

# LAW ENFORCEMENT TECHNOLOGY

## COMMUNICATIONS SPOTLIGHT



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*Tired of the debate over who said what, many agencies use new digital technology to record all interviews of suspects, victims and witnesses.*

## Trends in recording police interviews

Consider the following scenario, which may sound familiar to many in law enforcement: A man is arrested in relation to a sexual assault investigation and questioned without a lawyer. After being indicted for the crime, he retains a lawyer. As part of the discovery process, the lawyer is informed that the police had given the defendant Miranda warnings (which he waived), that he had agreed to talk to the police without legal representation, and that he had subsequently confessed to the crime. Based on this information and after meeting with his client, the defense attorney files a motion to suppress the confession, stating that the police did not give Miranda warnings, that they denied the defendant's request for a lawyer, and that they used coercive tactics and threats to force a false confession.

Since the interview was not recorded, the defendant's lawyer can say what he

or she wants, and the police officers can't offer evidence to the contrary. The result is an endless he-said-we-said debate that is tiresome to all. Ultimately, because the burden of proof rests on the prosecution, and they are not able to disprove the defendant's claims, the suspect cannot be convicted. Sound familiar? Tired of such unfruitful back-and-forth debate, agencies nationwide are quickly adopting policies — either voluntarily or by way of court order — that require recording the interviews of suspects, victims and witnesses.

### The recording trend

One of the biggest issues faced by law enforcement officials — and the reason an increasing number of agencies are recording interrogations in their entirety — relates to allegations that mistreatment of a suspect by officers resulted in a coerced confession. As recently as October 2006, a United States District Court awarded



\$9 million in damages to Alejandro Dominguez, who spent four years in prison for a crime he did not commit.

In other cases, fear of bad publicity and the possibility of paying exorbitant amounts in damages leads to out-of-court settlements that can range from several thousands to several millions of dollars.

Cities and counties across the country, including Chicago, New York City, Los Angeles and Houston, have encountered situations where they have been faced with lawsuits for wrongful arrests, coercion, physical and verbal abuse, and police brutality. Recording the entire interview significantly reduces such allegations, which saves the municipality and the taxpayers a lot of money. The investment in reliable, high-quality recording solutions is recouped in a relatively short amount of time, which is an attractive proposition for the decision-makers in this market. Thus, the advantages offered by this practice, both tangible and otherwise, can far exceed the initial costs associated with equipment installation and user training.

Yet, the picture isn't all roses. One obstacle faced by proponents of recording involves changing the mindset of law enforcement agencies and getting them to realize the value of the process. Non-believers take the stance that if a suspect knows he or she is being recorded, it will be harder to elicit a confession. Respected practitioners of recording in this field respond to this claim by citing the era when Miranda rulings came into effect in 1966, and the subsequent belief that law enforcement personnel would never get another admission of guilt from the

suspect; in reality, though, people still volunteered information despite being given Miranda warnings — the same is true of recording interviews and interrogations in their entirety.

## The impact of technology

It is interesting to note that the only major advancement in interview-room technology relates to using digital video recorders (DVRs) in place of analog video recorders. Unlike weaponry, which has enjoyed a variety of technological advancements over the years, almost no attention has been paid to upgrading interview rooms. As a result, it wasn't until recently that companies have begun to focus their efforts on developing products specifically for this application.

This change began a few years ago. In 2003, Illinois became the first state to enact legislation that requires electronic recording. Maine and New Mexico legislatures followed in 2004 and 2005.

The new laws were drafted in part to respond to the growing concern of lawmakers and the public about innocent individuals being coerced and convicted of crimes they didn't commit. The much-publicized 1998 case of Michael Crowe is one example. Crowe was 14 years old when police interrogated him. He confessed to murdering his 12-year-old sister after the interrogator falsely described physical evidence against him. However, after watching a videotape of his entire interrogation, the pretrial judge determined that Crowe's confession was involuntary, and he was released. Later, DNA evidence helped police track the real killer.

Trial and reviewing court judges favor electronic recordings of interviews for streamlining the judicial process by: (1) reducing the number of motions filed to suppress a confession by the defense, and (2) eliciting more guilty pleas, thereby avoiding the costs, time and resources associated with a jury trial. Both factors have resulted in more recording and content management solutions that specifically target interview rooms. Given the lower cost and greater flexibility associated with digital recording — for example, interviews can be stored and searched on a personal computer, network or external storage device — this method of capturing and accessing interview recordings is gaining popularity with buyers and sellers alike in this market.

## Upgrading to digital solutions

ForTheRecord's market research, conducted over several months, has led us to speak with users, buyers and well-respected authorities in this market to understand current business and operating procedures with respect to recording of custodial interrogations. Through such conversations, we have learned that the primary factors driving the adoption of digital recording technology in interview rooms include:

- Poor recording quality offered by analog recorders that deteriorates over time.
- Declining availability and serviceability of analog units.
- Analog tapes are cumbersome to search and store.
- Problems with flexibility and portability. Detectives are forced

to review interview recordings at a particular location, which may be in use, rather than at their desks.

■ Use of video recorders typically requires additional, separate audio cassette recordings for transcription purposes.

■ Digital solutions are just as easy to operate, while offering greater benefits and cheaper storage options.

■ It is easier and more efficient to distribute recordings within and outside the investigation team.

■ Digital opens the door for streamlining and automating existing legal processes in the future.

The last point is, in fact, a benefit that appeals to many agencies currently embracing digital technology: A digital implementation, especially when using network-based storage and archiving of audio and video content, is inherently scalable. For example, when an agency has a digital solution in place and needs more space for storing recorded audio-video content, all that needs to be added is another network server or other storage device — and the prices of those are steadily decreasing. In contrast, think about how analog users would deal with this situation. Early adopters of digital recording systems recognized the immense advantage of scalability and employ digital solutions whenever and wherever possible.

A common misconception is that digital solutions are too complex and require extensive user training to operate. In fact, technology has advanced to the point where one can not only record high-quality audio and video with the push of

a button but can also efficiently manage the resulting content with just as much ease. Systems can be refined, also, to offer additional capabilities to search, retrieve, copy, transfer and share recorded content — meaning that vast amounts of sensitive information can be managed in a simple fashion.

### **Where to go from here**

With the increasing focus on the topic of recording custodial interrogations and interviews, it is only a matter of time before law enforcement agencies across the nation tune in to the benefits of upgrading to digital solutions. In addition, external factors will likely further drive the adoption of digital recording and rich-media content management solutions including:

■ Development of minimum standards and specifications or guidelines for interview-room recording technology equipment by organizations such as the Law Enforcement Information Technology Standards Council and the International Association of Chiefs of Police. This, in turn, will provide law enforcement agencies with a frame of reference and aid them in making the commitment to have their interview rooms outfitted with modern, robust technology that can easily capture and manage rich media content.

■ Solutions designed specifically for this application will continue to develop and proliferate. Integration of multimedia content captured from interview recordings by other police information systems — for example, from case reports — will be critical in the

future. In addition, systems and data within police agencies will be required to be compatible with external enterprises such as prosecutors' offices and courts.

■ The concept of network storage and remote access to recorded content will gain acceptance as issues related to security and restricted access are adequately addressed. In turn, there will be a decreasing desire for agencies to retain physical copies of the recording on optical media for evidentiary and other purposes, thereby further lowering the agencies' operating costs.

■ As the use of digital technology in interview recordings grows, the requirement to prove the authenticity of the recording in court will become ever more important. Use of digital signatures in interview room recording equipment will inevitably be the next technological progression for this market application.

It is clear that recording of interviews and interrogations has gained prominence in recent years, and solutions to meet the requirements of this application at various levels are now available. What remains to be seen is how quickly these will be adopted on a large scale and what advancements will spark the next wave of evolving applications of this important emerging technology. ■

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