

2021 Anticipated Surveillance Impact Report

County of Santa Clara

Countywide

Video Security System

Description of Surveillance Technology

The County of Santa Clara (County) conducts operations and provides services at numerous facilities throughout Santa Clara County. The County monitors many of these facilities through the use of video security cameras, which collect and record video footage of activity in and around County facilities. Generally, County security cameras are used for the same purposes, possess the same capabilities, and allow for similar kinds of access to their data regardless of the actual facility where they are installed. Historically, these “standard” camera systems were approved for use under a patchwork of department-specific or facility-specific policies and impact reports. With Board receipt of this Anticipated Surveillance Impact Report, a Board finding that the benefits of the surveillance technology outweigh the costs, and Board approval of the accompanying Countywide Surveillance Use Policy for Video Security Cameras (Countywide Camera Policy), County departments shall be authorized to acquire and use standard camera systems at all County facilities, within the parameters prescribed by the Countywide Camera Policy.

Cameras covered by the Countywide Camera Policy will be capable of collecting and recording only video data. They shall not have audio, thermal, or facial recognition or other biometrics capabilities.

Purpose for the Surveillance Technology

The purposes for the video security cameras shall be for public safety and the identification, assessment, investigation, and reporting of behavior or activity that legitimately appears to be: in violation of Department or County rule, policy, or reasonable expectation; illegal; or in furtherance of illegal activity.

Locations of the Surveillance Technology

The video security cameras will be installed at various County facilities within the County. The cameras may be used to monitor both public and protected areas of County facilities, including entrances, exits, waiting lobbies, and hallways. A camera under the Countywide Camera Policy shall not exclusively view private workspaces, such as an individual employee’s office or cubicle.

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Potential Impacts on Civil Liberties and Privacy

The implementation and use of video security cameras at County facilities does pose potential impacts to civil liberties and privacy. Over thirty-five years ago the federal Office of Technology Assessment analyzed surveillance equipment used by the government, including surveillance cameras, and found that “[s]ome uses of electronic surveillance devices may infringe on the protections afforded by the first, fourth, and fifth amendments to the U.S. Constitution and various public laws.”¹

Video surveillance of public spaces has been identified by privacy experts as being capable of causing privacy harm. While such video surveillance can promote positive forms of social control, too much social control can adversely impact freedom, creativity, and self-development.² Video surveillance can have chilling effects on people’s willingness to exercise their Constitutionally protected civil liberties, including the freedom to associate with certain groups or the freedom to speak at meetings.³ Public video surveillance can undermine an open society because it makes everyone more conscious of the government’s presence.⁴

It is also important to note that not all cameras covered by the Countywide Camera Policy will be in areas accessible by the public. While this may reduce potential civil liberties and privacy impacts on members of the public, such impacts may continue to be present regarding employees and others authorized to access the areas where these cameras are deployed.

At the same time, the capabilities of the standard video security cameras covered by this Surveillance Use Policy, their locations, and the policy governing their use helps to mitigate potential privacy harms. The cameras will not collect audio or be equipped with any special features such as thermal or facial recognition or other biometrics capabilities. In most circumstances, the cameras will be deployed in areas such as entrances, lobbies, and other publicly accessible areas of County facilities. These are areas where the need to ensure the public’s safety is very high, while the expectations of privacy are reduced. Where cameras are deployed in areas that are not accessible to the public, employees will be aware that recording is taking place, and such recording will be justified by a clearly articulated business purpose.

Additionally, the Surveillance Use Policy puts several limitations on the use of the video security cameras that help to mitigate privacy and civil liberties impacts. It requires dedicated signage to be placed where the cameras are deployed to help establish appropriate privacy expectations. It prohibits the use of cameras in areas where there is a reasonable expectation of privacy or for personal purposes or to harass, intimidate, or

¹ Federal Government Information Technology: Electronic Surveillance and Civil Liberties (Washington, DC: U.S. Congress, Office of Technology Assessment, OTACIT-293, October 1985).

² Daniel Solove, A Taxonomy of Privacy, 154 U.Penn. Law Review 477, 494 (2006).

³ *Id.* at 498-99.

⁴ Christopher Slobogin, Public Privacy: Camera Surveillance of Public Places and the Right to Anonymity 72 Miss. Law J. 213, 245 (2002).

discriminate against any individual or group. It places reasonable limits on the length of time that data can be retained, requiring video footage to be deleted or recorded over no later than 90 days after recording takes place, unless a legal or other retention requirement exists. This timeframe reduces the capability to compile long-term patterns of individual behavior that are unnecessary for any County business purpose.

Taken together, the video security cameras' capabilities, locations of deployment, and policy governing their use help to mitigate potential impacts on civil liberties and privacy.

Fiscal Analysis

Initial one-time purchase cost:

To be considered at future Board meetings where specific technology will be considered; information could also be included in Annual Surveillance Reports on an ongoing basis

Projected ongoing costs:

To be considered at future Board meetings where specific technology will be considered; information could also be included in Annual Surveillance Reports on an ongoing basis

Projected personnel cost:

To be considered at future Board meetings where specific technology will be considered; information could also be included in Annual Surveillance Reports on an ongoing basis

Source of funding:

To be considered at future Board meetings where specific technology will be considered; information could also be included in Annual Surveillance Reports on an ongoing basis