

# FOSTER CITY POLICE DEPARTMENT

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INDEX AS: Audio Recordings; Radio and Telephone Logging

## **I. PURPOSE**

The purpose of this order is to establish guidelines for the use of digital/analog recordings and the monitoring and copying of recordings from the logging recorder system used to record radio and telephone activity in the Communications Center as well as other locations within the Police facility.

## **II. POLICY**

The policy of this Department is to allow officers to record duty related interactions with the public (per PC 633). To further the Department's public safety mission, all radio transmissions and telephone calls made into and out of the City's Communications Center shall be recorded on a digital logging system. These recordings shall be maintained pursuant to applicable City, State and U.S. Government codes. The monitoring of communications recorded on the digital logging system shall only be conducted based upon a legitimate business need. Only designees of the Chief of Police may download, copy, and/or send outside of the Department communications maintained on the digital logging system or as evidence. Secret recordings of communications between Department employees are prohibited, unless otherwise permitted by this order.

## **III. PROCEDURE**

### **A. Conditions permitting the recording of conversations.**

**The recordings of conversations are authorized under the following conditions:**

1. During a criminal investigation at the discretion of the investigating officer. The recording of any communication shall be done in compliance with section 633 of the California Penal Code.
2. Surreptitious recordings may be conducted pursuant to a Court Order to investigate significant criminal incidents whereby the circumstances require such an action; and, the written authorization of the Chief of Police has been obtained prior to any such recording.
3. During administrative investigations.
4. Telephone conversations between an employee and a non-employee when the employee believes the recording is in the best interest of the Department and/or City

5. All radio transmissions and telephone calls made into and out of the City's Communications Center shall be recorded.

6. The secret recording of conversations between employees is prohibited, unless otherwise permitted by this order.

B. Investigation related recordings using portable recording devices:

1. Officers using a recorder should inform other officers when the recorder is in use during a criminal investigation.

2. The review for evidentiary value, either incriminating or exculpatory, will be the responsibility of the investigating officer.

3. When a recording contains evidence, it will be handled just as any other evidence. Digital recordings will be downloaded into the digital data management system. Analog taped recordings will be appropriately labeled and booked into evidence with a property tag. The property tag should indicate the case number, the type of report (i.e. 459 PC, traffic stop, citizen complaint, etc.), date of the recording, and the name of the subject(s) interviewed.

a. When a recording is used in the course of an investigation, and treated as evidence, it will be noted in the investigating officer's report.

4. When a recording is not deemed to contain evidence, the investigating officer will maintain control of the recording until any or all required reports are approved. The officer will then have the option of either booking the tape, or downloading to the digital data management system, or destroying the recording.

a. When a recording is used in the course of an investigation, and is not booked, the investigating officer will explain this action in his report.

5. Recommended usage of digital/analog tape recorder other than during criminal investigations:

- Contact with hostile persons (potential complaint)
- Traffic stops
- FI's
- Consensual contacts, etc.

### **C. Voice Logging System**

1. The Records and Communications Manager will maintain the recording and the back-up systems according to established protocols and system requirements.

2. Access to the voice logging system will be as follows:

a. All access to the voice logging system is traceable and subject to management audit.

- b. All Department personnel must have a legitimate business need to review recorded communication.
- c. Sergeants may listen to all radio communication, recordings made on their personal desk phone or the phones in the Watch Commanders' office, and the phone lines recorded in the dispatch center.
- d. Dispatch personnel may listen to all radio communication and all phone lines recorded in the dispatch center.
- e. Department management may listen to any recorded communication.
- f. Fire Department managers may listen to any recorded communication related to an incident involving the Fire Department. This will be coordinated through the Records and Communications Manager or the Dispatch Specialist.
- g. All personnel may listen to any radio communications.
- h. Those personnel who have access to "record on demand," may listen to those recordings that they make at their desk.
- i. Recordings made using the general record feature, which can be accessed from any internal phone, may be reviewed by any employee.
- j. All other personnel having a legitimate business need to review recorded communications shall make a request to the Records and Communication Manager or Dispatch Specialist, via their Division Captain.

### 3. Duplicating or releasing recorded communications outside of the Police Department:

- a. The Records and Communications Manager, Division Captains, and the Chief of Police may duplicate or release recorded communication based on legitimate business need. The Dispatch Specialist may also duplicate recordings under the direction of any of the above listed personnel.
- b. Requests for copies of communications recorded in the voice logging system shall be made using the approved request form. The request shall be made by a Department supervisor and forwarded to the Records and Communications Manager or Dispatch Specialist who shall be responsible for duplicating the file.
- c. In the absence of the Records and Communications Manager and the Dispatch Specialist, a Division Captain or the Chief of Police may duplicate the recording. In this case, the Tape Recording Request form shall be completed and a notation made that the copy has been made, and the form forwarded to the Records and Communications Manager.
- d. Requests for saving of recordings, or copies of recordings for court purposes shall be submitted in writing by either the investigating officer, a

Department manager or the District Attorney's Office. These requests shall be directed to the Records and Communications Manager.

e. Requests by citizens, other City departments not previously mentioned, or allied agencies for either a copy or monitoring of recorded communications shall submit their request in writing and be cleared through the Records and Communications Manager, a Division Captain, or the Chief of Police prior to completion.

f. Defense attorneys or investigators for defense attorneys who wish a copy of, or desire to listen to a logged recording shall submit their request in writing including a court subpoena or discovery order listing the date, time, and nature of the incident to be copied. Included in that request shall be whether the radio transmissions, phone calls or both shall be copied. The written request shall be submitted to the Records and Communications Manager.

g. The Records and Communications Manager shall ensure that the District Attorney's Office is notified of the defense attorney's request to monitor or copy a logged recording. The requirement for the defense attorney to submit a subpoena or discovery order shall be waived at the request of the District Attorney, or the Chief of Police.

h. Fees may be charged to defense attorneys and non-allied agencies to cover the cost of time and materials to make copies of and/or for preserving of the logged recordings beyond the normal time frame. Determination of such fees to be charged or implemented for these services shall be made by the Records and Communications Manager.

#### **D. Maintenance of recordings**

1. The Records and Communications Manager will maintain all telephone and radio recordings as per applicable Government Code sections.

2. When a recording is maintained in the Department for any business reason, the recording will be maintained indefinitely, regardless of its evidentiary value, unless a court order or property disposal notice is received, or other special circumstance exists.

APPROVED:

CRAIG COURTIN  
CHIEF OF POLICE