

Geneva Police Department GENERAL ORDERS		SURVEILLANCE OPERATIONS	
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I. PURPOSE	The purpose of this General Order is to establish policies and procedures for conducting surveillance operations by officers of the Geneva Police Department.
II. DEFINITIONS	<p>A. <u>Surveillance:</u> The secretive observation of persons, vehicles, places or objects for the purpose of gathering information concerning criminal activities and/or the identity of criminal perpetrators. Surveillance is generally categorized as the following:</p> <ol style="list-style-type: none"> 1. <u>Cover Surveillance:</u> Surveillance used primarily to protect an undercover Officer or confidential informant, and to corroborate their testimony. 2. <u>Electronic Surveillance:</u> Electronic, mechanical, or other devices used to intercept wire, oral, cellular, digital, or computer communications. Such devices include but are not limited to telephone, telegraph, computer and other communications that may be intercepted or “bugged” (placing a recording and/or transmitting device to intercept, broadcast or record conversations), and video surveillance. 3. <u>Intelligence Surveillance:</u> Surveillance where Officers attempt to gather information about a crime, activity, location or person(s). <ol style="list-style-type: none"> a. Locations for stationary surveillance should permit for maximum observation of all entrances/exits to the location being surveyed. 4. <u>Moving Surveillance:</u> Surveillance in which Officers follow a subject on foot or in a vehicle. 5. <u>Post-Event Surveillance:</u> Surveillance used to continue intelligence gathering, to determine the actions of a subject(s) following an event (e.g., drug buy) or following contact with an undercover Officer or confidential informant, to determine where a cash payment goes after a drug buy, to identify other suspects or associates, and other additional pertinent information. 6. <u>Pre-Event Surveillance:</u> Surveillance which is used to gather intelligence which may be useful to Officers who may later become involved in law enforcement operations (e.g., undercover activity, drug buy, warrant execution, etc.). This may include suspect identification, patterns of movement, associations, general layout of an area or location, vehicles used by suspects, weapons at location, etc. <ol style="list-style-type: none"> b. Private residences may be used for stationary surveillance with prior approval of the Chief of Police and written consent of the owner. 7. <u>Stationary Surveillance:</u> Surveillance in which Officers observe a person(s), place or object from a fixed point.
III. POLICY	<p>A. It is the policy of the Geneva Police Department that all surveillance operations beyond routine observations, be conducted upon authorization of a supervisor unless a higher level of authorization is required by this Order. <i>See §VII</i></p> <p>B. Surveillance operations will be documented in accordance with the procedures as set forth in this Order.</p>

<p>III. POLICY (CONT.)</p> <p>IV. SURVEILLANCE OBJECTIVES</p> <p>V. RESPONSIBILITY OF PERSONNEL</p>	<p>C. Personnel will adhere to all applicable Federal and State laws governing the use of electronic surveillance devices.</p> <p>A. Surveillance Operations may be conducted in order to:</p> <ol style="list-style-type: none"> 1. Protect undercover officers and confidential informants and to corroborate their testimony; 2. Obtain evidence of criminal activity; 3. Locate persons or suspects by watching their haunts or associates; 4. Corroborate the reliability of informants; 5. Locate hidden property, contraband or evidence; 6. Obtain probable cause for obtaining arrest and search warrants or electronic surveillance orders; 7. Prevent the commission of a crime or to apprehend a subject in the commission of a crime; 8. Obtain information that will be useful in the interrogation of a suspect; 9. Develop leads and information received from other sources; 10. Know the location of an individual at all times; 11. Protect a potential victim; 12. Obtain admissible evidence that can be used in court; 13. Determine if further investigation is warranted; 14. Obtain information that will be useful in conducting a tactical operation, (e.g., search warrant execution). <p>A. Whenever surveillance operations beyond routine observations are conducted, the Supervising Officer shall be responsible for the following:</p> <ol style="list-style-type: none"> 1. Carefully plan the operation in advance; 2. Analyze the types of crimes and victims involved; 3. Identify and analyze the suspect(s) targeted by the operation, (e.g., suspect's haunts, associates, vehicles, methods of operation, habits, potential for violence, weapons, routes traveled, etc.); 4. Determine whether any other law enforcement agency may also be conducting surveillance or otherwise investigating the same subject, location, or activity. If so, the Supervisor will coordinate with the other agency to ensure safety and maximum effectiveness of resources; 5. Determine which surveillance technique will be utilized; 6. Select and organize the surveillance team; 7. Decide whether photographs and/or video tape will be taken during the surveillance; 8. Establish procedures for communication; 9. Brief each member of the surveillance team, including: <ol style="list-style-type: none"> a. Objective of the surveillance; b. Location(s) of the surveillance;
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**V.
RESPONSIBILITY
OF PERSONNEL
(CONT.)**

- c. Any anticipated difficulties, (e.g., counter-surveillance);
 - d. How and when to report to the supervisor;
 - e. Maintenance of surveillance reports, etc.
10. Provide photographs, videos or diagrams; and
11. Secure and supply surveillance team members with necessary vehicles, supplies and equipment.

B. Officers assigned to a surveillance operation are responsible for the following:

- 1. Become familiar with all available information including information relayed by the surveillance Supervisor;
- 2. Dress appropriately for the type and location of the surveillance operation, to blend in as much as possible with the surroundings;
Note: All plainclothes personnel will have their issued Department identification, badge and handgun on their person and readily accessible.
- 3. Secure necessary vehicles, supplies, and equipment;
- 4. Take notes and complete post-surveillance reports;
- 5. Inform the Supervisor of important information.

**VI.
DOCUMENTATION**

- A.** All surveillance operations will be documented in a Supplemental Report under the appropriate Case numbers.
- B.** Depending upon the nature of the surveillance, officers may also complete a surveillance log.
- C.** Information that should be documented includes but is not limited to the following:
- 1. Identity and/or detailed descriptions of persons observed;
 - 2. Detailed descriptions of vehicles observed;
 - 3. Date, time, and location of observations;
 - 4. Weather conditions at the time of observation;
 - 5. If applicable, lighting conditions at the time of observation;
 - 6. The approximate distance between the observation point and the site of the activity, and any obstructions; and
 - 7. Description of any activity observed.

**VII. SPECIAL
SITUATIONS**

- A.** There may be situations in which surveillance is conducted under circumstances that indicate there is a risk of armed confrontation or other violence. Examples of such situations include:
- 1. Surveillance of subject(s) who are armed or who are expected to arm themselves;
 - 2. Surveillance for the purpose of locating and apprehending a suspect in a violent crime or who may be armed or otherwise dangerous; and
 - 3. Surveillance to detect and intervene in a crime involving a weapon or other violent means.

VII. SPECIAL SITUATIONS (CONT.)

VIII. ELECTRONIC SURVEILLANCE

- B.** When such a surveillance operation is anticipated, the following procedures will apply:
1. Approval for the operation must be obtained from the Chief of Police or in his absence the ranking Lieutenant; and
 2. Depending on the circumstances, the approving authority may request assistance of other law enforcement agencies in cases where such assistance is deemed necessary.

A. Court Ordered Electronic Surveillance

1. Geneva Police Department (GPD) personnel wishing to obtain a court order to intercept, monitor, or overhear telephone conversations of any kind, including cellular, cordless, or portable telephone conversations, video surveillance, e-mail or other computer-based communication or any other form of electronic surveillance, must submit a written request through the chain-of-command to the Lieutenant/Detective Bureau (LT/DB) Lieutenant/Uniform Force (LT/UF), and the Chief of Police. The request will contain, at a minimum, the following information:
 - a. A synopsis of the case or investigation for which the court order is being requested, including a description of the targets, their criminal activity, and anticipated charges resulting from the investigation;
 - b. The type of electronic surveillance sought to be authorized;
 - c. A statement as to why electronic surveillance is necessary and why other investigative means have not or are not likely to accomplish the desired investigative result;
 - d. The anticipated length of the electronic surveillance, facility needs, equipment needs, staffing needs, other associated expenses, etc.;
 - e. A written statement from the Ontario County District Attorney (D.A.) that the D.A. has reviewed the case and concurs in the utilization of electronic surveillance and will provide legal and prosecutorial support as needed; and
 - f. Reporting, documentation, tapes/evidence storage, and other operational requirements.
2. Upon approval of the Chief of Police the assigned personnel will prepare the application and other necessary paperwork and documentation to request the appropriate court order. Personnel will consult with the assigned prosecutor for guidance and assistance in preparing this paperwork.
3. Upon completion of the paperwork for an application for a court order, all paperwork will be submitted to the Chief of Police for final review and approval. The Chief of Police must approve the application in writing prior to its submission to the court.

Note: Except as set forth below GPD personnel may not actually apply for a court order for electronic surveillance without prior written authorization of the Chief of Police.

4. When it reasonably appears that any delay in commencing electronic surveillance may endanger the safety of a person, or result in the loss of an unusual and significant enforcement opportunity, the Chief of Police may verbally approve an immediate application for court-ordered surveillance. In such cases the supervising officer will submit the required documentation to the Chief of Police within forty-eight (48) hours of the commencement of the surveillance unless directed otherwise by the Chief of Police.

VIII. ELECTRONIC SURVEILLANCE (CONT.)

5. The Chief of Police will designate a supervisor to be responsible for each approved court-ordered electronic surveillance to directly supervise the operation. This designated Supervisor will make regular reports on the status of the electronic surveillance to the Chief of Police and any other personnel designated by the Chief of Police. The Chief of Police will determine the reporting interval on a case-by-case basis. The following will be reported immediately to the Chief of Police by the assigned Supervisor:
 - a. Any compromise or unauthorized disclosure of the electronic surveillance;
 - b. Any significant equipment failure that threatens the electronic surveillance;
 - c. Any violation of the court order or department-mandated procedures, or improper or unauthorized use of electronic surveillance equipment;
 - d. Any loss, theft, destruction, modification, or unauthorized access to any audio or video recordings produced; or
 - f. Any other matter which, in the judgement of the responsible Supervisor, should be reported immediately to the Chief of Police.
6. In conducting court-ordered electronic surveillance GPD personnel will adhere to all legal requirements and the requirements of the court order.
7. Upon approval by the Chief of Police GPD personnel may participate in court-ordered electronic surveillance operations with other law enforcement agencies.

B. Electronic Surveillance without a Court Order

1. GPD personnel wishing to intercept, monitor, or overhear any telephone conversation, including cellular, cordless, or portable telephone conversations, or any electronic communication (e.g., e-mail) without a court order **must have the voluntary consent of at least one party to the conversation or communication.** In such cases personnel will adhere to the following procedures:
 - a. The consensual monitoring must be approved in advance by the Officer's Supervisor.
 - b. If the person giving consent is a Police Officer, e.g., undercover Officer, such consent will be fully documented in the Officer's report. If the person giving consent is a civilian, e.g., confidential informant, such consent must be in writing and signed by the person giving consent. *See G.O. 725 Confidential Informants Attachment I.*
2. GPD personnel wishing to place a recording, transmitting, or other device to intercept communications ("bug") **must obtain the voluntary consent of a person with the requisite authority over the area to be bugged.** GPD personnel should consult with the District Attorney's Office in making this determination. In the event the voluntary consent of a person with the requisite authority is not obtained a court order must be obtained to authorize the bugging. *See §VIII* above. In consensual cases personnel will adhere to the following procedures:
 - a. The consensual bugging must be approved in advance by the Officer's Supervisor.
 - b. The consent will be documented in writing and signed by the person giving consent. *See G.O. 725 Confidential Informants Attachment I.*

VIII. ELECTRONIC SURVEILLANCE (CONT.)

3. Upon authorization of a supervisor, GPD personnel may conduct video surveillance in an area or location **provided that such surveillance does not infringe on any person's reasonable expectation of privacy under the New York State Constitution or the Constitution of the United States.** GPD personnel should consult with the District Attorney's Office in making this determination. If any person's reasonable expectation of privacy would be infringed a video surveillance warrant must be obtained. *See §VIII* above.

IX. SURVEILLANCE EQUIPMENT

- A. The Department maintains surveillance and undercover equipment for use by GPD personnel in accordance with the law and departmental policy. Personnel will adhere to the following procedures:
 1. The Chief of Police will assign responsibility for the maintenance of surveillance and undercover equipment. This will generally be the Detective Bureau or Drug Enforcement Unit.
 2. The Supervisor of the assigned component of the department will be responsible for the safekeeping, maintenance, and proper use of the equipment.
 3. In the event of malfunction, necessary repair, or other problem, it shall be reported to the responsible personnel who will determine the proper course of action to be taken regarding the equipment.
 4. The responsible Supervisor may authorize the loan of the equipment to another law enforcement agency. In such cases the responsible Supervisor will make sufficient inquiry to ensure that the proposed use of the equipment is lawful and consistent with Departmental policies and procedures, and that the personnel are trained in the use of the equipment requested. In such cases the Supervisor will write up a receipt and will sign along with a representative from the borrowing agency.

Approved By

MICHAEL J. PASSALACQUA
CHIEF OF POLICE