

SUBJECT: Surveillance Equipment

EFFECTIVE DATE: February 4, 1988

I. General Policy

- A. The Tactical Crime Suppression Unit (T.C.S.U.) has purchased many pieces of surveillance equipment to insure the safety of the members and aid in the investigation of criminal activity. It is intended that surveillance will be undertaken only in connection with the police departments' law enforcement activities. The surveillance or investigation of persons, groups or organizations which is not reasonably or directly related to such law enforcement activities is prohibited.
- B. It is the policy of T.C.S.U. to work with all agencies, both members and non-members, toward the goal of detecting, investigating and resolving criminal matters. Agencies that would benefit from the use of T.C.S.U. equipment will be permitted to borrow equipment under the following guidelines:
 - 1. The head of the agency should make a written request outlining the equipment needed and the purpose of its use, whenever sufficient time is available.
 - 2. An oral request may be made to a T.C.S.U. supervisor by the supervisory officer of the requesting agency if sufficient time is not available.
 - 3. T.C.S.U. operations will take priority over all other operations when T.C.S.U. equipment is needed.
 - 4. The use of TCSU equipment must not conflict with federal or state laws.
 - 5. All TCSU equipment should be tested and checked prior to its removal from the TCSU Equipment Storage Facility to insure that it is in good working order. All equipment should be re-tested prior to its return.
 - 6. All equipment must be installed and disassembled by trained personnel. The TCSU Technical Equipment Agents shall periodically monitor the entire operation.
 - 7. Any evidence collected must be documented and submitted to the collecting agency's property room.

II. Procedures

- A. No permission or consent is necessary when installing or utilizing concealed video equipment in a place where persons to be monitored have no reasonable expectation of privacy. Examples include, but are not limited to, public parking lots, city streets and sidewalks, parks and shopping center common areas.

- B. When installing or utilizing concealed video equipment in a place where persons to be monitored have or may have a reasonable expectation of privacy, the following applies:
 - 1. Permission must be granted from at least one person to be monitored, be that a police officer, an individual acting as an agent for the police, or (informant).
 - a. When monitoring a police agent or civilian, that person must sign a form giving consent to be monitored and releasing T.C.S.U. and its agents from liability.
 - b. When monitoring the interior of a place of business or public facility where a reasonable expectation of privacy may exist, the consent form will be completed by the person in charge of that business or facility. In this situation, the equipment may only be installed in areas that have unrestricted access by the public or other employees. These areas include, but are not limited to, cash register locations, office areas that are shared by a number of employees, and restaurant eating and cooking areas.
 - 2. A motel room is considered a private residence for purposes of this order and permission must be obtained from the renter of the room.
 - 3. The person to be monitored must sign an agreement stating he/she will remain in the monitored area while any non-consenting person is in that area.
 - 4. Should a non-consenting person be left in a monitored area without the presence of a consenting party, agents or officers monitoring will disable all monitoring and recording equipment immediately. The equipment may be reactivated when the consenting person returns to the monitored area.

- C. If it is necessary to install surveillance equipment in areas where a reasonable

expectation of privacy may exist, such as public restrooms or private business offices, and persons to be monitored have NOT given consent, the following applies:

1. The agent will obtain a court order or search warrant to install the equipment.
 - a. TCSU Agents will comply with their agencies requirements for obtaining a court order.
2. The agent's supervisor will be kept up to date about the status of the surveillance.
3. A status report will be submitted by the applying agent upon completion of the surveillance.

III. Legal Considerations

- A. In addition to meeting the usual procedural and substantive requirement for the issuance of a court order or search warrant, courts have required these additional steps be taken:
 1. The judge issuing the warrant must find that normal investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed.
 2. The court order or search warrant must contain a particular description of the type of activity sought to be videotaped, and a statement of the particular offense to which it relates.
 3. The court order or search warrant must not allow the period of interception to be longer than is necessary to achieve the objective of the authorization, or in any event longer than thirty days. Extensions are possible in extreme instances.
 4. The court order or search warrant must require that the interception be conducted in such a way as to minimize the interception of communications not otherwise subject to interception.

- B. If video equipment is used to enhance what the viewer could not otherwise see (i.e., using a zoom lens to see into an area where a subject has a reasonable expectation of privacy), the surveillance is a search, and a court order or search warrant must be

obtained unless the situation presents a recognized exception to the warrant requirement.

- C. Disabling the video equipment during the absence of the consenting party may protect against claims that the search violates the Fourth Amendment, but could make the film vulnerable to suppression on a theory that it is incomplete and unfairly selective in what was filmed.
- D. While no permission or consent is necessary for installing and utilizing concealed video equipment where no reasonable expectation of privacy exists, if an agent plans to use the audio component of the video equipment to monitor or tape the conversation, he must comply with ORC 2933.51 and federal laws under Title 18 United States Code (USC) 119.
- E. If an expectation of privacy exists, for example, in a private office, video surveillance is a search, and the court order or search warrant requirement exists. The person in charge of a business or facility cannot consent to a search of an area in which another person (even an employee) has a reasonable expectation of privacy.

IV. Violations of This Policy

When a T.C.S.U. Technical Equipment Agent determines that any portion of this policy is being violated, he shall immediately disassemble and remove the equipment or cause the equipment to be disassembled and removed. He shall then notify his supervisor of the violation, and the supervisor shall then notify the T.C.S.U. Director. The T.C.S.U. Director shall notify the Chairman of the Board of Directors.

Revised August 2006

Director Charles J. Gift