

County of Santa Clara

Office of the Sheriff

55 West Younger Avenue
San Jose, California 95110-1721
(408) 808-4900



Laurie Smith
Sheriff

March 29, 2019

Max Bosel, President
Santa Clara County Police Chiefs' Association
1000 Villa Street
Mountain View, CA 94041

Dear President Bosel,

Effective April 1, 2019 the Sheriff's Office will no longer require agencies to submit subpoenas or search warrants when requesting certain copies of jail telephone recordings for investigative purposes. This applies to all agencies that have a legitimate business need to obtain specific jail telephone recordings. This policy replaces the previous policy of requiring a search warrant or subpoena after criminal charges had been filed and the subject of the investigation was in the court process. As always, we remain available to immediately assist in an exigent situation.

In October of 2018, the Sheriff's Office Classification Unit implemented a new directive that required a search warrant or subpoena for certain jail telephone call requests. No search warrant or subpoena was required during the investigative phase or when an emergency or exigent circumstance existed. Prior to this October date, the practice was to accept all requests for jail telephone calls and provide them to the requesting party. This October 2018 policy was discussed and agreed upon with a representative of the District Attorney's Office, in part, because it only applied when charges had been filed.

Prior to the October 2018 policy change, the number of requests the Classification unit began to receive per month was in the thousands, and requests even began to be submitted via email or by telephone. These thousands of requests included names, PFNs, CENs, and telephone numbers each of which required individual queries. This policy directive provided the Sheriff's Office with the ability to drastically decrease the magnitude of the requests and required court appearances while providing agencies with a timely response to reasonable investigative inquiries.

This directive was as a result of the significant increase in call requests being submitted by the District Attorney's Office and our inability encourage reasonableness regarding the information requested. The requests submitted by their office totaled more minutes of telephone calls than all other agencies combined. As an example, one requested provided to the District Attorney's Office on October 18, 2018 yielded 81,400 minutes (1,357 hours) of recorded telephone conversations. In addition to the sheer volume of request forms being submitted by this agency, many of the request forms would include multiple telephone numbers and CENs which significantly increased the workload required to complete each request. There were request forms with twenty or more requests per form in an apparent attempt to mask the actual number of requests by claiming one request form equaled one request even though there were multiple names, PFNs, CENs, telephone and pin numbers included on each form.

Doubts were also raised when it was noted that the Reason for the Request submitted by the District Attorney's Office was the same for many of the requests while the names, telephone numbers, CENs, PFNs, and case numbers were different. As an example, on some submissions the Reason for the Request was that the defendant was bailed out by the victim and that the suspect may be in violation of EPRO. However, upon further review it was determined that the release types for those inmates, ranged from time-served, released to a program, and released on OR, but none could be confirmed released in the manner described in the narrative. These inaccuracies were clearly verified through the information contained in booking records.

The policy implemented in October of 2018 successfully limited only the large number of specific requests.

As an example, prior to the implementation of this policy directive for the month of February 2018 the District Attorney's Office submitted 280 individual query requests. Once the policy became effective the requests were reduced to 12 for the month of February 2019.

As an example, prior to the implementation of this policy directive for the month of February 2018 all other law enforcement agencies submitted 62 individual query requests. Once the policy became effective the requests actually increased to 66 for the month of February 2019.

The Sheriff's Office recognizes the evidentiary and investigative value of the jail telephone calls for our partner agencies. However, due to the direct link these jail telephone calls have to jail intelligence and the safety and security of our jail system, the Sheriff's Office Intelligence and Classification Unit is required to process each request and release information accordingly.

We request that agencies remain judicious in their request for copies of jail telephone calls. Our equipment has been upgraded which will reduce the number of hours required to comply with each request allowing a faster response to requests. Due to the upgraded system and quicker turnaround time by the Sheriff's Office, there is no need for direct access by any outside agency. All requests will be handled in the order received unless the request specifies the need for urgency.

Attached is an update Inmate Telephone Call Request form to be submitted with each request. Thank you for your assistance and cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Smith".

Laurie Smith, Sheriff

County of Santa Clara
Office of the Sheriff – Custody Bureau
Classification Unit
Inmate Telephone Call Request



Today's Date:		Time:	
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Requestor	Requesting Agency/Unit	Case Number	Check all that apply:
			Misdemeanor <input type="checkbox"/>
			Felony Case <input type="checkbox"/>

1. Approving Assistant DA or Agency Captain (Required):

2. Email Address of Requestor (Required):

3. Inmate Information (One inmate per request):

Inmate Name	Cen/Booking Number	Inmate PFN

4. Outgoing (Receiving Party) Telephone Numbers (Not to exceed four (4) numbers):

1:	3:
2:	4:

5. Reason for the Request (Must provide sufficient and accurate justification):

PLEASE ALLOW 14 DAYS FOR COMPLETION

For Use by Classification Staff

Date entered into System:
Entered by:

Fax or Email Completed form to:
 Classification Unit- Administrative Deputy
 (408) 299-2999 Fax/ (408) 808-4149 (Call for email address)

It will be the responsibility of the requestor to arrange for pickup of copied recordings from the Sheriff's Office Records Division. Requests viewed as excessive, or contrary to one or more of the above indicated requirements (1-5), will be returned to the requestor.