

County of Santa Clara
Countywide Surveillance Use Policy Computers and Mobile
Phones with Audiovisual Recording Capabilities
Annual Surveillance Report
July 1, 2022 - June 30, 2023

Ordinance A40-6 provides, “An Annual Surveillance Report is not required for County-owned cell phones with the capacity to capture audio or video footage; or for recording devices used exclusively with the express consent of everyone captured on the recording devices.” Therefore, the following report will be solely in response to *computers* with audiovisual recording capabilities.

1. Description of How Surveillance Technology was Used

During this reporting period, from July 1, 2022 to June 30, 2023, the County of Santa Clara has not used computers to record audio, video, or images without the express consent of those captured in the recordings. Examples of usage included but were not limited to: preparation of training materials for internal use; capturing photos for facility identification purposes and to document equipment configurations; drafting meeting minutes; recording statements of suspects, victims, and witnesses in criminal and administrative investigations; recording officewide events for subsequent viewing by employees unable to attend; participation in public pre-bid/pre-proposal conferences; participation in virtual meetings/events/trainings; conducting public outreach meetings on projects of interest to the general public; and participation in Brown Act meetings.

Departments have continued to utilize two software platforms, Microsoft Teams and Zoom, to hold audiovisual meetings and events virtually. In compliance with the Surveillance Use Policy, both Microsoft Teams and Zoom provide express notification to participants when the recording functionality is activated, and meeting hosts are required to verbally announce to members of the public and County staff that recording will commence prior to engaging that feature.

The Technology Services and Solutions Department (TSS) tracks the issuance of computers, and each Department internally tracks reallocation of computers. All County computers require a login and password to access the County network, which is issued by TSS in coordination with Departmental IT staff.

2. Data Sharing with Outside Entities

As of June 30, 2023, some audiovisual recorded data was shared with outside entities in accordance with the Surveillance Use Policy. The Office of the District Attorney has shared recorded interviews and statements with appropriate law enforcement agencies when relevant to an ongoing specific investigation or prosecution, and with defense and appellate counsel and pro

se litigants pursuant to Penal Code section 1054 et seq and *Brady v. Maryland*. Many Departments conducted public virtual outreach events and hosted public community meetings that were recorded and posted to Departmental websites and/or social media accounts. Some Departments regularly conduct public meetings that are broadcasted virtually in real-time and recorded to be publicly accessed without limitation, such as Board of Supervisors Meetings, Board Committee Meetings, various commission meetings, and Zoning Administration meetings. Some Departments also utilize recorded data to post photos and short videos for County social media releases. All recorded data was shared in compliance with the Surveillance Use Policy.

3. Community Complaints or Concerns

Departments have established processes to track and respond to community complaints and concerns, including any received about meetings they have hosted and/or recorded. As of June 30, 2022, all Departments report that there have been no community complaints or concerns received related to the computer audiovisual recording capabilities.

4. Audits and Policy Violations

Departments have assigned personnel to ensure compliance with the Surveillance Use Policy. Written designees are documented and have established processes to ensure all staff are informed of the Surveillance Use Policy. Data collected was retained for time periods in compliance with the Surveillance Use Policy, which vary depending on the type of data recorded (e.g., Brown Act meeting recordings and information documenting permits or land use entitlements are retained indefinitely, while training videos are retained as long as reasonably useful for County-related business purposes).

There have been no non-privileged internal audits conducted, and no reported violations or allegations of misuse related to computer audiovisual recording capabilities during this reporting period; therefore, sanctions were not applicable.

5. Effectiveness in Achieving Identified Purpose for Surveillance Technology

This surveillance technology has been very effective at achieving its identified purposes, including but not limited to: recording public meetings for broader availability, developing training materials for staff, providing information to and engaging input from a wider community sample during public outreach meetings, providing mandatory continuing legal education to staff. It is also effective at memorializing meetings in which discussions have long-term impacts and the accuracy of historic record is paramount.

Departments continue to be very satisfied with the functionality of this equipment in meeting County business needs and have not encountered any negative impacts during this reporting period. Utilizing virtual meeting capabilities has proven to be a good strategy as an alternative method of communication among staff and with clients, as we continue to navigate a pandemic. Similarly, this technology has provided greater opportunities to keep clients connected. Also noted, the use of recorded evidence in criminal investigations supports policies of fairness, integrity, and transparency by protecting the rights of victims and suspects, which is a

particularly effective use of the technology.

6. Public Records Act Request

County Departments adhere to the established County policy regarding California Public Records Act (CPRA) requests. Although the Office of the County Counsel is designated as responsible for coordination, each Department develops a process to receive, track, and categorize requests, research, and compile responses in consultation with County Counsel, and maintain all related records according to County retention parameters.

During this reporting period, there were no public records act requests received for information about, or collected from, computers with audiovisual recording capabilities.

7. Annual Cost

Funding for this technology is included in the County's Fiscal Year 2022-23 Adopted Budget. The countywide contracts for audiovisual software platforms utilized by all Departments are managed by TSS in coordination with the Procurement Department. The annual costs are as follows:

County paid \$11,264,281.29 for all Microsoft Suite licenses, which includes Office 365, other user subscription licenses (Visio, Projects, etc.), and server licenses, so it is not possible to separately identify the cost of solely the Microsoft Teams audiovisual application. The County also paid \$250,381.80 for all Zoom licenses, which includes support for the application.