



# Surveillance Use Policy

## Covert Audio Recording Devices (Record Only)

### San Diego Police Department

## PURPOSE

The San Diego Police Department utilizes covert audio recording devices (record only) to create objective real-time recordings to develop and further investigations.

## USE

Covert audio recording devices (record only) are concealed pieces of equipment capable of recording audio data occurring within range of the microphone. The recording devices currently being used by SDPD are manufactured by Nagra and Oculus. The device is housed in such a way that the identity of the device is not immediately recognizable or is hidden or otherwise concealed. The devices capture valuable evidence by creating contemporaneous and objective audio records during undercover law enforcement operations. Any use of this technology must be in compliance with all applicable laws, and must be for official law enforcement purposes only. Personal use of this technology is prohibited.

When a covert audio recording device (record only) is requested by a San Diego Police Department member, a Special Equipment Technician of the Robbery Unit will be assigned the request. The technician will speak with the SDPD member to fully understand the mission and how the device will be used. The request will be evaluated for equipment suitability and legal standing. If equipment deployment is appropriate, a request form will be completed stating the crime being investigated and who will have access to the device. The request form will then be reviewed for approval by a Robbery Sergeant and the Robbery Lieutenant.

Once the SDPD member completes the investigation using the covert audio device (record only) it will be returned to the Robbery Unit. The Robbery Unit will download the required audio recordings and provide them to the assigned SDPD member for evidence as per D.P. 3.02 Impound, Release, and Disposal of Property Evidence and D.P. 3.26 Media Evidence Recovery and Impounding / Preserving Procedures. However, devices may be issued to a specific SDPD member on a permanent basis to facilitate logistical issues associated with needs arising during off-hour and short-notice deployments.

Department procedures associated with covert audio recording devices are:

- 3.02 - Impound, Release, and Disposal of Property Evidence
- 3.26 - Media Evidence Recovery and Impounding/Preserving Procedures.

## DATA COLLECTION

The covert audio recording devices are manually operated and record directly onto the audio recording device. Once the recording and the investigative operation is complete, the device will be returned to the Robbery Unit and the device's audio files will be downloaded to an external media device for impound per D.P. 3.02 Impound, Release, and Disposal of Property Evidence and D.P. 3.26 Media Evidence Recovery and Impounding / Preserving Procedures.

The audio recording device will capture the audio of the surrounding area of the device. The devices will only be activated when needed in an investigation. The devices do not have any filtering capabilities and the audio files are saved as complete and whole to provide to the District Attorney and used in the



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discovery process as detailed in the California Evidence Code. If an audio file is created inadvertently, the data will be deleted by the assigned investigator.

## DATA ACCESS

Personnel authorized to use covert audio recording devices or authorized to access the data using such equipment shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated captains, lieutenants, sergeants, officers, detectives, and police department personnel unless otherwise authorized.

## DATA PROTECTION

The covert audio recording device has local memory and is always in the possession of an authorized user during the use or deployment. Those authorized to have access to the data can listen from the device with the required software, hardware, and drivers to be able to retrieve the recorded audio files.

After the use of the device, the audio file that was created is downloaded onto an external media device, by an authorized user, to be impounded, controlled and regulated per D.P. 3.02 Impound, Release, and Disposal of Property Evidence and D.P. 3.26 Media Evidence Recovery and Impounding / Preserving Procedures.

## DATA RETENTION

Once the authorized user has impounded the audio file physically, evidence retention is the responsibility of the SDPD Property Unit, and all such evidence is controlled and regulated by DP 3.02 Impound, Release, and Disposal of Property Evidence. After the audio file is impounded, the memory of the device will be erased, and no audio files will be on the device before it is returned to the Robbery Unit.

## PUBLIC ACCESS

The public has no access to the covert audio recording device or any audio data it may collect.

Once the authorized user has impounded the audio file physically, evidence retention and access is the responsibility of the SDPD Property Unit and all such evidence is controlled and regulated by SDPD Procedure 3.02 – Impound, Release, and Disposal of Property, Evidence and Articles Missing Identification marks.

## THIRD PARTY DATA SHARING

Audio files may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes, which includes criminal investigations and prosecution as allowed by law. The audio files will not be used in immigration enforcement.

## TRAINING

Individualized training is provided to new users by members of the Robbery Unit upon being issued their first device or when first granted access. The training will include a review of this policy as well as legal consideration for its use. Familiarity on operation and placement is also provided by members of the Robbery Unit.



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## AUDITING AND OVERSIGHT

Personnel who are authorized to use the covert audio recording device (record only) shall ensure that their access and use of the device complies with the Surveillance Ordinance.

The request forms shall be retained in the Robbery Unit and log who has access to the covert audio recording device, who was issued a device, and for what purpose. The request forms shall be available for presentation for all required internal and external audits, and oversight will be maintained by the system Program Manager or their designee.

## MAINTENANCE

The San Diego Police Department shall maintain robust security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect the covert audio information from unauthorized access, destruction, use, modification, or disclosure.

The Robbery Unit shall maintain the covert audio recording devices.