

County of Santa Clara
Office of the District Attorney
Digital Recorders
Annual Surveillance Use Report
July 1, 2022 to June 30, 2023

1. Description of How the Technology Was Used

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 With Outside Entities

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. Any complaints would be handled as per the Administrative Investigations policy for the Bureau of Investigation.

4. Audits/Policy Violations

The Office deploys one type of digital recording system that is amenable to an audit. That system was audited, and there were no violations of the County-approved Use policy.

All new hires and newly assigned staff were trained on the County's Surveillance Use Ordinance and required SUPs. All current District Attorney's Office investigators received training on the County's Surveillance Use Ordinance and District Attorney's Office investigators electronically read and acknowledged the ordinance and SUPs as required by our Policy & Procedure Manual.

5. Effectiveness In Achieving Identified Purpose

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 was used in the DA's criminal investigations and prosecutions and was 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. Any Public Records requests would be handled as per the policy set for by the District Attorney's Office.

7. Costs Incurred

The costs incurred amounted to \$5,073.61 for the annual subscription fee for the CALLYO digital recording system, which enables mobile communication among multiple cellphones. This fee covers the cost of data storage and access. The subscription fee is paid through the Automotive Insurance Fraud State Grant. During the next reporting period there will be an annual subscription fee of approximately \$5,073.