

Santa Clara County Office of the Sheriff

Surveillance Use Policy for Digital Voice Recorders

Approved: 08/28/2018

1. Purpose

Digital Voice Recorders may be issued to Sheriff's Office personnel to record verbal statements of victims, witnesses, suspects and others in criminal and administrative investigations; as well as to record audio of incidents or events being monitored or investigated by Sheriff's Office personnel as part of their law enforcement duties. If a search warrant is legally required in a specific instance, a search warrant shall be obtained.

The Sheriff's Office uses various models of Digital Voice Recorders. The model utilized by the Sheriff's Office shall not have surveillance capabilities beyond the function of a basic Digital Voice Recorder, which shall be to record audio with the ability to save audio files. Current Digital Voice Recorders utilized by the Sheriff's Office include:

- Olympus DM-10;
- Olympus LN-702;
- Olympus LN-722;
- Olympus WS-852.

Digital Voice Recorders with surveillance capabilities beyond digital audio recordings shall be prohibited, unless they are subject to another Surveillance Use Policy that addresses those capabilities. For example, a security camera that also has a digital voice recorder would be subject to the Surveillance Use Policy for that security camera.

2. Authorized and Prohibited Uses

Digital Voice Recorders shall only be used by Sheriff's Office personnel in compliance with this Surveillance Use Policy. Authorized uses for Digital Voice Recorders shall be limited to recording verbal statements of victims, witnesses, suspects and others in criminal and administrative investigations; and recording audio of incidents or events being monitored or investigated by Sheriff's Office personnel as part of their law enforcement duties.

Digital Voice Recorders shall not be used for personal or non-law-enforcement purposes.

3. Data Collection

Digital Voice Recorders shall record audio data and store the data on digital files within the device.

4. Data Access

Access to recorded data shall be limited to Sheriff's Office personnel involved in the criminal or administrative investigation, including Sheriff's Office Executive Command Staff members; and to other county personnel designated by the Sheriff or the Sheriff's

designee to the extent that the Sheriff or the Sheriff's designee determines that access is reasonably necessary for a specific criminal, civil, or administrative investigation or action.

5. Data Protection

Data downloaded from digital voice recorders shall be maintained in a secure, non-public location, such as locations requiring security access or badge access. Login credentials including username and password shall be required to access data retained on the Sheriff's network.

6. Data Retention

Data may be downloaded onto an electronic storage device for purposes of documentation or evidence in a criminal or administrative investigation. Downloaded, copied, and printed data shall be maintained in accordance with applicable state and federal laws and Sheriff's Office policies and procedures. The original data shall be deleted from the Digital Voice Recorders after download no later than 90 days from the original recording.

7. Public Access

Data from Digital Voice Recorders shall be made public or deemed exempt from public disclosure pursuant to state and/or federal law. For public requests for data, the Sheriff's Office shall confer with County Counsel to determine whether the requested data is exempt from disclosure pursuant to the California Public Records Act, or is legally required to be disclosed, and shall respond to requests in compliance with applicable law.

8. Third-Party Data-Sharing

Data-sharing from the Digital Voice Recorders shall be limited to only the following:

- District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- Public Defender's Office or criminal defense attorney via the District Attorney's Office in accordance with California discovery laws;
- Other law enforcement offices as part of a specific criminal or administrative investigation;
- Defendant in a traffic matter, in response to subpoenas issued by the defendant;
- Parties in a civil litigation involving the County, in response to a subpoena or civil discovery;
- County Personnel Board, arbitrator, or Court regarding a county administrative action or litigation;
- Other third parties, pursuant to a Court Order.

9. Training

Training for the operation of the Digital Voice Recorders shall be provided by Sheriff's Office personnel. All Sheriff's Office personnel with access to Digital Voice Recorders shall be provided a copy of this Surveillance Use Policy.

10. Oversight

Division Commanders for divisions utilizing Digital Voice Recorders shall ensure compliance with this Surveillance Use Policy.

Approved as to Form and Legality

 6/19/13

Rob Coelho
Office of the County Counsel

