



Consensual Monitoring

I. PURPOSE

To establish procedures to ensure that electronic interceptions conducted by the Ridgely Police Department employees are in accordance with Federal and State Statutes. The recording of a conversation between the victim and the perpetrator can benefit both law enforcement and the victim.

II. POLICY/PROCEDURE

It is the policy of the Ridgely Police Department that any employee utilizing the digital recording equipment; be properly trained on the equipment. Training on the equipment and authorization to use the equipment, will be done through the Chief of Police. The equipment is required to be stored in a locked, secure location. Furthermore, the equipment used must be must licensed through the Maryland State Police Licensing Division.

1. Background-

- a. A judicially approved intercept of any wire, oral, or electronic communication is constitutionally permissible if conducted under rigid controls of the Fourth Amendment of the Constitution of the United States.
- b. The Federal Statue, Title 111, US Code, regulating the use of the electronic surveillance by federal officials, permits state law enforcement officials to conduct electronic communication intercepts in accordance with federal standards.
- c. The State of Maryland, in the Courts and Judicial Proceedings Article, Title 10, Subtitle 4, Sections 10-401 through 10-414; Subtitle 4A, Sections 10-4A-01 through 10-4A-08; and Subtitle 4B, Section 10-4B-01 through 10-4B-05, also allows judicially approved wire, oral, and electronic communication intercepts, but under strictly delineate protection against surreptitious eavesdropping and communication interceptions.

2. Consensual Monitoring- An investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, electronic communication to obtain evidence of the commission of one of the qualifying crimes, where the person is a party to the communication or one of the parties to the communication has given prior consent to the interception.

General Order No. 6-5 (Cont.)

3. In 2008, the General Assembly amended the Wiretapping and Electronic Surveillance Statute (MD Statute Ann. Criminal Law 10-402 et. al.). The following criminal offenses fall under the statute that allows monitoring; as long as one of the parties to the communication has given prior consent to the interception:

- (1) Murder
- (2) Kidnapping
- (3) Rape
- (4) First or Second Degree Sex Offense
- (5) Child Abuse
- (6) Child Pornography as defined under 11-207 or 11-208 of the Criminal Law Article
- (7) Gambling
- (8) Robbery under 3-402 or 3-403 of the Criminal Law Article
- (9) Where any person has created a barricade situation and probable cause exists for the law enforcement officer or investigator to believe a hostage or hostages may be involved.
- (10) Any Felony punishable under the "Arson and Burning" subheading of Title 6, Subtitle 1 of the Criminal Law Article
- (11) Bribery
- (12) Extortion
- (13) Dealing in Controlled Dangerous Substances, including violations of 5-617 or 05-619 of the Criminal Law Article. 5-617 or 5-619 only to apply to consensual monitoring and not to court authorized interceptions (wiretaps) as described in CJP 10-406.
- (14) Fraudulent Insurance Acts, as defined in Article 27, Subtitle 4 of the Insurance article
- (15) An offense relating to destructive devices under 4-503 of the Criminal Law Article
- (16) Any conspiracy or solicitation to commit any of these offenses
- (17) Telephone solicitation theft (wire or electronic communication only)
- (18) The interception of oral communications is permitted during the course of a criminal investigation where there is reasonable cause to believe that an officer's safety may be in jeopardy. Communications intercepted under this circumstance **may not be** recorded, and **may not be used against the defendant** in a criminal proceeding.

4. All recorded material will be labeled to include the date and time of the recording and the case number. The recorded material will be downloaded into the case report.

5. All calls made, whether or not the perpetrator was reached, will be documented. Notes during the call should be taken and will be retained as evidence.

6. A Consensual Monitoring Consent Form will be completed.