

County of Santa Clara
Office of the District Attorney Annual Use Report
Digital Recorders

January 15, 2019 to August 31, 2019

1. Description

Digital recorders, such as audio digital recorders and video digital recorders, were used only in compliance with the Board-approved Surveillance Use Policy. Specifically, the digital recorders were properly used to capture and create a record of activities and conversations, and to record statements of suspects, victims and witnesses in criminal and administrative investigations. When the digital recorders were used consistent with Board-approved uses, they did capture sound and information regarding certain members of the public who were not suspected of engaging in unlawful conduct.

2. Data Sharing

Investigators in the District Attorney’s Office regularly shared the data collected by the variety of digital recorders with the following: authorized personnel within the District Attorney’s Office, such as attorneys, paralegals, and justice system clerks; law enforcement agencies when relevant to an ongoing specific investigation or prosecution; defense and appellate counsel and pro se litigants pursuant to Penal Code section 1054 et seq and *Brady v. Maryland*.

3. Community Complaints or Concerns

The District Attorney’s Office did not receive any complaints regarding the use of digital recorders during the period covered by this Annual Report.

4. Audits/Policy Violations

There was one formal audit performed during this compliance period. There were no violations of the County-approved Use policy.

5. Effectiveness

The use of digital recorders, as mandated by departmental policy, was effective in serving the intended purpose under the Board-approved Surveillance Use Policy. The data in the form of witness interviews, victim statements, and suspect interviews were used in the DA’s criminal investigations and prosecutions, and were disclosed to defense counsel and defendants as required by law. The use of digital recorders in criminal investigations furthers policies of

fairness, integrity, and transparency by protecting the rights of victims and suspects, which is a particularly effective use of the technology.

6. Public Records Act Requests

The District Attorney's Office received no Public Records Act requests for information collected by digital recorders during the period covered by this Annual Report.

7. Costs Incurred from January 15, 2019 – August 31, 2019

There were no costs incurred during this reporting period. The CALLYO digital recording system, which enables mobile communication among multiple cellphones, requires an annual subscription fee of \$3,900. This fee covers the cost of data storage and access. The subscription is due in December of every year to cover the following year. The subscription fee is paid through the General Fund. There will be future replacement costs for certain recorders, also to be drawn from the General Fund, but those annual replacement costs are not expected to exceed \$1,000.