



24-2055

DATE: January 23, 2024 (Item No. 22)
TO: Board of Supervisors
FROM: Megan Doyle, Deputy County Executive
SUBJECT: Annual Surveillance Reports

RECOMMENDED ACTION

Held from December 12, 2023 (Item No. 31): Consider recommendations relating to the Surveillance-Technology and Community-Safety Ordinance. (Office of the County Executive)

Possible action:

- a. Receive report from the Office of the County Executive with a summary of all requests for Board approval and all notifications and Surveillance Use Policies received by the Board pursuant to Ordinance Code section A40-2 or section A40-5.
- b. Receive Annual Surveillance Reports for the following Surveillance Use Policies:
 - i. Countywide - Badge Password-Access Technology for Multifunction Printer-Copying Machines
 - ii. Countywide - Computers and Mobile Phones with Audiovisual Recording Capabilities
 - iii. Countywide - Email Marketing Software
 - iv. Countywide - Facility Access Control Technology
 - v. Countywide - Portable Security Cameras
 - vi. Countywide - Video Security Cameras
 - vii. Clerk of the Board of Supervisors - Audiovisual Recording Devices
 - viii. Consumer and Environmental Protection Agency - Audio Recorders
 - ix. Consumer and Environmental Protection Agency - Digital Cameras
 - x. Consumer and Environmental Protection Agency - Unmanned Aerial Aircraft (UAS)
 - xi. County Communications - 9-1-1 Audio Recording System

- xii. County of Santa Clara Health System - Baby Match Technology Used at Santa Clara Valley Medical Center
- xiii. County of Santa Clara Health System - Badge and Biometric Readers
- xiv. County of Santa Clara Health System - FairWarning Electronic Health Record Privacy Monitoring
- xv. County of Santa Clara Health System - Mobile Audio and Visual Recording Devices
- xvi. County of Santa Clara Health System - NicView Camera Technology Used at Santa Clara Valley Medical Center
- xvii. County of Santa Clara Health System - Professional Research Consultants Communication Technology
- xviii. County of Santa Clara Health System - Real Time Location System Technology Used at SCVMC, OCH, SLRH, and Clinics
- xix. County of Santa Clara Health System - Telephonic and Voice Recording Equipment
- xx. County of Santa Clara Health System - Video Security Cameras at Parisi House on the Hill
- xxi. County of Santa Clara Health System - Vocera Communication Technology
- xxii. County of Santa Clara Health System - Voice Controlled Intelligent Personal Assistant (VIPA)
- xxiii. County of Santa Clara Health System Emergency Medical Services Agency - Mobile Area Routing and Vehicle Location Information System (MARVLIS)
- xxiv. Department of Parks and Recreation - Aerial Cameras and Global Positioning System Technologies
- xxv. Department of Parks and Recreation - Closed-Circuit Cameras
- xxvi. Department of Planning and Development - Audio Recorders
- xxvii. Department of Planning and Development - Digital Cameras
- xxviii. Employee Services Agency - Digital Cameras and Camcorders
- xxix. Employee Services Agency - Video-Audio Surveillance for Online Examination Administration
- xxx. Facilities and Fleet Department - Telematics, A Vehicle Fleet Management Tool
- xxxi. Multi-Departmental Children's Advocacy Center - Security Video Cameras
- xxxii. Multi-Departmental County Government Center - Security Cameras
- xxxiii. Multi-Departmental Muriel Wright Facility - Video Security Cameras
- xxxiv. Office of Pretrial Services - Electronic Alcohol Monitoring Devices

- xxxv. Office of Pretrial Services - Global Positioning System Electronic Monitoring Devices
- xxxvi. Office of the Assessor - Digital Cameras Used to Assess Property
- xxxvii. Office of the County Counsel - Digital Audio Recorders
- xxxviii. Office of the County Counsel - Digital Camera
- xxxix. Office of the County Counsel Equal Opportunity Division - Audio Recorders
 - xl. Office of the County Executive - Digital Cameras
 - xli. Office of the County Executive Reentry Resource Center - Security Cameras
 - xl.ii. Office of the District Attorney - Children's Advocacy Center Interview Room Audio and Video Recording System
 - xl.iii. Office of the District Attorney - Data Extraction-Examination Forensic Tools and Software
 - xl. iv. Office of the District Attorney - Digital Recorders
 - xl. v. Office of the District Attorney - Global Positioning System Trackers
 - xl. vi. Office of the District Attorney - Night Vision Binoculars
 - xl. vii. Office of the District Attorney - Video and Audio Surveillance and Recording System for REACT Task Force Office
 - xl. viii. Office of the District Attorney - Video Surveillance and Recording of Evidence Storage Facility
 - xl. ix. Office of the District Attorney Crime Lab - Access Card and Biometric Fingerprint Systems
 - l. Office of the District Attorney Crime Lab - Digital and Multimedia Evidence Software Hardware
 - li. Office of the District Attorney Crime Lab - DNA Collection and Analysis Software
 - lii. Office of the District Attorney Crime Lab - Security Cameras
 - liii. Office of the Medical Examiner-Coroner - Digital Cameras
 - liv. Office of the Public Defender-Alternate Defender - Data Extraction and Examination Equipment
 - lv. Office of the Public Defender-Alternate Defender - Digital Audio Recorders
 - lvi. Office of the Public Defender-Alternate Defender - Digital Cameras
 - lvii. Office of the Public Defender-Alternate Defender-Independent Defense Office-Office of the District Attorney - VIDIZMO Media Processing Tool
 - lviii. Office of the Sheriff - Automated License Plate Reader Technology
 - lix. Office of the Sheriff - Body Worn Camera System

- lx. Office of the Sheriff - Bomb Disposal Robots
- lxi. Office of the Sheriff - Callyo Mobile Bug
- lxii. Office of the Sheriff - City of Saratoga's Automated License Plate Readers
- lxiii. Office of the Sheriff - Command Vehicle Camera
- lxiv. Office of the Sheriff - Court Security and Safety Surveillance Equipment
- lxv. Office of the Sheriff - Court Security Video Cameras
- lxvi. Office of the Sheriff - Crisis Negotiations Team Emergency Negotiation Telephone Call Box and Rescue Phone System
- lxvii. Office of the Sheriff - Digital Cameras and Video
- lxviii. Office of the Sheriff - Digital Voice Recorders
- lxix. Office of the Sheriff - Direct-Link Bridge Series System
- lxx. Office of the Sheriff - Electronic Monitoring Program Monitoring Devices (Global Positioning System Monitoring Devices)
- lxxi. Office of the Sheriff - Flash Camera
- lxxii. Office of the Sheriff - In-Car Video Recording System (Dash Cam System)
- lxxiii. Office of the Sheriff - Integrated Helicopter Mapping System
- lxxiv. Office of the Sheriff - Live Scan Machines, Mobile ID Fingerprint Machines, and Latent Expert Workstation Technology
- lxxv. Office of the Sheriff - Live Trac PT-10 Plus Global Positioning System Tracking Devices
- lxxvi. Office of the Sheriff - Security Video Cameras at Sheriff's Headquarters, Substations, and Evidence Storage Areas
- lxxvii. Office of the Sheriff - Tactical Ball Cameras
- lxxviii. Office of the Sheriff - Tactical Electronics Core Camera System
- lxxix. Office of the Sheriff - Town of Los Altos Hills' Automated License Plate Readers
- lxxx. Office of the Sheriff - Trail Cameras
- lxxxii. Office of the Sheriff - Underwater Remotely Operated Vehicle
- lxxxii. Office of the Sheriff - Unmanned Aerial Systems (UAS)
- lxxxiii. Office of the Sheriff - VideOversight Interview Recording and Case Management System
- lxxxiv. Office of the Sheriff - VIP Gander and Mini-Gander Bomb Robot Camera Systems
- lxxxv. Office of the Sheriff Custody Bureau - Booking Photograph Cameras
- lxxxvi. Office of the Sheriff Custody Bureau - Facility Security Cameras for Main Jail North and Elmwood

- lxxxvii. Office of the Sheriff Custody Bureau - Full-Body Security Screener Technology
- lxxxviii. Office of the Sheriff Custody Bureau - Handheld Digital Cameras
- lxxxix. Office of the Sheriff Custody Bureau - Inmate Tablet Monitoring Technology
 - xc. Office of the Sheriff Custody Bureau - Inmate Telephone Monitoring
 - xc. Office of the Sheriff Custody Bureau - Inmate Tracking System
 - xcii. Office of the Sheriff Custody Bureau - Portable Digital Audio Recorders
 - xciii. Office of the Sheriff Custody Bureau - Safety and Security Surveillance Equipment
- xciv. Probation Department - Electronic Monitoring Program Devices
- xcv. Probation Department - Juvenile Hall Video Security System
- xcvi. Probation Department - William F. James Ranch Video Security System
- xcvii. Procurement Department - Audio Recorders
- xcviii. Registrar of Voters - Security Cameras
 - xcix. Roads and Airports Department - Airport Noise and Operations Monitoring System
 - c. Roads and Airports Department - Facility Security Camera Systems
 - ci. Social Services Agency - Telephonic and Voice Recording Equipment
- c. Adopt finding that the benefits to the impacted County department(s) and the community of the surveillance technology outweigh the costs, and that reasonable safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by deployment of the above-listed surveillance technology.

FISCAL IMPLICATIONS

Approval of the recommended actions will have no fiscal impact.

REASONS FOR RECOMMENDATION AND BACKGROUND

Division A40, Surveillance – Technology and Community-Safety Ordinance requires that no later than January 15 the Board shall hold a public meeting, with Annual Surveillance Reports (ASR) agendaized on the regular (non-consent) calendar, and publicly release a report that includes the following information for the prior year consisting of:

- (1) A summary of all requests for Board approval and all notifications and Surveillance Use Policies received by the Board pursuant to Section A40-2 or Section A40-5 of this Division, including whether the Board approved, rejected, or received the proposal or notification, and/or required changes to a proposed Surveillance Use Policy before approval; and
- (2) All Annual Surveillance Reports submitted.

On October 17, 2023 (Item No. 54; legislative file (LF) 117935) the Board of Supervisors received the preliminary submission of 101 ASRs in compliance with the Surveillance-Technology and Community-Safety Ordinance. This submission is to facilitate the Board of Supervisors' oversight as to whether the benefits to the impacted County department(s) and the community regarding the surveillance technology outweigh the costs and whether practical safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by deployment of the surveillance technology. If the benefits or reasonably anticipated benefits do not outweigh the costs or civil liberties, or civil rights are not reasonably safeguarded, the Board shall consider:

- 1) Directing that the use of the surveillance technology cease;
- 2) Requiring modifications to the Surveillance Use Policy that are designed to address the Board's concerns; and/or
- 3) Directing a report-back from the department regarding steps taken to address the Board's concerns.

This report intends to provide the necessary information to the Board to determine if the benefits or reasonably anticipated benefits outweigh the costs, civil liberties, or civil rights, covering the following information:

- Overview;
- Changes to the annual surveillance report coordination process;
- Outcomes of the County Privacy Office Assurance Reviews;
- Role of the County of Santa Clara's Office of Correction and Law Enforcement Monitoring (OCLEM) in supporting the County Privacy Office with Annual Surveillance Report oversight;
- Data Sharing;
- Technologies Identified as No Longer In Use or Needed;
- Reported or Discovered Non-Compliance; and
- Enhancing the County Privacy Office A40 Ordinance Oversight.

Overview

Every department with a Board-approved SUP produced a report covering all required ASR components. Some of these technologies produce data that leads to more straightforward reporting whereas other technologies require more manual processes. For example, the County Santa Clara Health System reported its "Telephonic and Voice Recording Equipment" produces recording logs that allowed staff to ensure that data is deleted according to the three-year retention schedule. These voice recordings also allow staff to evaluate if the system is useful and effective in its identified purpose. Likewise, with the Sheriff's Body-Worn Camera Program, the data management system tracks every point of access, which allows for good record keeping and access control. In the case of handheld

cameras or recording devices, oversight relies upon the Facilities Office or other departments to ensure access is controlled and that record keeping is manually maintained.

In terms of the content of the ASRs, the County Privacy Office reviewed the following sections of each ASR:

- Description of How the Technology Was Used
- Data Sharing with Outside Entities
- Community Complaints or Concerns
- Audits and Policy Violations
- Effectiveness at Achieving Identified Purposes
- Public Records Act Requests
- Annual Costs

These sections are important in informing the overall evaluation and oversight as to whether the benefits to the impacted County department(s) and the community of the surveillance technology outweigh the costs as well as determining if safeguards exist to address reasonable concerns regarding privacy, civil liberties, and civil rights impacted by deployment of the surveillance technology. The County Privacy Office focused on conducting assurance reviews on data sharing and audits, as these are the two sections where scrutiny from the County Privacy Office is most critical to ensure that privacy standards are in place to balance the effectiveness of the technology with the protections and mitigations that are needed for supporting public privacy.

Changes to Annual Surveillance Report Coordination Process

Ordinance Oversight Responsibilities

Prior to 2023, the Office of County Counsel (CCO) led the coordination of the production and collection of ASRs across departments. After the hiring of the County's Chief Privacy Officer in December 2022, the County Privacy Office assumed oversight responsibility for this Ordinance, including coordination and communications to each department. The County Privacy Office coordinates with CCO and OCLEM regarding new public-justice-safety SUPs and ASRs.

Administrative Policy Development

In response to Supervisor Simitian's Board Referral on January 10, 2023 (Item No. 25; LF 114174) the County Privacy Office, in consultation with CCO and OCLEM, drafted an administrative policy to formalize the oversight responsibilities and department obligations for preparing new surveillance use policies and annual surveillance reports. This administrative policy is pending publication after the Ordinance amendments approved on October 3, 2023 (Item No. 12; LF 117710), which was preliminarily adopted on December 5, 2023 (Item No. 30; Resolution BOS-2023-180), and adopted (final) on December 12, 2023 (Item No. 102; LF 118659), directing OCLEM to provide input to the County Privacy Office

and the Office of County Counsel on public-justice-safety related surveillance technologies is published. However, the operationalizing of this policy began in July 2023, when OCLEM also began reviewing new justice-safety related surveillance technology policies.

Reporting Period Alignment

The reporting period was aligned to the County’s fiscal year, July 1, 2022–June 30, 2023, resulting in the submission of 101 Annual Surveillance Reports. These ASRs represent surveillance technologies used by 21 separate departments and agencies.

OCLEM Review of Justice-Safety Surveillance Technology ASRs

OCLEM reviewed and commented on the public-justice-safety related surveillance technology ASRs, which are discussed later in this report.

Outcomes of the County Privacy Office Assurance Reviews

Beginning in September 2023, the County Privacy Office began conducting “assurance reviews” to confirm departments are following their approved surveillance use policies, such as data retention, sharing, and system access controls. These assurance reviews will be conducted on an ongoing basis using a risk-based approach. The goal of the assurance review is to spot potential non-compliance as early as possible as well as recognize departments that have implemented reasonable controls. On a quarterly basis the County of Santa Clara Health System (CSCHS) Chief Compliance Officer conducts compliance assessment for approved CSCHS SUPs, requesting the SUP owner confirm reasonable controls are in place and report known non-compliance.

The County Privacy Office conducted assurance reviews with the Office of the District Attorney, Office of the District Attorney Crime Lab, and the Office of the Sheriff and observed the following.

- Office of the District Attorney – Data Extraction / Examination Forensic Tools and Software:
 - The Office of the District Attorney (DAO) utilizes forensic data extraction equipment to find data related to important criminal investigations in alignment with the SUP.
 - The County Privacy Office observed that this technology is maintained in a locked room where only authorized staff with a need to know are provided access.
 - DAO staff were able to show the written records they maintain to document all cases where data is shared with other law enforcement agencies outside of the Rapid Enforcement Allied Computer Team (REACT) Task Force,¹ which is permissible in the board approved SUP.

¹ <http://www.reacttf.org/reacttf/d/index.html?>

- Office of the District Attorney - Crime Lab – Data Extraction / Examination Forensic Tools and Software:
 - The County Privacy Office met with the Crime Lab Director and several managers overseeing the different units of the Crime Lab’s forensic analysis work.
 - The Crime Lab, under the auspices of the Office of the District Attorney, serves all the law enforcement agencies within Santa Clara County. Therefore, forensic analysis data sharing occurs regularly but staff are compelled through accreditation to maintain strict client confidentiality and have systems in place to ensure compliance.
 - Crime Lab staff use case and item numbers to organize evidence analyzed for client law enforcement agencies. The Crime Lab does not maintain the names of individuals connected to found evidence; staff use profile numbers to organize evidence analyzed for client law enforcement agencies and only the separate law enforcement agencies managing the investigation know the identities of individuals connected to the biological and fingerprint evidence.
 - Only authorized personnel have access to different parts of the facility. Furthermore, the entire Crime Lab uses badging-technology to help ensure the confidentiality of all the forensic analysis data occurring at its location.
 - The Crime Lab uses a laboratory information management system (LIMS) for data management, which is password protected. When reports are ready, a department contact receives a notice via email to log in with a password to retrieve the report.
 - The County Privacy Office discovered that the LIMS does not encrypt data at rest and in transit. The County Privacy Office has recommended to the Crime Lab to find a replacement system, which will encrypt data at rest or in transit, or determine if an upgrade to the existing LIMS is possible. The Crime Lab has advised the County Privacy Office that it is in the process of implementing a new LIMS by JusticeTrax, which encrypts data in transit and at rest.

- Office of the Sheriff (“Sheriff’s Office”) – Automated License Plate Reader (ALPR) + ALPR for City of Saratoga and City of Los Altos Hills:
 - The County Privacy Office met with Sheriff’s Office staff managing the department’s vehicle ALPR system as well as the Flock ALPR systems. As indicated in the current vehicle Automated License Plate Reader ASR, the Sheriff’s Office no longer utilizes the system mounted to vehicles, as the system is outdated and does not provide effective service. As stated below, under the Decommissioning of Certain Surveillance Use Policies (SUP) section, the Sheriff’s Office will decommission the Automated License Plate Reader Technology SUP (LF 93007, approved August 28, 2018 (Item No. 26)).
 - The analytics from the ALPR photographs can evaluate the vehicle make, type, and color, make, model, in addition to using optical character recognition to populate

the numbers and letters of the plate into a searchable system. Staff with access can search for a “White Honda Accord” as well as a particular plate. The system analyzes the make and model by analyzing the shape of the rear vehicle lights.

- Both the Los Altos Hills and Saratoga systems maintain a 30-day data retention, and these queries can only search for a vehicle or plate that was photographed within the prior 30 days. The system takes photos rapidly, resulting in duplicate entries in the system. GPS coordinates indicate where the photo was taken. The ALPR cameras also time stamp the time the photograph was taken as well as the location of the camera.
- The County Privacy Office’s review of actual ALPR photographs showed that motorists’ faces are not captured in a way that they can be identified. The cameras primarily aim at the rear of the vehicle to capture the plate and design of the rear lights. There is also glare from the rear window that tends to block any accurate image of the rear of the motorist. Also, the cameras capture the vehicle from over 50 feet away.
- The Sheriff’s Office has policies for the Flock-brand stationary ALPR systems. The municipalities of Los Altos Hills and Saratoga have opted to have Flock ALPR installed through their contracts with the Sheriff’s Office for public safety services. Neither the Sheriff’s Office nor the County of Santa Clara pays for these systems.
- Saratoga has seven cameras and Los Altos Hills maintains a 40-camera system. Therefore, the Sheriff’s Office expects the amount of data generated and stolen car alerts to be higher in Los Altos Hills than in Saratoga.
- Sheriff’s Office staff accessing the system are trained how to use its cloud-based platform. Deputies log into the Flock System with dual factor authentication after receiving training. The system has one tier of access for deputies on patrol where they will receive an alert in real-time when a vehicle plate captured by a camera positively matches a stolen plate from the California Department of Justice. Every deputy must type a reason into the cloud-system to look up a plate or vehicle, and this reason, such as an event or case number, remains with the logged query permanently.
- There are three staff members with full data access. This staff downloads activity data needed to produce the ASR. Photographs showing the actual vehicle are not downloaded.

- Sheriff’s Office – Body Worn Cameras (BWC):

- The Axon (vendor) BWC system is maintained on a server network separate from the rest of the County network for security and reliability reasons. Also, this network allows reserve deputies and Stanford University police personnel to access the BWC system. System reliability is crucial as hundreds of deputies may dock

their BWCs at similar times after completing patrol shifts. The docking platform is encrypted to ensure data in transit security to the network.

- Limited staff have access to the full platform and the system does not allow for altering of video evidence. All staff need dual factor authentication to access the basic video data platform.
 - Staff showed the County Privacy Office how the system can be used to create a secure hyperlink to share a single file when requested with other law enforcement agencies, such as the Office of the District Attorney. The hyperlinks are valid for a specific time range, usually 1-3 days. Additionally, this functionality is limited and only available to the detectives and other roles with a legitimate need to share videos. Overall, the process is more secure than sending media in the mail or similar methods; however, the Sheriff's Office is working to onboard more partnership agencies to enhance the security of periodic media sharing.
 - The system can be calibrated to delete data after one year in alignment with the SUP data retention schedule.
- Sheriff's Office - Digital Cameras and Video, Digital Voice Recorders, and Portable Digital Audio Recorders:
 - These technologies have similar purposes as outlined in the SUPs for documenting victim, witness, and suspect statements during a criminal investigation. The "digital voice recorder" SUP lists documenting statements from personnel during Internal Affairs investigations as an approved use. This technology is like the others in that it has a microphone and internal digital file storage. The Digital Cameras and Video technology is also used for visual documentation.
 - These devices are issued to individual sworn staff who need them for the purposes outlined in the SUPs. Data is maintained on the device until downloaded onto a County computer assigned to the same person to whom the device is assigned, where the data can be transferred to a secured data disc or small storage device if maintained as part of a criminal investigation.
 - The SUPs for each of these polices state that the data shall be deleted from the device after no more than 90 days and can be stored on a computer or storage device based on applicable law. The County Privacy Office and Sheriff's Office personnel determined that the data has not been deleted according to the SUP's 90-day retention schedules. The County Privacy Office will continue to work with the Sheriff's Office to ensure full compliance with the relevant policies.

Role of the County of Santa Clara's Office of Corrections and Law Enforcement Monitoring (OCLEM) in supporting the County Privacy Office with Annual Surveillance Report oversight

OCLEM's role in supporting the review of new surveillance technologies has been formalized with the recent Board amendment to Ordinance A40 as well as in the forthcoming Administrative Policy. OCLEM staff provides a law enforcement oversight lens to new SUPs under development as well as for the annual reviews with the ASRs. OCLEM staff have direct experience in assessing public-safety policy assessment, evaluating training, conducting audits, and helping public-safety agencies with related process improvements. Their rigorous review process now assists the County Privacy Office with its own ASR review process so that these agencies are more effective and accountable with their use of surveillance technology.

The justice-safety departments subject to this new additional review layer are as follows:

- Office of the District Attorney
- Office of the Sheriff
- Office of Pretrial Services
- Probation Department
- Public Defender Office

OCLEM reviewed the public-safety department ASRs submitted to the County Privacy Office.

The feedback from OCLEM consists of two key findings:

1. Audits: Audits were not sufficiently carried out and/or were not sufficiently explained in the ASRs. This comment applies to many ASRs across all the reviewed public-justice-safety organizations. Several, but not all, Sheriff's Office ASRs reported clear details about audits and/or reviews in the ASR; however, some lacked sufficient detail.

OCLEM shared that audits should vary based on the technology. The County Privacy Office agrees with this assessment given the diversity of technologies. Some technologies are software-based and allow for running queries of usage (e.g., Body Worn Cameras). Other technologies are not regularly used and generate much less data (e.g., some audio recorders). However, the County Privacy Office is not stating that public-justice-safety departments are not conducting audits or oversight but there are opportunities to improve how they are documenting their processes.

OCLEM acknowledges that the term "audit" has meaning in different settings (e.g., to 'audit' financial records). Also, an audit or review of a system such as body-worn

cameras will involve terabytes of data from hundreds of deputies' daily use. The ALPR Flock Camera system may also have many different queries from different deputies conducting investigations. Elsewhere, the Countywide Video Surveillance Use Policy states that, "the relevant Department Head(s) or their written designee shall audit compliance with this Policy at least annually." Very limited personnel have access to the camera systems, which generally surveil public spaces. Therefore, the type of audits for these different systems arguably should be different. The County Privacy Office shares OCLEM's observation that a description of what the department conducted in each case should be transparent in the ASR. The County Privacy Office intends to further develop templates and instructions sent to each department at the beginning of the ASR coordination process for the 2023-2024 reporting period. The County Privacy Office is working with departments where ASRs were identified to have deficiencies in terms of audit and oversight details.

2. Disparate Impact: OCLEM points out that in the Audit/Policy Violations sections of many of the Sheriff's Office ASRs contains the following statement:

There is no evidence to suggest that this technology was used disproportionately affecting lower-income community members or community members of color.

OCLEM points out that this acknowledgement is appreciated but overly broad, and not supported by any specific effort to uncover any potential disproportionate impact. These technologies are used for law enforcement purposes. Unfortunately, many law enforcement activities have a disparate impact on lower-income communities and/or communities of color. Therefore, OCLEM points out that such statements need to be contextualized or not made in such overly broad terms. OCLEM offered the following alternative language for security and surveillance systems:

The technology was used universally, wherever it was indicated or applicable, without regard to the demographics of the individuals involved.

However, OCLEM noted that with the Sheriff's Office "VideOversight Interview Recording and Case Management System" the audit explanation was detailed and transparent:

During this reporting period, the Assistant Division Commander of the Investigative Services Division conducted sporadic audits to ensure that no recordings were generated or retained outside of the parameters of the Surveillance Use Policy. A total of 45 videos were created and associated to criminal investigations. These audits did not uncover any policy violations.

Data Sharing

Data sharing record-keeping is one of the most important aspects of positive oversight of surveillance technology. Data sharing with outside entities has a major impact on public privacy. Departments that needed to share data with outside entities provided information supporting transparency in alignment with the intent of the A40 Ordinance.

Examples include:

Department	SUP Name	Data Sharing Reason
Countywide	Video Security Cameras	Explains data sharing needs with supervisors and outside law enforcement agencies
CSCHS	Health Record Privacy Monitoring System	Provides explanations as to the reason and how data was shared with regulators for investigation purposes
Department of Parks and Recreation	Closed-Circuit Cameras	Provides detailed explanation about a data sharing incident with the City of San José regarding an investigation
Office of Pretrial Services	Electronic Alcohol Monitoring Devices and GPS Monitoring Devices	Provides an explanation about their data sharing process and rules governing the process
Office of the District Attorney	Data Extraction Equipment and GPS Trackers	Provides an explanation of sharing with local taskforce, state, and federal agencies, as well as assuring those agencies assigned to the federal investigation with Homeland Security Investigations (HSI) (part of the Department of Homeland Security/DHS) is not provided to the immigration section of DHS
Sheriff's Office	Body-worn Cameras (BWC)	Lists all law enforcement agencies that received BWC data
Sheriff's Office	ALPR (Los Altos Hills, Saratoga)	Provides list of all data sharing
Sheriff's Office	Booking Photos and Main Jail Cameras	Provides details regarding authorized information sharing
Sheriff's Office	Booking Photos and Main Jail Cameras	Provides details about how and when information is shared with CCO and outside law enforcement agencies
Sheriff's Office	Inmate Telephone Monitoring	Provides details regarding subpoenas and requests from outside law enforcement agencies

Decommissioning of Certain SUPs

Various departments have provided notice in the 2022-2023 ASRs (as stated in the initial October 17, 2023, report) that the technology is no longer used and has already been decommissioned or of the department's intention to decommission the technology, and thus nullify the SUP and annual ASR requirement.² The technologies identified are as follows:

Department	SUP Name	Leg File#; Approval Date	Decommissioning Reason
Office of the County Counsel	Digital Audio Recorders	1/10/2017 (LF 84572); 11/20/18 (LF 94209); Approved 11/20/18	No longer used or needed. Assets returned to County Surplus Property on October 14, 2022.
Office of the Public Defender, Office of the Alternate Defender, Independent Defense Counsel Office, and Office of the District Attorney	VIDIZMO Media Processing Tool	11/2/21, Item 20 (LF 108119); Approved 11/2/21	Implementation of this new technology did not occur because the vendor never supplied a product that met the specifications of the original proposal. The software was installed on a server that is not accessible to these departments and Technology Services and Solutions (TSS) is removing the software from the TSS server.
Sheriff's Office	Automated License Plate Reader Technology	4/11/17 (LF 85808); 8/28/18 (LF 93007); Approved 8/28/18	The Sheriff's Office does not use this technology because this vehicle ALPR system is outdated and not effective and the cameras have been removed from Sheriff vehicles. The Sheriff's Office is working with County Disposal to securely dispose. The Sheriff's Office will notify the County Privacy Office once process is complete.

² The A40 Ordinance does not provide a decommissioning process. However, the Office of the County Counsel and Office of the County Executive have confirmed that departments can submit attestation to the County Privacy Office once they have relinquished the actual technology, requesting decommissioning of the associated SUP.

Department	SUP Name	Leg File#; Approval Date	Decommissioning Reason
Sheriff's Office	Command Vehicle Camera	4/11/17 (LF 85808); 8/14/18 (LF 92773); Approved 8/14/18	This technology as reported in the ASR, has been obsolete and inoperable for several years. The cameras have been removed from vehicles over two years ago and disposed.
Sheriff's Office	Crisis Negotiations Team Emergency Negotiations Telephone Call Box and Rescue Phone System	4/11/17 (LF 85808); 8/28/18 (LF 93007) Approved 8/28/18	The technology reported in the ASR explains that this system has aged from cutting-edge to obsolete and the technology was disposed of over two years ago. The Sheriff's Office has since developed a new Direct-Link Bridge Series System SUP, approved by the Board on September 14, 2021 (Item No. 17, LF 106394). The department took possession of the new Direct-Link Bridge Series System in July 2022.
Sheriff's Office	Flash Camera	4/11/17 (LF 85808); 8/14/18 (LF 92773) Approved 8/14/18	This technology is obsolete. The Sheriff's Office is working with the City of Cupertino, who purchased this technology, to coordinate secure disposal. The Sheriff's Office will notify the County Privacy Office once the process is complete.
Sheriff's Office	VIP Gander Bomb Robot Cameras	9/14/21 (LF 106394) Approved 9/14/21	The ASR explains that this technology is used to examine and mitigate potential explosive devices or other hazardous materials, or during tactical operations. The VIP Gander Bomb Robot Cameras SUP was superseded by the Bomb Disposal Robot Surveillance Use Policy, approved on April 19, 2022 (Item No. 41, LF 110265), which includes the technology covered

Department	SUP Name	Leg File#; Approval Date	Decommissioning Reason
			in the VIP Gander Bomb Robot Cameras SUP.
Sheriff's Office	Tactical Ball Cameras	4/11/17 (LF 85808); 8/14/18 (LF 92773) Approved 8/14/18	<p>This technology is obsolete, and the system was replaced by a new CORE Camera System (tactical pole cameras) in April 2022, following the September 14, 2021 approval of the CORE Camera SUP (Item No. 17, LF 106394).</p> <p>The original technology was purchased with Homeland Security grant funding and disposal is being performed pursuant to that grant.</p> <p>The Sheriff's Office will notify the County Privacy Office once the process is complete.</p>

Reported or Discovered Non-Compliance

The following is a consolidated list of reported non-compliance or identified through the CSCHS quarterly compliance assessments and County Privacy Office Assurance reviews.

Impacted SUP Name	Issue Summary	Remediation
Countywide CHCHS - Video Security Cameras	<p>County Information Security Office notified CSCHS Ethics, Privacy & Compliance Office, County Privacy Office, and Facilities that 588 surveillance cameras at CSCHS facilities did not have appropriate password protection or were using the default vendor password. This would have allowed a user access to look at these cameras in real time if they were logged into the County network and knew the camera IP address.</p> <p>These cameras are used to monitor ingress, egress, and activities in the public areas of the CSCHS facilities (e.g., County hospitals, medical clinics, and medical centers) to</p>	<p>There was no evidence that anyone logged into these cameras to view the live feeds so there was no intrusion or security breach. CSCHS Chief Compliance Officer reported the finding to the Director of Facilities Security, County Chief Privacy Officer, and CSCHS Operations Technology Manager.</p> <p>The Facilities-IT team immediately worked on the remediation to ensure that all cameras had a secure password. All 588 cameras</p>

Impacted SUP Name	Issue Summary	Remediation
	monitor the safety of employees, patients, and visitors. CSCHS posted signage on site where video security cameras were in use to indicate the presence of video monitoring and limit any expectation of privacy.	have been updated to include a secure password.
CSCHS - Telephonic and Voice Recording Equipment	<p>There was an incident of inappropriate use of the telephonic and voice recording equipment used to record communications between customers, patients, and call center representatives. These recordings were used for quality assurance and to evaluate the effectiveness of the telephonic interactions between the representatives and customers and patients.</p> <p>CSCHS was working on an update to its SUP to allow call recording by other Health System call centers. The CSCHS Ethics, Privacy & Compliance Office was notified that the Behavioral Health Services Department Call Center had started recording its calls without an updated and approved SUP.</p>	The department was immediately instructed by the CSCHS Chief Compliance Officer to stop recording calls and to ensure that all calls were deleted from the system. Technology Services and Solution (TSS) confirmed all recordings were deleted.
Sheriff's Office - Digital Cameras and Video, Digital Voice Recorders, and Portable Digital Audio Recorders	<p>The County Privacy Office assurance review identified that data was not being deleted from these devices within a 90-day period and transfer that data to an authorized computer system.</p> <p>The Sheriff's Office has rules to ensure that devices assigned to staff are recorded but does not have additional protocols and training to ensure that staff follow data download and secure storage processes to maintain the 90-day retention limits on the actual devices.</p>	The County Privacy Office worked with the Sheriff's Office to coordinate effective procedures to ensure the 90-day retention period on digital cameras and video, digital voice recorders, and portable digital audio recorders are met.

Enhancing the County Privacy Office A40 Ordinance Oversight

As this was the first year the County Privacy Office assumed oversight of the Ordinance, there were several opportunities identified to enhance the County Privacy Office's oversight role, which are under way:

- ***Utilizing Resources:*** The County Chief Privacy Officer will continue to leverage staff resources to manage ASR coordination. Resources include utilizing a County Privacy Office subject matter expert with prior justice-safety background as well as other staff to help departments comply with the Ordinance, as well as ensure new SUPs and ASRs are complete.
- ***Training and Awareness:*** The County Privacy Office will provide A40 training regarding when the Ordinance does and does not apply, best practices for writing an SUP or ASR, the internal review process and OCLEM's involvement, and Board of Supervisors scheduling.
- ***Early Notification to the County Privacy Office:*** Working with Procurement and requesting departments to notify the County Privacy Office earlier in the technology procurement process to determine A40 Ordinance applicability and manage Board of Supervisors' submittal timelines.
- ***Improved Coordination for Multi-Department or Countywide ASRs:*** Assign an accountable person to each of the multi-department and Countywide ASRs to improve oversight.
- ***Assurance Reviews:*** Schedule and conduct ongoing assurance reviews throughout the year and provide an outline to the department of the assurance review process expectations.
- ***Department Self-Audits:*** Train departments on auditing expectations and articulating their work in the ASR.
- ***External SUP Website Visibility:*** The County Privacy Office has made strides to improve its internal and external website. These sites need to be better leveraged as hubs of information for both interdepartmental staff as well as members of the public as to the A40 Ordinance's purpose, applicability, and ensure approved SUPs are easily accessible and up to date on the external website.

Summary of all requests for Board approval and notifications of SUPs received by the Board

Pursuant to Section A40-2 or Section 440-5 of this Division, the attached list includes whether the Board approved, rejected, or received the proposal or notification, and/or required changes to a proposed SUP before approval.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

CONSEQUENCES OF NEGATIVE ACTION

The Board will not: (1) receive the Annual Report providing a summary of requests, notifications, and receipt of Surveillance Use Policies; (2) receive the Annual Surveillance Reports for Surveillance Use Policies requiring a report by November 1, 2023; and (3) make findings as required under Ordinance Code section A40-6, subsection (b) based upon the information provided in each Annual Surveillance Report.

STEPS FOLLOWING APPROVAL

The Clerk of the Board shall send notification of the Board's action to Megan Doyle, Deputy County Executive; and Chris Pahl, Chief Privacy Officer.

ATTACHMENTS:

- Countywide - Badge Password-Access Technology for Multifunction Printer-Copying Machines 2023 Annual Surveillance Report
- Countywide - Computers and Mobile Phones with Audiovisual Recording Capabilities 2023 Annual Surveillance Report
- Countywide - Email Marketing Software 2023 Annual Surveillance Report
- Countywide - Facility Access Control Technology 2023 Annual Surveillance Report
- Countywide - Portable Security Cameras 2023 Annual Surveillance Report
- Countywide - Video Security Cameras 2023 Annual Surveillance Report
- Clerk of the Board of Supervisors - Audiovisual Recording Devices 2023 Annual Surveillance Report
- Consumer and Environmental Protection Agency - Audio Recorders 2023 Annual Surveillance Report
- Consumer and Environmental Protection Agency - Digital Cameras 2023 Annual Surveillance Report
- Consumer and Environmental Protection Agency - Unmanned Aerial Aircraft (UAS) 2023 Annual Surveillance Report
- County Communications - 9-1-1 Audio Recording System 2023 Annual Surveillance Report
- County of Santa Clara Health System - Baby Match Technology Used at Santa Clara Valley Medical Center 2023 Annual Surveillance Report
- County of Santa Clara Health System - Badge and Biometric Readers 2023 Annual Surveillance Report
- County of Santa Clara Health System - FairWarning Electronic Health Record Privacy Monitoring 2023 Annual Surveillance Report
- County of Santa Clara Health System - Mobile Audio and Visual Recording Devices 2023 Annual Surveillance Report
- County of Santa Clara Health System - NicView Camera Technology Used at Santa Clara Valley Medical Center 2023 Annual Surveillance Report
- County of Santa Clara Health System - Professional Research Consultants Communication Technology 2023 Annual Surveillance Report
- County of Santa Clara Health System - Real Time Location System Technology Used at SCVMC, OCH, SLRH, and Clinics 2023 Annual Surveillance Report
- County of Santa Clara Health System - Telephonic and Voice Recording Equipment 2023 Annual Surveillance Report
- County of Santa Clara Health System - Video Security Cameras at Parisi House on the Hill 2023 Annual Surveillance Report
- County of Santa Clara Health System - Vocera Communication Technology 2023 Annual Surveillance Report
- County of Santa Clara Health System - Voice Controlled Intelligent Personal Assistant (VIPA) 2023 Annual Surveillance Report

- County of Santa Clara Health System Emergency Medical Services Agency - Mobile Area Routing and Vehicle Location Information System (MARVLIS) 2023 Annual Surveillance Report
- Department of Parks and Recreation - Aerial Cameras and Global Positioning System Technologies 2023 Annual Surveillance Report
- Department of Parks and Recreation - Closed-Circuit Cameras 2023 Annual Surveillance Report
- Department of Planning and Development - Audio Recorders 2023 Annual Surveillance Report
- Department of Planning and Development - Digital Cameras 2023 Annual Surveillance Report
- Employee Services Agency - Digital Cameras and Camcorders 2023 Annual Surveillance Report
- Employee Services Agency - Video-Audio Surveillance for Online Examination Administration 2023 Annual Surveillance Report
- Facilities and Fleet Department - Telematics, A Vehicle Fleet Management Tool 2023 Annual Surveillance Report
- Multi-Departmental Children's Advocacy Center - Security Video Cameras 2023 Annual Surveillance Report
- Multi-Departmental County Government Center - Security Cameras 2023 Annual Surveillance Report
- Multi-Departmental Muriel Wright Facility - Video Security Cameras 2023 Annual Surveillance Report
- Office of Pretrial Services - Electronic Alcohol Monitoring Devices 2023 Annual Surveillance Report
- Office of Pretrial Services - Global Positioning System Electronic Monitoring Devices 2023 Annual Surveillance Report
- Office of the Assessor - Digital Cameras Used to Assess Property 2023 Annual Surveillance Report
- Office of the County Counsel - Digital Audio Recorders 2023 Annual Surveillance Report
- Office of the County Counsel - Digital Camera 2023 Annual Surveillance Report
- Office of the County Counsel Equal Opportunity Division - Audio Recorders 2023 Annual Surveillance Report
- Office of the County Executive - Digital Cameras 2023 Annual Surveillance Report
- Office of the County Executive Reentry Resource Center - Security Cameras 2023 Annual Surveillance Report
- Office of the District Attorney - Children's Advocacy Center Interview Room Audio and Video Recording System 2023 Annual Surveillance Report
- Office of the District Attorney - Data Extraction-Examination Forensic Tools and Software 2023 Annual Surveillance Report
- Office of the District Attorney - Digital Recorders 2023 Annual Surveillance Report

- Office of the District Attorney - Global Positioning System Trackers 2023 Annual Surveillance Report
- Office of the District Attorney - Night Vision Binoculars 2023 Annual Surveillance Report
- Office of the District Attorney - Video and Audio Surveillance and Recording System for REACT Task Force Office 2023 Annual Surveillance Report
- Office of the District Attorney - Video Surveillance and Recording of Evidence Storage Facility 2023 Annual Surveillance Report
- Office of the District Attorney Crime Lab - Access Card and Biometric Fingerprint Systems 2023 Annual Surveillance Report
- Office of the District Attorney Crime Lab - Digital and Multimedia Evidence Software Hardware 2023 Annual Surveillance Report
- Office of the District Attorney Crime Lab - DNA Collection and Analysis Software 2023 Annual Surveillance Report
- Office of the District Attorney Crime Lab - Security Cameras 2023 Annual Surveillance Report
- Office of the Medical Examiner-Coroner - Digital Cameras 2023 Annual Surveillance Report
- Office of the Public Defender-Alternate Defender - Data Extraction and Examination Equipment 2023 Annual Surveillance Report
- Office of the Public Defender-Alternate Defender - Digital Audio Recorders 2023 Annual Surveillance Report
- Office of the Public Defender-Alternate Defender - Digital Cameras 2023 Annual Surveillance Report
- Office of the Public Defender-ADO-IDO-DAO - VIDIZMO Media Processing Tool 2023 Annual Surveillance Report
- Office of the Sheriff - Automated License Plate Reader Technology 2023 Annual Surveillance Report
- Office of the Sheriff - Body Worn Camera System 2023 Annual Surveillance Report
- Office of the Sheriff - Bomb Disposal Robots 2023 Annual Surveillance Report
- Office of the Sheriff - Callyo Mobile Bug 2023 Annual Surveillance Report
- Office of the Sheriff - City of Saratoga's Automated License Plate Readers 2023 Annual Surveillance Report
- Office of the Sheriff - Command Vehicle Camera 2023 Annual Surveillance Report
- Office of the Sheriff - Court Security and Safety Surveillance Equipment 2023 Annual Surveillance Report
- Office of the Sheriff - Court Security Video Cameras 2023 Annual Surveillance Report
- Office of the Sheriff - Crisis Negotiations Team Emergency Negotiation Telephone Call Box and Rescue Phone System 2023 Annual Surveillance Report
- Office of the Sheriff - Digital Cameras and Video 2023 Annual Surveillance Report
- Office of the Sheriff - Digital Voice Recorders 2023 Annual Surveillance Report
- Office of the Sheriff - Direct-Link Bridge Series System 2023 Annual Surveillance Report

- Office of the Sheriff - Electronic Monitoring Program Monitoring Devices (Global Positioning System Monitoring Devices) 2023 Annual Surveillance Report
- Office of the Sheriff - Flash Camera 2023 Annual Surveillance Report
- Office of the Sheriff - In-Car Video Recording System (Dash Cam System) 2023 Annual Surveillance Report
- Office of the Sheriff - Integrated Helicopter Mapping System 2023 Annual Surveillance Report
- Office of the Sheriff - Live Scan Machines, Mobile ID Fingerprint Machines, and Latent Expert Workstation Technology 2023 Annual Surveillance Report
- Office of the Sheriff - Live Trac PT-10 Plus Global Positioning System Tracking Devices 2023 Annual Surveillance Report
- Office of the Sheriff - Security Video Cameras at Sheriff's Headquarters, Substations, and Evidence Storage Areas 2023 Annual Surveillance Report
- Office of the Sheriff - Tactical Ball Cameras 2023 Annual Surveillance Report
- Office of the Sheriff - Tactical Electronics Core Camera System 2023 Annual Surveillance Report
- Office of the Sheriff - Town of Los Altos Hills' Automated License Plate Readers 2023 Annual Surveillance Report
- Office of the Sheriff - Trail Cameras 2023 Annual Surveillance Report
- Office of the Sheriff - Underwater Remotely Operated Vehicle 2023 Annual Surveillance Report
- Office of the Sheriff - Unmanned Aerial Systems (UAS) 2023 Annual Surveillance Report
- Office of the Sheriff - VideOversight Interview Recording and Case Management System 2023 Annual Surveillance Report
- Office of the Sheriff - VIP Gander and Mini-Gander Bomb Robot Camera Systems 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Booking Photograph Cameras 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Facility Security Cameras for Main Jail North and Elmwood 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Full-Body Security Screener Technology 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Handheld Digital Cameras 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Inmate Tablet Monitoring Technology 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Inmate Telephone Monitoring 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Inmate Tracking System 2023 Annual Surveillance Report
- Office of the Sheriff Custody Bureau - Portable Digital Audio Recorders 2023 Annual Surveillance Report

- Office of the Sheriff Custody Bureau - Safety and Security Surveillance Equipment 2023 Annual Surveillance Report
- Probation Department - Electronic Monitoring Program Devices 2023 Annual Surveillance Report
- Probation Department - Juvenile Hall Video Security System 2023 Annual Surveillance Report
- Probation Department - William F. James Ranch Video Security System 2023 Annual Surveillance Report
- Procurement Department - Audio Recorders 2023 Annual Surveillance Report
- Registrar of Voters - Security Cameras 2023 Annual Surveillance Report
- Roads and Airports Department - Airport Noise and Operations Monitoring System 2023 Annual Surveillance Report
- Roads and Airports Department - Facility Security Camera Systems 2023 Annual Surveillance Report
- Social Services Agency - Telephonic and Voice Recording Equipment 2023 Annual Surveillance Report
- 2023 Annual Report Summary of Requests Notifications and Receipt of Surveillance Use Policies