

12.539 USE OF DEPARTMENT ISSUED TRANSMITTING AND RECORDING DEVICES

References:

Procedure 12.131 – Confidential Informant Management and Control
 Manual of Rules and Regulations: 1.02, 1.16, 1.21, 1.31, 7.01, 7.04
 Ohio Revised Code 2933.51-66 – Wiretapping, Electronic Surveillance
 Title 47 Code of Federal Regulations, Part 90.20
 Title XVIII U.S. Code, Section 2511 – Interception of Wire, Oral, and Electronic Communications

Definition:

Transmitting and Recording Devices - include any device or system, normally designed for concealed wear on the body capable of transmitting, receiving, and/or recording oral communication.

Purpose:

To provide for the safe, legal, and effective use of Department issued transmitting and recording devices.

To ensure access, use, and storage of this equipment is properly managed.

To ensure officers are properly trained in the operation of these devices and have knowledge of the state and federal laws governing their use.

Policy:

Officers operating transmitting and recording devices must strictly adhere to all laws regulating their use. Officers must be aware at least one party to a conversation must consent to its recording and/or transmission in the absence of an interception search warrant pursuant to O.R.C. 2933.53, Application for Interception Warrant.

Officers certified under O.R.C. 2933.64, Training in Legal and Technical Aspects of Wiretapping and Electronic Surveillance, may apply for a court order authorizing the use of a concealed transmitter or recorder without a consenting party present.

Officers will only use these systems during official investigations and with prior supervisory approval.

Each District/Section/Unit that utilizes transmitting and recording devices will establish a Standard Operating Procedure (SOP). The SOP will provide unit specific information and instruction regarding the control, operation, and storage of the system.

Procedure:

A. Training:

1. Permit only personnel trained in the use of transmitting and recording devices to operate the equipment.
 - a. This training will be specific to the type and model of transmitting and recording device used by that District/Section/Unit.

2. Each District/Section/Unit will maintain a list of trained personnel.
- B. Operational and Officer Safety Considerations:
1. Conduct an operational test of the transmitting and recording device before each use.
 2. During field operations, a minimum of two officers is needed.
 - a. One officer will monitor the transmissions.
 - b. One officer will relay information to other officers on the surveillance as necessary.
 3. The transmitter may be worn by a confidential informant (CI) subsequent to completion of a Form 281, Concealed Transmitter and Recording Consent.
 - a. The transmitting or recording device transmitter should be worn whenever possible.
 5. If the transmitter cannot be worn on the body, the consenting party must be close enough to the transmitter to overhear any conversation it may pick up.
 6. A transmitter or recording device cannot be left unattended in the **ON** position.
 - a. Conversations recorded without the consent of at least one party to that conversation are not admissible in court and may subject the offender to criminal prosecution.
- C. Storage:
1. Store transmitting and recording device equipment in a locked office or locker accessible only by a supervisor or his designee.
 - a. Remove all batteries from the equipment before storage.
 2. Complete an entry in the Transmitting and Recording Device Log located in the equipment room. This entry will include:
 - a. Time In/Out
 - b. Name of officer(s) using the equipment
 - c. Signature of supervisor approving the use
 - d. Reason for use
 3. Monthly, a District/Section/Unit supervisor, or his designee, will inspect the transmitting and recording device equipment ensuring it is maintained in a state of operational readiness.
 4. Store any recorded intelligence information separately from all other records. Distribute only to criminal justice agencies on a need to know basis.