

**Santa Clara County Office of the Sheriff  
Inmate Telephone Monitoring  
Surveillance Use Policy**

**Santa Clara County  
Sheriff's Office  
Custody Bureau**

## 1. Purpose

The Inmate Telephone Monitoring System (Legacy Long Distance Int'l Inc (Legacy)) records inmate telephone conversations, which are monitored to assess safety and security issues within jail facilities. This system shall be used to help the Sheriff's Office assess risk to the Correctional Facilities based on information shared by inmates during calls that indicate security violations of inmates, introduction of contraband, escape plans, intentions to attack staff or others, attempts to direct or control criminal behavior inside of the facility, or plans to adversely impact the jail's operation.

## 2. Authorized and Prohibited Uses

Signs shall be prominently posted on site in inmate phone areas advising inmates that their telephone conversations are being monitored or recorded.

A. Authorized uses for the Inmate Telephone Monitoring System shall include only the following:

1. Housing Unit/ Intake Booking Phones

- a. Listening to or monitoring in-progress phone calls
- b. Reviewing recorded phone calls
- c. Evidence collection
- d. Other law enforcement, custody, or first responder uses not prohibited by law

2. Non-Contact Visiting Phones

- a. Listening to or monitoring in-progress phone calls
- b. Reviewing recorded phone calls
- c. Evidence collection
- d. Other law enforcement, custody, or first responder uses not prohibited by law

B. All uses not authorized above shall be prohibited. The Inmate Telephone Monitoring System shall not be used for personal or non-official purposes. It shall be used in a legal manner, and shall not be used to harass, intimidate, or discriminate against any individual or group.

C. The Sheriff's Office shall not listen to or record communication known by the listener or recorder to be privileged. Privileged communication shall be defined as attorney-client communication, physician-patient communication, and clergy-penitent communication. Any inadvertent recording of a privileged

communication shall be deleted upon discovery and if the recording has been copied, all copies shall be deleted immediately.

- D. If a phone call is made to the Adult Custody Office of the Ombuds (ACOO), formerly known as the Jail Observer Program, the call shall not be listened to or recorded.

### **3. Data Collection**

- A. It shall be permissible for the following data to be obtained through the inmate telephone monitoring system:

- 1. Housing Unit/Intake Booking Phones

- a. Audio recording
- b. Inmate's booking number
- c. Date and time of call
- d. Number dialed by the inmate
- e. Duration of call
- f. Exact phone the call was placed on
- g. The Housing Unit/ Intake Booking Phones require the inmate to attach his/her booking number to all phone calls. The Inmate Telephone Monitoring System is activated every time a phone call is placed.

- 2. Non-Contact Visiting Phones

- a. Audio recording
- b. Inmate's booking number
- c. Date and time of call
- d. Number dialed by the inmate
- e. Duration of the call
- f. Exact phone the call was placed on
- g. The Non-Contact Visiting Phones require the inmate to attach his/her booking number to all visits. The Inmate Telephone Monitoring System is activated every time a visit begins.
- h. The Non-Contact Legal Phones and TTY hearing-impaired devices shall not record privileged communications.

### **4. Data Access**

- A. Access to the Telephone Monitoring System and audio recordings shall be limited to authorized Sheriff's Office personnel, which includes the Sheriff's Classification Unit, the Sheriff's Intel Unit, and Sheriff's personnel conducting a

specific criminal or administrative investigation; and the contracted phone company (Legacy) for only the purposes of maintaining their System (maintenance, updates, quality control, etc.).

- B. It shall also be permissible for recorded audio to be accessed and listened to through the Legacy management portal by Sheriff's investigators or other personnel granted access by the Sheriff, Sheriff's designee, or the Support Services Captain in writing.

## **5. Data Protection**

The County's contract for telephone monitoring shall require that data from telephone recordings shall be maintained securely. Legacy provides secure hard drives, located at its headquarters in Cypress, California, to securely store all audio recordings captured by the Telephone Monitoring System. The audio recordings shall be made available to the Classification Unit through a secure web-based management portal, hosted by Legacy. All authorized staff with access to the Legacy management portal shall observe all required security measures to ensure that access to the Telephone Monitoring System is limited to authorized personnel only.

## **6. Data Retention**

Audio recordings stored on Legacy's hard drives shall be retained for no longer than two years. At that point, the Legacy management portal shall purge the information. It shall be permissible for data to be downloaded onto an encrypted electronic storage device for the purposes of documentation or evidence. Downloaded and copied data shall be maintained in accordance with applicable state and federal laws, and shall be retained as long as deemed necessary for administrative or criminal investigation and prosecution purposes. All other data shall be retained for no longer than two years.

## **7. Public Access**

Inmate phone call recording shall not be released to the general public. Recordings utilized as evidence in a criminal case may be made public during the course of a public jury trial or pursuant to a Court Order, but shall otherwise remain confidential.

## **8. Third-Party Data-Sharing**

- A. The extraction of audio recordings shall require the submission of an Inmate Telephone Call/Visiting Recording Request Form or subpoena.
- B. The Request Form shall include:
  - 1. Date/time
  - 2. Requesting agency
  - 3. Name, badge, and contact number of requesting officer

4. Associated case number
  5. Inmate name, personal filing number (PFN), and booking number
  6. Range of dates to search
  7. Receiving party's telephone number(s)
  8. Description of the reason for request
  9. Approval by an authorized Classification Deputy and the Classification Lieutenant
- C. The Request Form shall be reviewed and, if approved, signed by the Classification Lieutenant.
- D. It shall be permissible for audio recordings and other Legacy data to be shared with only the following:
1. District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence
  2. Public Defender's Office or criminal defense attorney via the District Attorney's Office pursuant to California discovery laws
  3. Other law enforcement offices as part of a specific criminal or administrative investigation
  4. Parties to civil litigation involving the County, in response to a subpoena or civil discovery
  5. County Personnel Board, arbitrator, or Court regarding a county administrative action or litigation
  6. Other third parties, pursuant to a Court Order

## 9. Training

Training for the telephone monitoring system shall be provided by Sheriff's personnel and shall be limited to staff assigned to the Classification Unit. All Sheriff's Office personnel with access to this equipment shall be provided a copy of this Surveillance Use Policy.

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## 10. Oversight

The Support Services Captain shall ensure the Inmate Telephone Monitoring System is used in compliance with this Surveillance Use Policy. Sheriff's supervisors or administrators shall conduct audits of the system as necessary and at least annually to ensure appropriate use within the directives of this Surveillance Use Policy. The results of non-privileged audits shall be shared with the County of Santa Clara Board of Supervisors in the Annual Surveillance Report provided by the Sheriff's Office each year. If there are privileged audits conducted that reveal any violation of this policy, then the Sheriff or designee shall notify the Office of the County Counsel, and such results may be shared as part of an attorney-client communication to the Board of Supervisors, including in closed session if lawful to do so, at the request of the Board of Supervisors.

Approved as to Form and Legality

 11/3/19

Rob Coelho

Office of the County Counsel