor quote for each participating agency/location is required). - **(5 points) Not to exceed 5 pages.**

Budget Detail: (10 points)

- ✓ Enter the operating budget directly into the **Budget** module “tab” of the GMS application. Operating budgets should project total costs for the contract period and must not exceed the applicant’s eligible award amount if provided.
- ✓ A detailed budget for the grant period provided must be complete, provide sufficient detail. It must also be reasonable and appropriate, as determined by DCJS, and directly tied to the work plan.
- ✓ Operating budgets shall include the video recording equipment to be purchased. Using the **Budget** module of your GMS application, prepare a line item budget, including justification, by appropriate category of expense, which in this case is equipment and installation related expense. Budgets should reflect total projected costs for a 12-month contract period, must not exceed the applicant’s total award amount, and be limited to eligible costs.

V. NOTIFICATION OF AWARDS

Applicants approved for funding will be notified in writing by DCJS via email to the email address provided by the applicant in GMS. The terms of the final contract agreement are subject to negotiation between DCJS and the grantee.

For those not approved to receive funding awards, notifications will be both emailed to the contact person and sent by U.S. Postal Service mail.

A debriefing is available to any entity that submitted a proposal in response to this solicitation and was not successful in receiving an award. Applicants will be accorded fair and equal treatment with respect to an opportunity for a debriefing. A debriefing shall be requested in writing by the unsuccessful Applicant within 15 calendar days of being notified in writing by DCJS that the Application was not selected for an award.

An unsuccessful Applicant’s written request for a debriefing must include specific questions that the Applicant wishes to be addressed, and must be submitted to DCJS via the funding mailbox at dcjsfunding@dcjs.ny.gov with the following in the subject line: **Request for Debriefing: Video Recording of Statements**. The debriefing shall be scheduled to occur within 30 days business days of receipt of written request by DCJS or as soon after that time as feasible.

The preferred method for the debriefing will be in-person, however, upon mutual agreement by all parties, another means such as via telephone, webinar, or any combination thereof may occur.

In the event that DCJS and a successful award recipient cannot agree to contract terms within ninety days of notification of selection for award, DCJS reserves the right to rescind the award and redistribute the funds.

VI. REQUIRED REPORTING

Reporting requirements are provided below:

Federal Performance Measurement Tool (PMT)

As recipients of Byrne/JAG supported grants, grantees will be required to submit quarterly federal reports in the Bureau of Justice Assistance's federal Performance Measurement Tool (PMT) system on the required performance measures.

GMS Quarterly Progress Reporting

All grantees will be required to submit quarterly progress reports via GMS that describe quarterly performance and activities in support of the project Work Plan entered in GMS.

Quarterly Fiscal Reports

All grantees will be required to submit quarterly fiscal reports and claims for payment.

Reporting Due Dates:

GMS Progress Reports and Fiscal Claims for Payment (formerly known as State-Aid Vouchers) are due to DCJS by the following dates:

<u>Calendar Quarter</u>	<u>Report Due</u>
July 1 - September 30	October 31
October 1 - December 31	January 31
January 1 - March 31	April 30
April 1 - June 30	July 31

VII. ADMINISTRATION OF CONTRACTS

DCJS will negotiate and develop a contract with each successful applicant. In the event that DCJS and the successful applicant cannot agree to contract terms within ninety days of notification of selection for award DCJS reserves the right to rescind the award and redistribute the funds.

Contract Approval

A grant contract of \$50,000 or greater is subject to approval by the NYS Office of the Attorney General (OAG) and the Office of the State Comptroller (OSC) before funding may actually be disbursed. For contracts subject to the approval of the Attorney General and the Comptroller of the

State of New York, the Contract shall be of no force and effect until said approval has been received and indicated thereon.

Contract Term

DCJS will enter into a contract period as noted in this solicitation. DCJS reserves the right to modify the contract term in the best interests of the State.

Contract Activities

All activities must have prior approval from DCJS and meet the guidelines established by the State of New York.

Contract Changes

Contracts resulting from this solicitation may be executed, increased, terminated, renewed, decreased, extended or amended or renegotiated for any reason at the discretion of the Executive Deputy Commissioner of DCJS as a result of contractual performance, changes in project conditions, or as otherwise may be in the best interests of New York State.

Records

The grantee will keep books, ledgers, receipts, personnel time and effort records, consultant agreements and inventory records pertinent to the project and consistent with DCJS contractual provisions and mandated guidelines. In accordance with the standard contract Appendix A-1 (see "Standard Contract Provisions" below), grantee staff whose salaries are paid in whole or in part from grant funds shall maintain a time recording system that shows the time and effort devoted to the grant project.

Liability

Nothing in the contract between DCJS and the grantee shall impose liability on the State of New York for injury or damages incurred during the performance of approved grant activities or caused by the use of equipment purchased with grant funds.

Payments

Payments to reimburse project expenses will be made pursuant to a schedule specified in the contract between the State of New York and the grant award recipient. Where applicable, performance-based expenses will be reimbursed in compliance with the contract milestone performance and costs budget and the project work plan.

Reports

The grantee shall submit all reports to DCJS in a format and time frame as specified in the contract. Quarterly progress reports shall include a description of the grantee's efforts undertaken during the reporting period and the current status of the project. The quarterly progress reports of the grantee's activities under this contract must be submitted electronically as directed by DCJS. Independent of any reporting schedule, all grantees will be required to inform DCJS of any program issues that are significantly impacting program performance. Any project funded under this solicitation must comply with the requirements established by DCJS. The grantee agrees to submit any other reports considered relevant by DCJS.

Performance Review

The grantee's performance in all areas mentioned above, in addition to the services contracted for, will be monitored periodically by DCJS and will take the form of site visits, program file review, written and telephone communication, and any other methods deemed necessary by DCJS to ascertain the quality and quantity of grantee activities.

Disposition of Allocations

DCJS reserves the right to reject applications, deny awards, or defer applications for future consideration based on insufficient information in the application, lack of accompanying documentation, the inappropriateness of the project proposed, an organizational history of unsuccessful projects of a similar nature, or a history of contract non-compliance.

Revocation of Funds

Funds awarded to an applicant who does not implement an approved project within 90 calendar days of the contract start date may be revoked and redistributed at the discretion of the Executive Deputy Commissioner of the DCJS or his or her designee.

Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the State and the nation. In recognition of their economic activity and leadership in doing business in New York State, applicants for this solicitation are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract(s) resulting from this solicitation. Such partnering with New York State businesses may be as subcontractors, suppliers, protégés or other supporting roles. To assist in demonstrating commitment to the use of New York State businesses in the performance of the contract(s), all applicants must complete the form provided on the DCJS website at <http://www.criminaljustice.ny.gov/ofpa/forms.htm> entitled: *Encouraging Use of New York State Businesses in Contract Performance* and submit the completed form as an attachment to their application in GMS. There are no points attributable to this component of the application.

Use of Service-Disabled Veteran-owned Business Enterprises in Contract Performance

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the Service-Disabled Veteran-owned Business Enterprises website at <https://ogs.ny.gov/veterans/>.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged to the maximum extent practical and consistent with legal requirements of the State Finance Law and the Executive Law to use responsible and responsive SDVOBs in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those

that may be obtained from non-SDVOBs. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses consistent with current State law. Utilizing SDVOBs in State contracts will help create more private sector jobs, rebuild New York State's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its SDVOB partners. SDVOBs will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated public procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of SDVOBs by its contractors. The State, therefore, expects bidders/proposers to provide maximum assistance to SDVOBs in their contract performance. The potential participation by all kinds of SDVOBs will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of SDVOBs by responding to the questions on the form located at http://www.criminaljustice.ny.gov/ofpa/pdfdocs/Veteran_Owned_Business_Form.pdf and attach the completed form, along with your Application, to the NYS Division of Criminal Justice Services' Grants Management System (GMS). There are no points attributable to this component of the application.

Standard Contract Provisions

Any contracts negotiated as a result of this solicitation will be subject to the provisions of Appendix A, Appendix A-1, Appendix C and Appendix M, which contain the standard clauses for all New York State grant contracts with DCJS. Appendices are available on the DCJS website at <http://www.criminaljustice.ny.gov/ofpa/forms.htm>.

Vendor Responsibility

Not-for-Profit entities that are receiving an award of \$100,000 or greater are required to complete an updated Vendor Responsibility Questionnaire. The questionnaire and additional information are available on the NYS Office of State Comptroller website: <http://www.osc.state.ny.us/vendrep/>. Any not-for-profit sub-grantees must also complete a Vendor Responsibility Questionnaire.

Charities Registration

Not-for-Profit entities must also insure that their filing requirements are up-to-date with the Charities Bureau of the NYS Attorney General's Office. Further information on the registration requirements may be obtained at the Attorney General's website: <http://www.charitiesnys.com/home.jsp>.

Data Universal Numbering System (DUNS) Registration Requirements

All DCJS funding applicants are required to provide a DUNS number. If you are unsure whether or not your organization has a DUNS number, check with your Fiscal Officer. New applicants will enter the DUNS number in GMS while completing the Participant section; existing DCJS grantees whose

DUNS number is not already on file should email the number to funding@dcjs.ny.gov to have it entered by DCJS staff prior to submission of the application. Any organization needing a DUNS number can register through the following link: <http://fedgov.dnb.com/webform>. Please note the process of requesting and receiving a DUNS number and/or having it entered into GMS by DCJS staff will require additional time. It is strongly recommended that applicants begin this process early.

VIII. Application Submission and Requirements

A. Specific Instructions

One application should be submitted for each District Attorneys' Office or police agency requesting video recording equipment. Proposals must be submitted using the DCJS Grants Management System (GMS).

B. Grants Management System (GMS)

First time GMS users should download the GMS User Manual located at <http://www.criminaljustice.ny.gov/ofpa/gms.htm>. If you need assistance with accessing and using GMS, please contact the DCJS Office of Program Development and Funding (OPDF) GMS Help Desk at (518) 457-9787. **The DCJS GMS Help Desk is available Monday through Friday between the hours of 9:00 am and 5:00 pm. However, applicants should note specific RFP submission deadlines and plan accordingly.**

The following information is specific to this solicitation. For general guidance and GMS Helpful Hints see Appendix: *Grants Management System (GMS) Instructions and Helpful Hints*.

Submitting a Proposal on GMS

To submit a new proposal on GMS, log on to the system and click on "Project." Click the "New" button at the top of the project grid. This will take you to a screen that says "Select a Program Office." Using the drop-down box, find and select the particular name of the program: "Video Recording of Statements." Click "Create Project." Your application will now be ready to complete.

Completing the Application

Applicants are encouraged to complete the GMS registration as well as the registration and/or pre-qualification on the NYS Grants Gateway System, where applicable, early to avoid any concerns with these automated systems. Grants Gateway prequalification and GMS signatory registration **must** be complete prior to the submission of a proposal.

Each application will consist of the following components that must be completed using GMS:

- Participant name(s);
- Contact information for all participating agencies per application;
- Program specific questions;

- Project budget; and
- Project work plan.
- Any required attachments, such as letters of support

When all of the above requirements and GMS Application components are completed, click the “**Submit**” button. GMS will review the application for completeness. If any fields are missing, a report will display what remains to be completed. Once all fields are complete and you submit successfully, GMS will display a screen that says “*Your application has been submitted.*”

IX. APPLICATION CHECKLIST

- All Applicants: Complete all DCJS Grants Management System (GMS) Registration Requirements – See *Appendix: DCJS Grants Management System (GMS) Instructions and Helpful Hints.*
- Complete all necessary contractual requirements as described in Section: *Administration of Contracts.*
- Answer Program Narrative Questions in *QUESTIONS* TAB in GMS and also attach the answers on a Word Document to GMS.
- Complete BUDGET TAB on GMS by entering the line-item Operating Budget.
- Applicants other than District Attorneys’ offices must provide a Letter of Support for their proposal from the District Attorney in their respective counties at the time of proposal submission;
- Provide copies of any protocols and/or procedures regarding video recording of statements OR a plan to develop protocols and/or procedures regarding video recording of statements which are consistent with applicable statutory and regulatory requirements.

Appendix: DCJS GRANTS MANAGEMENT SYSTEM (GMS) INSTRUCTIONS AND HELPFUL HINTS - Dated February 2016

GMS Helpful Hints: See Proposal/Application for additional specific GMS directions.

First time GMS users should download the GMS User Manual located at <http://www.criminaljustice.ny.gov/ofpa/gms.htm>. Persons familiar with GMS can use the following simplified guidelines:

Getting Started: Sign on to GMS.

Click "Project" to go to project grid. Click the "New" button at the top of the project grid. This will take you to a screen that says "Select a Program Office" in a drop-down box format. Find and highlight "Name of funding program," then click "Create Project."

This begins your application. You may work on the application, save and return to it at a later time, except as noted below. Note that GMS will time out after 30 minutes of inactivity. That means that you should save your work frequently. Each save re-sets the timer.

In the newly-created project complete the following modules which are listed across the top of the screen:

General - Complete the text screens and press save.

Participants/Contacts - Complete the text screens and press save.

Click on "Add Participant" and in the search prompt that appears type in your agency name. This should take you to a list, find your agency, and click in the blue section of your agency name. This will prompt a drop down list that defaults to "Grantee." Click "Add." If there will be a separate Implementing Agency, repeat the process, choosing "Implementing Agency" as the Participant Type. In the event your agency is not listed, click the "New" button to add your agency to our database. Please complete all required information on the screen, including the Employer Identification Number (EIN) before you SAVE the entry. GMS will only allow one attempt then locks the entry to edits. Should you still need additional information added to the Participant record, please call GMS Help at (518) 457-9787.

Scroll to the bottom of the screen to add contact information. Click on "Add Contact" and in the search prompt that appears type in the last name of the person to be added. This should take you to a list. Find the person to be added and click in the blue section of the name. This will prompt a drop down list that defaults to "Primary." Ensure you do this until you have added a minimum of three contacts: Primary, Signatory and Fiscal. In the event that the contact you are attempting to add does not appear in a search, click the "New Contact" button to add the contact to our database.

Note: If the signatory you try to add is not eSignature registered, you will get an error message and

will not be allowed to add that person at that time. You will NOT be able to submit the application without a signatory attached.

Budget - See Application for additional specific instructions.

Work plan - In the GMS work plan module, enter the Project Goal, Objectives, Tasks and Performance Measures provided in the Standard Work Plan within this solicitation.

- Fill in the “Project Goal” text box and click “Save.”
- Click “Create New Objective” and fill in the text box and click “Save.”
- Click “Add Task to this Objective” and fill in the text box and click “Save.”
- Click “Add Performance Measure to this Task” and fill in the text box and click “Save.”

Questions (where applicable and when the solicitation includes questions) -

Answer all required program narrative and budget information questions.

Hint: Answers should be developed in Word. GMS will time out after 30 minutes and unsaved material will be lost. Cutting and pasting from a Word document will prevent the loss of any work.

Attachments -

Click on “Attachment,” and upload the required attachments for this solicitation. Note: Follow the instructions in the GMS User’s Manual for Attachments; also, see screen instructions for accepted file types and advice on file names.

Remember: Failure to submit required documents will be considered the same as failure to meet the deadline for application submission. This may result in a non-award due to the application being untimely.

When all requirements are completed, click the “Submit” button. If any fields are missing, a report will display what remains to be completed. Once all fields are complete and the application is submitted, GMS will display a screen that says “*Your application has been submitted.*” In addition, GMS will send an email notification to the Signatory official listed on the application to make him or her aware that an application has been submitted on your jurisdiction’s or organization's behalf.

Appendix: Sample Work Plan

Goal: To improve law enforcement and prosecution outcomes by enhancing the technological capabilities of District Attorneys' offices and law enforcement agencies by enabling them to videotape interviews, statements and interrogations, and to promote compliance with statutory requirements.

Objective #1: Enhance the technological capabilities within (enter agency name) through the acquisition of video recording equipment to be utilized during investigations.

Tasks #1 for Objective #1:

- Purchase and install video recording equipment.
- Maintain purchase records in compliance with all federal, State, and local procurement guidelines.
- Maintain an inventory record of all video recording equipment purchased under this contract. (Records will be made available to DCJS, upon request).

Performance Measures for Task #1:

1. Number of video recorded statements equipment purchased.
2. Enter all individual units of equipment with a value of \$500 or greater into the Equipment Inventory in DCJS's Grants Management System (GMS).

Task #2 for Objective #1: Provide training to officers and staff in proper operation of the video recording equipment.

Performance Measures for Task #2:

1. Number of officers and staff who received training in proper operational use of the equipment.

Task #3 for Objective #1: Comply with the established departmental protocol (see Objective #2), utilizing the video recording equipment during investigatory interviews and interrogations.

Performance Measures for Task #3:

1. Number of video recorded statements conducted.
2. *(For law enforcement agencies only)* Number of video recorded statements forwarded to the District Attorney's office to be used as case evidence.

Objective #2: Improve the effectiveness of case evidence through the recording of investigative interviews and interrogations by trained officers and staff and establishing or updating departmental protocols regarding video recording of statements.

Task #1 for Objective #2: Provide investigatory personnel with interview techniques training to enhance their interview and interrogation knowledge, skills and abilities.

Performance Measures for Task #1:

1. Number of officers and number of staff at each recipient agency who received training in video recording of interviews and interrogation techniques.

Task #2 for Objective #2: Develop or update as necessary, and implement departmental protocols regarding the video recording of statements consistent with applicable statutory requirements on or before April 1, 2018.

Performance Measures for Task #2:

Include in the first Quarterly Progress Report (QPR) a copy of the departmental protocols and/or procedures regarding the video recording of statements. (In the event that the department participates in county-wide protocols regarding the video recording of statements, a copy of those protocols and/or procedures may be submitted in lieu of individual agency submissions).

Appendix: MPTC Video Recording Model Policy Memo



State of New York
DIVISION OF CRIMINAL JUSTICE SERVICES
Alfred E. Smith Office Building
80 South Swan Street
Albany, New York 12210
<http://criminaljustice.ny.gov>

To: **New York State Criminal Justice Executives**

From: **Mike Green, Executive Deputy Commissioner**

Date: **January 15, 2014**

Subject: **Video Recording of Custodial Interrogations Model Policy**

New York State is committed to enhancing the effectiveness of our criminal justice system by providing law enforcement with resources and tools to assist them in the execution of their duties. To support this mission and the practice of video recording custodial interrogations, I am pleased to announce that during the 224th meeting of the Municipal Police Training Council (MPTC), the Council adopted a model policy for the video recording of custodial interrogations and to remind you of the availability of the online training “Investigative Strategies and Skills for the Recorded Interview”.

Video recording of interrogations of suspects on serious cases is a powerful tool to help hold offenders responsible for their conduct. Utilization of these video recordings that capture a suspect’s own words, actions and attitudes, in conjunction with other evidence, greatly enhances law enforcement’s ability to solve crimes. Video recording of suspect’s statement can also help prevent wrongful convictions and protect police officers and departments from unfounded claims of misconduct and civil lawsuits.

The model policy establishes broad guidelines for the video recording of suspect’s statements in custodial interrogations and the associated use, management, storage and retrieval of such recordings. It was developed and reviewed by experienced members of law enforcement to ensure it provides best practices for the recording of suspect’s statements. The policy is mindful of the benefits of recordings balanced with the overwhelming public policy demands on police to solve crimes. While the guidelines within the policy endorse the practice of recording custodial interrogations, they also recognize the dynamics of police work, field operations, suspect encounters, and provide latitude for officers in conducting interrogations at times that may not lend themselves to the availability of recording equipment. The policy is a model and agencies are encouraged to modify it to meet the unique needs of their individual jurisdictions. DCJS also offers an online training entitled “Investigative Strategies and Skills for the Recorded Interview”. This training teaches the skills and strategies useful in conducting a recorded interview. It attempts to guide even the most experienced and skilled interrogator on the new “mindset” needed, as they begin recording interviews and interrogations. It also contrasts the similarities and differences between a recorded interview and the traditional non-recorded session. To access the training, you may click on the link below or copy and paste the link into your web browser.

<http://www.criminaljustice.ny.gov/ops/training/other/recorded-interview/story.html>

Recording of Custodial Interrogations Model Policy

December 2013



**Municipal Police
Training Council**

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov



Municipal Police Training Council

Recording of Custodial Interrogations Model Policy

Copyright Notice

© December 2013 by the New York State Division of Criminal Justice Services. You are hereby granted a non-exclusive license to use the enclosed materials for non-commercial use, and to reproduce, copy and/or distribute these materials for educational purposes. The Division's materials contained in this publication may be included in a non-commercial derivative work with proper attribution to the New York State Division of Criminal Justice Services. These materials may not be posted on a commercial or non-commercial Internet site without the prior written permission of the Division. This non-exclusive license will be governed and construed in accordance with the laws of the State of New York.

THE 2013 EDITION IS PUBLISHED BY THE:

New York State Division of Criminal Justice Services
Office of Public Safety
80 South Swan Street
Albany, New York 12210

<http://www.criminaljustice.ny.gov>

VERSION December 2013

PRINTED IN THE UNITED STATES OF AMERICA

Recording of Custodial Interrogations Model Policy

The Recording of Custodial Interrogations Model Policy was developed to provide law enforcement agencies with guidance to assist them in developing their own policy and training. The use of this policy is not mandatory.

The Municipal Police Training Council (MPTC) approved the model policy in December 2013.

Acknowledgements

The District Attorney's Association of the State of New York "Guidelines for Recording Custodial Interrogations", the New York State Association of Chiefs of Police "Electronic recording of Custodial Interviews Model Policy", and the recommendations made by the New York State Justice Task Force in their document titled: "Recommendations Regarding Electronic Recording of Custodial Interrogation" served as a basis for this model policy.

The New York State Division of Criminal Justice Services (DCJS) acknowledges the extensive work done by the following associations and agencies:

District Attorney's Association of the State of New York

New York State Association of Chiefs of Police

New York State Police

New York City Police Department New

York State Sheriff's Association

I Purpose

The purpose of this policy is to establish broad guidelines for the electronic recording of suspects' statements in custodial interrogations and the associated use, management, storage and retrieval of such recordings. The policy is intended to allow for the individual needs of police departments in New York State. Police and district attorneys are encouraged to modify these protocols to conform to their specific needs, while being mindful of the intent of the procedures. While this policy endorses the practice of recording custodial interrogations, it also recognizes the dynamics of police work, field operations and suspect encounters. This policy is mindful of the benefits of recordings balanced with the overwhelming public policy demands upon the police in solving crimes. This policy provides latitude for officers in conducting interrogations at times that may not lend themselves to the availability of recording equipment.

II Policy

It is expected that electronically recording custodial suspect interrogations will enhance the investigative process and assist in the investigation and prosecution of criminal cases. Critical evidence can be captured through the recording of interrogations. The recording will also preserve information needed regarding a person's right to counsel and the right against self-incrimination and it can be used to resolve a person's claim of innocence.

Similarly, the electronic recording of custodial interrogations will assist in defending against civil litigation and allegations of officer misconduct.

III Definitions

- A. **Custodial interrogation:** *Custodial:* The objective standard for determining a suspect's custodial status is whether a reasonable person, innocent of any wrongdoing, would have believed that he or she was not free to leave. *Interrogation:* Interrogation refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally associated with arrest and custody) that the police should know are reasonably likely to elicit an incriminating response.
- B. **Electronic recording:** A digital, electronic video or other recording on electronic media.
- C. **Electronic media:** Video signals recorded on any of several storage media, including, but not limited to, analog tape (VHS, S-VHS, Hi 8), digital recording (DVD) or other portable digital storage media (CD, MP3 player, hard drive, etc.).

- D. **Recording room:** For the purpose of this policy, includes any designated room outfitted with audio-video recording equipment, and any police vehicle similarly equipped.

IV Qualifying Offenses

- A. Whenever possible and practicable, an electronic recording of a custodial interrogation should be made when the subject to be interviewed is reasonably suspected in the commission of the following, including but not limited to:
 - 1. All A-I non-drug felonies;
 - 2. All B violent felonies codified in Section 125 of the New York State Penal Law;
 - 3. All B violent felonies codified in Section 130 of the New York State Penal Law.
- B. Nothing in this policy prohibits the use of electronic recording equipment for any other interview or offense at the discretion of the police department.

V Exceptions

It is understood that recording may not always be possible. The following are some, but not all, of the practical reasons that may prevent an interrogation from being recorded:

- A. Electronic recording equipment malfunctions.
- B. Electronic recording equipment is not available, e.g., it is already in use.
- C. Statements are made in response to questions that are routinely asked during the process of arresting a person.
- D. Spontaneous statements are made that are not in response to police questioning.
- E. Statements are made by the suspect at the time of arrest.
- F. Statements are given in response to a custodial interrogation at a time when the interviewer is unaware that a qualifying offense occurred.
- G. Statements are made during a custodial interrogation that is conducted at another location not equipped with recording devices, and the reasons for using that location are not to subvert the intent of this policy.

- H. Statements are made during a custodial interrogation at a location other than the recording room identified in these procedures because the defendant cannot be in the recording room, e.g., the defendant is out of the state, in a hospital or is in a correctional facility.
- I. Statements are made after a suspect has made a documented refusal to participate in the interrogation if it is recorded.
- J. Inadvertent error or oversight occurs that was not the result of intentional conduct of law enforcement personnel.

VI Field Interviews

This policy is not meant to discourage field interviews. Gathering “real time” information in the field can be critical for an investigation. For example, information is often immediately needed to locate a weapon, to find victims or accomplices, or to secure a crime scene. If information is gathered from the suspect in the field regarding qualifying event, efforts should be made to memorialize the statements at the earliest practicable time.

VII Miranda Warnings

Any custodial interrogation must be preceded by the reading of Miranda Warnings. This does not preclude pre-interrogation discussions with the subject before Miranda Warnings are read and the actual interrogation commences. In cases involving qualifying offenses where the interrogation is to be recorded, all conversations that occur inside the recording room must be recorded, including pre-interrogation discussions and the administration of the Miranda Warnings.

VIII Prior to Recording

- A. **Record entire interview:** The recording equipment should be turned on prior to the subject being placed within the recording room and should only be turned off after the subject has left the room after the interrogation is completed. All discussions in the recording room, including any pre-interrogation discussions, even if they occur before the reading of Miranda Warnings, must be included in the recording. Should the need arise for either the subject or the interrogating officer to leave the recording room; recording devices should continue to operate without interruption. If the recording is temporarily stopped, the reason for stopping the recording and the duration should be documented.
- B. **Suspect search:** Prior to the interview, the interviewing officer should be certain

that the suspect, who is in custody, was searched for weapons, contraband, evidence, electronic devices or telephones and that all relevant items were removed.

- C. **Covert Recording:** If an agency chooses to make the electronic recording equipment covert, the officer shall not inform the subject that the interrogation is being recorded, nor discuss the topic of recording. If the subject asks about the recording, the department shall determine protocols for responding within the confines of the law.
- D. **Eavesdropping:** Article 250 of the Penal Law must be followed to avoid any circumstance in which conversations are recorded in which no party thereto is aware of the recording. To legally record a conversation, at least one party must be aware of, and have consented to, the recording.
- E. **Juveniles:** So that juveniles (over seven and less than sixteen years old) and adults can be questioned in the recording room, the room may also be designated a juvenile room, where practical. To meet these criteria, the room must have been designated by the Chief Administrator of the Courts as a suitable place for the questioning of juveniles and it must comply with the requirements of 22 N.Y.C.R.R. 205.20. Note: A juvenile room is not required for a person between thirteen and fifteen years of age who will be prosecuted as an adult in criminal court as a juvenile offender. CPL 1.20 (42) [defining “juvenile offender”].

When questioning a juvenile, who will be prosecuted as a juvenile delinquent under the Family Court Act (over seven and less than sixteen years old), the interview should take place in a designated juvenile room.

The officer should be aware of other considerations, including the parental notification requirements and the requirement that the parent or guardian of the child be given Miranda Warnings of Family Court Act Section 305.2 (applicable to the questioning of juvenile delinquents), and Criminal Procedure Law Section 140.20(6) (requiring the arresting officer to notify the parent or guardian of a juvenile offender arrested without a warrant of the arrest and the location where the juvenile is detained). The officer may also consider using simplified Miranda Warnings when questioning a juvenile.

- F. **Recording Device Responsibility:** At least one officer conducting the interrogation shall be responsible for operating the recording device used during the interrogation and should know the Department’s electronic recording protocols.
- G. **Recording Time and Date:** Date and time stamping of the electronic recording is encouraged. If the equipment cannot digitally time stamp the video, the video camera should be positioned to also capture in frame an analog clock, preferably with a sweeping second hand to show the linear and uninterrupted passage of time.

The clock should be positioned out of the suspect's line of sight so as not to serve as a distraction.

- H. **Camera Position and Field of View:** To the extent practicable, the camera positioning and field of view should be set to capture as much of the room and occupants as possible while still maintaining a frontal high angle view of the interrogated subject.
- I. **Recording Capacity:** Before the interrogation begins, the officer should make sure there is enough capacity to record the entirety of the interrogation.
- J. **Document Equipment Challenges:** The time and nature of any irregularities that occur with the equipment should be documented by the officer in writing. Even if there is a problem with the electronic media, the electronic media must be preserved.

IX During Recording

- A. **Attorney Visit:** If the subject of a recorded interrogation has an attorney visit, the subject and attorney shall be offered a separate, private area in which to confer if one is available. The recording of the empty room can continue during their absence to memorialize the event until such time that the interrogation is either resumed or terminated. Alternatively, a record can be made of when the recording was discontinued for the attorney visit. If the interrogation re-commences after the attorney visit, then there should be documentation of the attorney's agreement to allow the questioning to continue and the time that the recording began again. In no event shall the visit between the attorney and the suspect be recorded.
- B. **Written Statements:** After the subject of the recorded custodial interrogation has provided all of the pertinent information, a written statement may be obtained from the subject. If the officer opts to obtain a written statement, that procedure should also be recorded.
- C. **Identification of Parties:** All persons within the recording room should be identified on the recording, whether by the interviewing member or by the subjects themselves.
- D. **Acknowledgement of Provisions to Subject:** Where possible, it should be made clear on the recording when a subject is or has previously been provided with food, drink, cigarettes, access to toilet facilities, etc.

X After Interview

- A. **Label Recording Media:** After the custodial interrogation, the officer(s) conducting the interrogation, or an employee designated by the Department, shall label all applicable documents, recorded media and notes according to Department protocols.
- B. **Avoid Altering Media:** No person shall alter the operation of the electronic recording equipment. No person shall, in any manner or for any purpose, alter the original “master” electronic recording of a custodial interrogation.
- C. **Copies:** Reproductions of the recorded interrogation should be made according to Department protocols. Any defense request for a copy of the interrogation should be referred to the District Attorney’s Office.
- D. **Originals:** The original of the electronic media should be appropriately vouchered in accordance with Departmental evidence procedures. The original should be retained according to the Department’s retention policy. Accordingly, electronic media may be utilized to create an authoritative original of the recording for systems that write and maintain the video file on a hard drive or server.
- E. **Dissemination of Recordings:** Any dissemination of any recording shall be carried out according to documented Department rules and procedures. Policies for the viewing of recordings should be developed to allow for training, related investigations, quality control, supervision, and the like.
- F. **710.30 Notice:** Complete either a 710.30 CPL Notice of Statement or a Felony Interview Reporting Form, and indicate that an electronic recording was made, or conversely, was not made, of a custodial interrogation. The substance of all oral admissions must also be documented on the 710.30 CPL form from all involved members regardless of whether there was a subsequent recorded and/or written statement. Note: Failure to notify the prosecutor of the recorded interview could prevent its use in court.

Appendix: Summary of Part VVV of Chapter 59 of the Laws of 2017 (regarding Video Recording of Statements)

Part VVV of Chapter 59 of the Laws of 2017 amended Section 60.45 of Criminal Procedure Law and Section 344.2 of the Family Court Act effective April 1, 2018, applying to confessions, admissions, or statements made on or after such effective date.

In summary:

- In accordance with Criminal Procedure Law (CPL) Section 60.45(3), the entire Custodial interrogation by a public servant at a detention facility must be video recorded, including the giving of any required advice of the rights of the individual being questioned and the waiver of any such rights.
- Qualifying Offenses – Recording requirement applicable for any interrogation involving Class A-I non-drug felonies, Class A-II felony offenses defined in Penal Law (PL) §§130.95 and 130.96 (Predatory Sexual Assault and Predatory Sexual Assault Against a Child), violent B felonies codified in PL Article 130 (sex offenses), and violent B felonies codified in PL Article 125 (homicide and related offenses).
- No confession, admission or other statement shall be subject to a motion to suppress pursuant to CPL Section 710.20(3) based solely upon failure to video record such interrogation in a detention facility. However, where the People offer into evidence a confession, admission, or other statement made by a person in custody with respect to his/her participation or lack of participation in any aforementioned qualifying offense, that has not been video recorded, the court shall consider the failure to record as a factor, but not as the sole factor, in accordance with good cause exceptions, in determining whether such confession, admission or other statement shall be admissible. In the event the court finds that the People have not shown good cause for the non-recording of the confession, admission, or other statement, but determines that the non-recording is admissible because it was voluntarily made, then upon the request of the defendant, the court must instruct the jury that failure to record, where required may be weighed as a factor, but not as the sole factor, in determining whether the confession, admission or other statement was voluntary made, or was made at all.
- Good Cause Exceptions - Notwithstanding requirements noted above for qualifying offenses, upon a showing of good cause, by the prosecutor, the custodial interrogation need not be recorded. Good cause shall include, but is not limited to:
 - equipment malfunction
 - unavailability of equipment because it is already in use
 - when statements are made in response to questions that are routinely asked during arrest processing
 - when statement is spontaneously made by the suspect and not in response to police questioning

- when the interviewer is not aware that a qualifying offense has occurred
 - when statement is made at a location other than the “interview room” because the suspect cannot be brought to such room (e.g. the suspect is in a hospital or out-of-state and that state is not governed by a law requiring recording of an interrogation)
 - when the suspect refuses to participate in the interrogation if it is recorded, and appropriate effort to document is made
 - when an inadvertent error or oversight occurs which is not the result of any intentional conduct by law enforcement personnel
 - when it is law enforcement’s belief that the recording would jeopardize the safety of any person or reveal the identity of a confidential informant
 - when the statement is made at a location (which shall include those locations specified in Family Court Act (FCA) §305.2(4)(b)) not equipped with a video recording device and the reason for using that location is not to subvert the intent of the law
- Video recording as required by CPL§60.45(3) shall be conducted in accordance with standards established by rule of the Division of Criminal Justice Services.
 - Applicability to FCA interrogations of certain juveniles- In accordance with FCA §344.2(3), when a juvenile is subject to custodial interrogation by a public servant at a facility specified in FCA §305.2(4), the entire custodial interrogation, including the giving any required advice of the juvenile’s rights being questioned, and the waiver of any such rights, shall be recorded and governed in accordance with CPL§60.45(3)(a)-(e).

*The term “detention facility” shall mean a police station, correctional facility, holding facility for prisoners, prosecutor’s office or other facility where persons are held in detention in connection with criminal charges that have been or may be filed against them.

Appendix: Offenses Requiring Videotaping Pursuant to CPL §60.45 and FCA §344.2

Part VVV of Chapter 59 of the Laws of 2017 amended Section 60.45 of Criminal Procedure Law and Section 344.2 of the Family Court Act effective April 1, 2018, applying to confessions, admissions or statements made on or after such effective date.

The following are the offenses requiring videotaping pursuant to CPL §60.45 and FCA §344.2:

§105.17 conspiracy in the first degree

§125.20 manslaughter in the first degree

§125.22 aggravated manslaughter in the first degree

§125.25 murder in the second degree

§125.26 aggravated murder (includes attempt)

§125.27 murder in the first degree (includes attempt)

§130.35 rape in the first degree

§130.50 criminal sexual act in the first degree

§130.70 aggravated sexual abuse in the first degree

§130.75 course of sexual conduct against a child in the first degree

§130.95 predatory sexual assault

§130.96 predatory sexual assault against a child

§135.25 kidnapping in the first degree

§150.20 arson in the first degree

§460.22 aggravated enterprise corruption

§490.45 criminal possession of a chemical weapon or biological weapon in the first degree (includes attempt)

§490.55 criminal use of a chemical weapon or biological weapon in the first degree (includes attempt)

[End of Application]