

Why Chula Vista MUST Adopt Surveillance & Privacy Ordinances

A Border Town Confronts the Reality of Police Surveillance

Chula Vista police have deployed drones and other tech. Now residents are pushing back, after reports that data was shared with immigration authorities.

PUBLIC SAFETY

Chula Vista Is Building a Real-Time Crime Center

License plate readers are mere pieces of a bigger project to gather and analyze intelligence for police. Officials have increased pushback over technology with proposals for a citywide privacy policy and a new oversight

The San Diego Union-Tribune

Chula Vista gives immigration officials access to license plate reader data

The California City That Sends a Drone Almost Every Time Police Are Dispatched on a 911 Call

BY FAINE GREENWOOD MAY 17, 2021 • 9:00 AM



Who are we?

Formed in December 2020, the Stop CVPD Surveillance Ad Hoc Group first convened in response to the revelation that CVPD had been sharing Automated License Plate Recognition data with ICE, CBP, and other immigration enforcement agencies for *years*.

We asked: How could a “Welcoming City” collect and share surveillance data with ICE?

Over time, we found that surveillance technology in Chula Vista was far more pervasive and concerning than just ALPR.

We are...

Advancing Students Forward

AFT 1931 Local - Immigrant Student Support Committee

Alliance of Californians for Community Empowerment -

ACCE

Border Angels

Change Begins With ME

Espacio Migrante

Indivisible San Diego Persist

Oakland Privacy

Partnership for the Advancement of New Americans
(PANA)

Pillars of the Community

Rise Up San Diego

San Diego Immigrant Rights Consortium

Secure Justice

Showing Up for Racial Justice - San Diego (SURJ-SD)

South Bay People Power

Take Action San Diego

Tech Lead San Diego

Tech Workers Coalition San Diego

Think Dignity

TRUST SD (Transparent and Responsible Use of
Surveillance Technology San Diego) Coalition

USD Center for Digital Civil Society

USD Immigration Law Society

USD Values Institute

US-Mexico Border Program, American Friends Service
Committee

We The People SD

How are communities dealing with complex issues & constantly changing technology?

Using multiple tools:

- Permanent oversight body - includes community & experts
- Surveillance use ordinance - details process & rules
- Surveillance use policies for each technology - review, adopt as ordinances
- Regular reporting, policy updates & recommendations (Surveillance Impact Reports, Surveillance Use Policies, Notification, Review, Annual Reports)
- Informed votes by City Council - based on Privacy Advisory Commission recommendations & public input
- Chief Privacy Officer or Inspector General - with more authority

Jurisdiction	California						Michigan	New York	Ohio	Tennessee	Washington	Wisconsin			
	Santa Clara County	City of Berkeley	City of Davis	City of Oakland	City of Palo Alto	BART							City and County of San Francisco	City of Lawrence	City of Cambridge
Passage Date of Current Ordinance	2016-06-21	2018-09-13	2018-04-03	2021-05-20	2018-09-10	2018-09-13	2018-09-14	2018-09-18	2018-10-10	2019-10-10	2015-08-10	2018-09-10			
Does the ordinance define surveillance technology?	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO			
Which departments are regulated by the ordinance?	YES	YES	YES	YES	NO	YES	NO	NO	NO	YES	YES	YES			
Some departments are regulated by the ordinance / different rules apply to law enforcement.	NO	NO	NO	NO	YES	NO	YES	YES	YES	YES	NO	NO			
One department is regulated by the ordinance.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO			
What reports and policies are required?	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO			
Surveillance use policies are required.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO			
Surveillance impact report is required.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO			
Annual report on surveillance practices and policies is required.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	NO			
Does an elected body review or approve ordinance reports and policies?	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES			
Does the ordinance apply retroactively?	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES	NO			
Does the ordinance reference an independent body that assists in reviewing surveillance technology?	NO	YES	NO	YES	NO	NO	YES	NO	NO	NO	NO	NO			
What enforcement mechanisms exist to encourage compliance?	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES	NO			
The ordinance creates a private right of action in the event of breach.	YES	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO			
The ordinance creates a misdemeanor that can be prosecuted in the event of breach.	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES	NO	YES			
The ordinance creates a suspension remedy.	NO	NO	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO			
Employees who violate provisions can be disciplined.	YES	YES	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO			
Contracts that violate the ordinance may be deleted or canceled.	YES	YES	NO	YES	NO	NO	NO	YES	NO	NO	NO	NO			
What exceptions are there to the ordinance's requirements?	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES	YES			
In urgent circumstances, departments can temporarily bypass approval requirements.	NO	NO	YES	YES	NO	NO	YES	NO	NO	YES	YES	YES			
Exceptions made for certain law enforcement techniques and investigations.	YES	NO	NO	NO	NO	YES	NO	NO	NO	NO	YES	YES			
Exception for data collection to which the public consents or can opt-out.	YES	NO	NO	NO	YES	NO	NO	NO	NO	NO	NO	YES			
Exception for departments to apply technical patches without approval.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO			
Exception for large-scale events.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO			
Exception for sensitive information.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES			

Over 20 jurisdictions in the US have adopted surveillance technology privacy and oversight ordinances. Chula Vista must do the same!



How to Stop 'Smart Cities' From Becoming 'Surveillance Cities'

by *Maryiam Saifuddin and Chad Marlow*
 SEP 17, 2018 10:12 AM

The key to protecting privacy lies with transparency and public oversight.



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FIND A DEALER Arriving Daily

Local

How Chula Vista became one of the most surveilled cities in the country

By [Amita Sharma](#) / Investigative Reporter

Chula Vista's diversity makes it unique:

>60% self-identify as Hispanic/Latino

<17% self-identify as White alone (no other rac/eth)

Cross-border family & economic ties

“On a per capita basis, they're probably the most or one of the most surveilled cities in the country,” said Brian Hofer, executive director of the Oakland-based privacy advocacy group Secure Justice.”

“Chula Vista's location adds federal surveillance to the mix. The city is just seven miles from the Mexico border, which opens it up to a network of monitoring by the nation's largest law enforcement agency — the U.S. Customs and Border Protection.”

”Border residents may never know that their information is being collected, but essentially, the government is able to put together a map of people's movements, either through incident times in which they're crossing the border itself, but also traveling through border communities,” said Shaw Drake, who serves as policy counsel for the ACLU's Border Rights Center. “And so really, towns like Chula Vista, across the border, are subjected to more surveillance technology than anywhere else in the country.”

Privacy and Surveillance Ordinances for Chula Vista

- 1. Privacy Advisory Commission Ordinance:** Establishes an independent body to oversee and enforce the approval, acquisition, use, and oversight process.

- 1. Surveillance and Community Safety Ordinance:** Lays out a detailed, enforceable process for all phases of the approval, acquisition, use, and oversight of all City surveillance technology, existing or proposed.

Privacy Advisory Commission

Independent civilian body to oversee process and make informed recommendations to the City Council

Membership:

- 9 members, at least 6 Chula Vista residents
- Appointed by Mayor, confirmed by City Council
- Demonstrated interest in privacy rights
- Representative areas:
 - Attorney/legal (at least 1)
 - Auditor/accountant (1)
 - IT/digital security (1)
 - Open government/transparency (1)
 - Equity-focused, most impacted communities (at least 4)

Duties:

- Advise the City on best practices to protect privacy rights in connection with acquisition & use of surveillance technology
- Conduct meetings & public forums & receive public input on the subject matter
- Review Surveillance Impact Reports & Surveillance Use Policies & make recommendations to the City prior to proposals for surveillance technology
- Submit annual reports, analysis, & recommendations to the City Council regarding the City's use of surveillance technology

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Notification & Acquisition Process

Detailed, enforceable process for all phases of the approval, acquisition, use, and oversight of all city surveillance technology

Surveillance Impact Report means a publicly released written report including at a minimum the following:

- Description
- Purpose
- Location
- Impact
- Mitigations
- Data Types and Sources
- Data Security
- Fiscal Cost
- Third-Party Dependence
- Alternatives
- Track Record

Surveillance Use Policy means a publicly released and legally enforceable policy for use of the surveillance technology that at a minimum specifies the following:

- Purpose
- Authorized Use
- Data Collection
- Data Access
- Data Protection
- Data Retention
- Public Access
- Third Party Data Sharing
- Auditing and Oversight
- Maintenance

Ongoing Audit & Reporting Requirements

Annual Surveillance Report means a written report concerning a specific surveillance technology that includes all the following:

- How the surveillance technology was used
- **Whether and how often data was shared with outside entities**
- Where the surveillance technology was deployed geographically
- A summary of community complaints or concerns about the surveillance technology
- **An analysis of the use policy & whether it is adequate in protecting civil rights & privacy**
- The results of any internal audits and information about any violations of the Surveillance Use Policy
- Information about any data breaches or other unauthorized access to the data
- **Information, including crime statistics, that helps the community assess whether the technology has been effective**
- Statistics and information about public records act requests regarding the surveillance technology, including response rates
- Total annual costs, including personnel and other ongoing costs, and source of funding in the coming year
- Any requested modifications to the Surveillance Use Policy and a detailed basis for the request.

What can the Task Force do?

- Expand the Task Force work plan to achieve your goals for a comprehensive program that ensures privacy & civil liberties protections now & for the future;
- Use your knowledge, expertise & legitimacy to recommend a robust process & multiple tools to deal with complex & constantly changing technologies;
 - Recommend adoption of a Privacy Advisory Commission Ordinance
 - Recommend a Surveillance and Community Safety

What can the Task Force do?

- Build public trust with a transparent & inclusive process
 - Start with agreement on a set of guiding principles;
 - Build on existing models, best practices, lessons learned;
 - Take the time needed to get it right;
 - Facilitate open communication & deliberation with the community, in particular non-English speakers & other often-marginalized people.

Selected Resources

ORDINANCES

- City of Oakland
 - Oakland Ordinance (final): <https://oaklandca.s3.us-west-1.amazonaws.com/oakca1/groups/cityadministrator/documents/standard/oak070617.pdf>
 - Oakland Privacy Advisory Commission website (includes ordinance): <https://www.oaklandca.gov/boards-commissions/privacy-advisory-board>
- City of San Diego - SD TRUST Ordinance (awaiting final vote by SD City Council)
 - Proposed ordinance: https://sandiegotrust.org/City_of_San_Diego_Proposed_Surveillance_Ordinance_and_Privacy_Commission.pdf
 - Ordinances as passed unanimously by SD City Council November 2020: https://sandiegotrust.org/20-Nov_Surveillance_Privacy_Ordinances.pdf
- “Local Surveillance Oversight Ordinances, February 2021” (White Paper, Samuelson Law, Technology & Public Policy Clinic at UC Berkeley School of Law) <https://www.law.berkeley.edu/wp-content/uploads/2021/02/Local-Surveillance-Ordinances-White-Paper.pdf>
- “How San Diego’s Privacy Law Stacks Up Against 16 Others” (Blog post, Seth Hall March 23, 2021 sandiegoprivacy.org) <https://sandiegoprivacy.org/berkeley-review-of-surveillance-oversight.html>

Selected Resources (2)

ORGANIZATIONS

- SD TRUST Coalition: <https://sandiegotrust.org/>
- Oakland Privacy: <https://oaklandprivacy.org/>
- Electronic Frontier Foundation (EFF) <https://www.eff.org/>
 - EFF - Street-Level Surveillance explains types of surveillance technologies & privacy issues, including ALPR, drones, and others <https://www.eff.org/issues/street-level-surveillance>
- American Civil Liberties Union (ACLU): Community Control Over Police Surveillance (CCOPS) - Guiding Principles https://www.aclu.org/sites/default/files/field_document/ccops_guiding_principles_-_final_1.pdf
- Surveillance Technology Oversight Project (S.T.O.P.) <https://www.stopspying.org/>

OTHER RESOURCES

- “Cities turn to privacy boards to rebuild trust” (Sarah Wray, Cities Today June 9, 2022) <https://cities-today.com/cities-turn-to-privacy-boards-to-rebuild-trust/>
- “Police Surveillance and Facial Recognition: Why data privacy is imperative for communities of color” (Nicol Turner Lee and Caitlin Chin, Brookings Institution April 12, 2022) <https://www.brookings.edu/research/police-surveillance-and-facial-recognition-why-data-privacy-is-an-imperative-for-communities-of-color/?amp>
- “Pregnancy Panopticon: abortion surveillance after Roe” (S.T.O.P., May 24, 2022) <https://www.stopspying.org/pregnancy-panopticon>

Questions?

“Decisions on technology go beyond the narrow term of privacy to encompass civil liberties and human rights more broadly. Scrutiny over the effectiveness of solutions and value for money is also essential. As more advanced technology is deployed in cities in the police department and beyond, it’s essential that guardrails are in place, processes are transparent, and citizens have a chance to participate. Independent oversight boards could soon be an essential part of urban governance.”

Sarah Wray, Cities Today 6/9/22