



24-4485

DATE: February 27, 2024 (Item No. 14)

TO: Board of Supervisors

FROM: Jeffrey Rosen, District Attorney

SUBJECT: Surveillance Use Policy and Anticipated Surveillance Impact Report for Bureau of Investigation Body-Worn Camera Policy

RECOMMENDED ACTION

Consider recommendations relating to the Office of the District Attorney Bureau of Investigation Body-Worn Camera Policy.

Possible action:

- a. Receive Anticipated Surveillance Impact Report for Office of the District Attorney Body-Worn Cameras.
- b. Adopt finding that the benefits of the surveillance technology outweigh the costs pursuant to Section A40-4 of the Santa Clara County Ordinance Code.
- c. Approve Surveillance Use Policy for Office of the District Attorney Body-Worn Cameras, that has been reviewed and approved by County Counsel as to form and legality.
- d. Approve acquisition of Bureau of Investigation Body-Worn Cameras.

FISCAL IMPLICATIONS

The recommended actions will have no impact on the General Fund, as the purchase of body-worn cameras will be made using the FY 2023-2024 Office of the District Attorney appropriation for Services and Supplies. Initial costs to equip all investigators with body-worn cameras are estimated at \$101,311, and ongoing costs in the second year are estimated at \$49,714, growing by 4% per year thereafter.

REASONS FOR RECOMMENDATION AND BACKGROUND

The acquisition of body-worn cameras for Criminal Investigators in the Office of the District Attorney's Bureau of Investigation will allow the recording of events when investigators conduct law enforcement activities. The use of body-worn cameras (BWCs) by law enforcement officers can improve the civility of police-citizen encounters and enhance law enforcement transparency, accountability, and legitimacy. These benefits to the Office of the

District Attorney and the public outweigh the costs, both from a financial and privacy perspective.

The financial costs are provided above. The impacts on civil liberties and privacy will be limited. Investigators will use BWCs in a manner consistent with the Constitution of the United States, the Constitution of the State of California, applicable laws and ordinances, the Board-approved Surveillance Use Policy (SUP), and internal Bureau of Investigation policies governing the use and oversight of BWCs.

As provided in the SUP, investigators shall not use BWCs to record where individuals have a reasonable expectation of privacy unless the investigator obtains consent from the individual(s) being recorded or if the recording is being lawfully made pursuant to an arrest or search of the residence or individual(s). Investigators must also use reasonable caution while recording in sensitive areas, such as changing rooms, hospitals and healthcare facilities, and doctor's or lawyer's offices due to heightened expectations of privacy and other legal protections.

In order to ensure that these objectives are pursued with a commitment to protecting the privacy interests of every person who is recorded by a body-worn camera, the attached Surveillance Anticipated Impact Report and Surveillance Use Policy have been established.

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 receive the Office of the District Attorney's report and policy regarding its use of body-worn cameras, and the acquisition of the cameras will not be approved.

ATTACHMENTS:

- Anticipated Surveillance Impact Report
- Surveillance Use Policy