



SANTA CRUZ
COUNTY
GRAND JURY

Grand Jury <grandjury@scgrandjury.org>

Required response to Grand Jury report is past due

Chris Clark <Chris.Clark@santacruzcounty.us>

Mon, Aug 28, 2023 at 2:06 PM

To: "grandjury@scgrandjury.org" <grandjury@scgrandjury.org>

Cc: "syda.cogliati@santacruzcourt.org" <syda.cogliati@santacruzcourt.org>

Hi Judge Cogliati and Kim,

My apologies. We completed this a few weeks ago, and I thought it had been submitted. Please see attached. Please let me know if you are missing any other responses from our Office.

[Quoted text hidden]

 **2023-7aR_Surveillance_Sheriff_Packet.pdf**
256K



The 2022–2023 Santa Cruz County Civil Grand Jury
Requires the

Santa Cruz County Sheriff

to Respond by August 21, 2023

to the Findings and Recommendations listed below
which were assigned to them in the report titled

Surveillance State in Santa Cruz County

Who surveils those who surveil us?

Responses are **required** from elected officials, elected agency or department heads, and elected boards, councils, and committees which are investigated by the Grand Jury. You are required to respond and to make your response available to the public by the California Penal Code [\(PC\) §933\(c\)](#).

Your response will be considered **compliant** under [PC §933.05](#) if it contains an appropriate comment on **all** findings and recommendations **which were assigned to you** in this report.

Please follow the instructions below when preparing your response.

Instructions for Respondents

Your assigned [Findings](#) and [Recommendations](#) are listed on the following pages with check boxes and an expandable space for summaries, timeframes, and explanations. Please follow these instructions, which paraphrase [PC §933.05](#):

1. **For the Findings, mark one of the following responses with an “X” and provide the required additional information:**
 - a. **AGREE with the Finding**, or
 - b. **PARTIALLY DISAGREE with the Finding** – specify the portion of the Finding that is disputed and include an explanation of the reasons why, or
 - c. **DISAGREE with the Finding** – provide an explanation of the reasons why.

2. **For the Recommendations, mark one of the following actions with an “X” and provide the required additional information:**
 - a. **HAS BEEN IMPLEMENTED** – provide a summary of the action taken, or
 - b. **HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – provide a timeframe or expected date for completion, or
 - c. **REQUIRES FURTHER ANALYSIS** – provide an explanation, scope, and parameters of an analysis to be completed within six months, or
 - d. **WILL NOT BE IMPLEMENTED** – provide an explanation of why it is not warranted or not reasonable.

3. **When your responses are complete, please email your completed Response Packet as a PDF file attachment to both**

The Honorable Judge Syda Cogliati Syda.Cogliati@santacruzcourt.org and

The Santa Cruz County Grand Jury grandjury@scgrandjury.org.

If you have questions about this response form, please contact the Grand Jury by calling 831-454-2099 or by sending an email to grandjury@scgrandjury.org.

Findings

- F1.** The Sheriff's Office documenting minimal use of Amazon Ring, and informing the public of use specifically to assist with the investigation of significant crimes, assures the public this tool is not in constant use or frequently surveilling specific neighborhoods.

- AGREE**
 PARTIALLY DISAGREE
 DISAGREE

Response explanation (required for a response other than **Agree**):

F2. The Sheriff's Office indicating no use of automated license plate readers updates the public with current information consistent with findings from the 2021 Criminal Justice Council Report.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

F3. Conflicting information on records retention within Policy 423 (Body Worn Cameras), as well as between Policies 422 (Portable Audio/Video Recorders) and 423, creates confusion and doubt for the public, and may present lack of certainty on proper records retention and disposal for Sheriff's Office personnel.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The two referenced policies and policy 606 (Unmanned Aerial System Operations) were reviewed, and the necessary changes were made to create clarity within the Lexipol Policy on retention. The policy has been posted for public view.

F4. The Sheriff's Office's lack of documentation specific to the Cellebrite Mobile Device Forensics Tool leaves the public without critical information on how this tool will be used, and more importantly, when it will not be used.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The Sheriff's Office's use of the Cellebrite Mobile Device adheres to SB 178. As outlined in SB 178, this tool may be used pursuant to a warrant, consent, or emergencies defined under the law.

F5. The Sheriff's Office first annual Military Equipment Inventory for the surveillance tools reviewed by the Grand Jury lacks details such as impact cost and specific linkages to Sheriff's Office policy as required under California AB-481. This lack of detail leaves the public without clarity on aspects of cost and accountability measures.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The Sheriff's Office made internal changes to improve overall reporting for military equipment leading up to and following the release of the 2022 annual report. The Sheriff's Office is confident that the requirements of AB 481 have been fulfilled and this was supported by the Santa Cruz Board Of Supervisors with the approval of the report in May. The Sheriff's Office provides a user-friendly method for community members to file questions or complaints via our website. Our Lexipol policy 706.9 provides community members with a direct number to the Sheriff's Professional Standards and Conduct Unit for questions or concerns.

F6. The ability to register video surveillance on a web page created specifically for security alarm registration within Santa Cruz County may be confusing to the registered subscribers, as well as those considering adding security services to their home or business.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The CryWolf platform offers three location types for registration, commercial, residential, and video surveillance. All are clearly marked and require the user to select the option. The Sheriff's Office believes the registration platform is clear and easy to navigate.

Registering a video surveillance system with CryWolf does not provide the Sheriff's Office with any remote access to the private persons closed-circuit system. Registering the video surveillance system only provides the County of Santa Cruz and the Sheriff's Office with information that a system is available at the listed address.

F7. The Sheriff's Office of Corrections' lack of clear documentation specific to inmate tablet use leaves the public without critical information on how the information collected is used, how this information is retained, and more importantly, when disposal occurs for non-evidentiary records.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The Sheriff's Office created Policy #522 – *Electronic Tablets* that will address tablet usage, retention of data, and other tablet related matters.

F8. The Sheriff's Office of Corrections' lack of a documented process for handling inadvertent recording of privileged communications (e.g., communications by an inmate to legal counsel), is a concern since a breach of confidentiality could expose the County to costly legal liability.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

The Sheriff's Office documented the existing practice/procedure in Correctional Memo 23-C-008 *Inadvertent Recording of Privileged Communications*. The Sheriff's Office has worked with the local legal community and our provider to minimize inadvertent recordings and this document formalizes that process.

Recommendations

R1. As Ring installations become more widespread, the Sheriff's Office should include statistics on Amazon Ring Neighbors Portal usage in its annual report to the public by March 30, 2024. (F1)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office views the Amazon Ring Neighbors Portal as another tool to help Deputies and Investigators provide public safety.

The Ring Public Safety Portal allows law enforcement to share posts soliciting assistance from the public with locating video evidence related to criminal investigations and public safety emergencies. The Sheriff's Office does not have access to individual Ring users' video cameras. No information regarding who owns these cameras or where they are installed, is accessed without the explicit consent of the user. Ring users who have opted into the program are provided with a description of the crime or event being investigated, as well as the time and location, along with a convenient way of uploading the evidence to a secure portal. Videos uploaded to the portal are transferred to the Sheriff's Office Digital Evidence System and retained pursuant to the same policies that govern all of our digital evidence.

Cooperation with a law enforcement request through Ring is not required.

R2. The Sheriff's Office should consider using its 2024 annual Military Equipment Inventory public meeting as its forum to inform the public of intent to acquire or use any Automated License Plate Reader equipment. (F2)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Required response explanation, summary, and timeframe:

Currently the Sheriff's Office has no intention of acquiring Automated License Plate Reader (ALPR) equipment. The Sheriff's Office firmly believes that the use of ALPRs does not fall within the purview or legislative intent of AB 481.

R3. The Sheriff's Office Policy Manual should review and propose potential revisions specific to confusing language in Policies 422 (Portable Audio/Video Recorders) and 423 (Body Worn Cameras) by December 31, 2023. (F3)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office reviewed the listed policies and recognized the necessity to distinguish them as different items of equipment. Policy 422, concerning portable audio/video recorders differs from Policy 432 pertaining to body-worn cameras. We have added clarifying language and aligned the retention periods related to both, along with Policy 606 (Unmanned Aerial System Operations).

R4. The Sheriff's Office should inform the public on whether Mobile Device Forensic Tools are used for consent searches specifically, and define and announce disposal dates for non-evidentiary data by December 31, 2023. (F4)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office's use of the Cellebrite Mobile Device strictly adheres to SB 178. As outlined in SB 178, this tool may be used when an individual voluntarily grants permission to the Sheriff's Office to search their mobile device. When consent is granted to a member of the Sheriff's Office, search parameters and conditions are agreed upon at the time of consent. The Sheriff's Office relies on Lexipol Policy 800, SB 178, and state law for guidance on retention.

R5. The Sheriff's Office may wish to recommend to the County Administration Office that clarifying language be added to the False Alarm and Administration online registration. (F6)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office does not agree that the language contained within the CryWolf online registration is confusing or misleading.

R6. Where possible, the Sheriff's Office should publicly provide information on retention and specify disposal dates for all surveillance technologies non-evidentiary data by December 31, 2023. (F3, F4, F5, F7)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office updated Policy 422, Policy 423, and Policy 606; adding clarifying language related to retention periods. These policies are made available to the public on the Sheriff's Office website.

R7. The Sheriff's Office should consider regular public reporting on the intended acquisition and ongoing use of surveillance technologies not already publicly reported as required under state or county law. The Sheriff's Office should consider using portions of the Military Equipment Inventory as a template for providing the public with pertinent information on any surveillance equipment proposed, or acquired through federal grants, or other funding rather than creating yet another reporting format by December 31, 2023. (F2, F4)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

Currently, the Sheriff's Office has no intention of acquiring Automated License Plate Reader equipment.

R8. The Sheriff's Office should review its Military Equipment Inventory to ensure compliance with AB-481. Where documentation is missing, the Sheriff's Office should draft clarifying text either to share with the public for review, or for inclusion in the annual update by May 31, 2024. (F5)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The Sheriff's Office made a strong commitment to enhancing the reporting in the Military Equipment annual report. The Sheriff's Office believes the 2022 annual report provides accurate and comprehensive insight into our Military Equipment inventory. The Sheriff's Office is committed to ensuring the report continues to evolve and provide the community with the information outlined within AB 481.

R9. The Sheriff's Office of Corrections should consider a documented process for handling the inadvertent recording of privileged communications, including inmate tablet use by September 30, 2023. (F7, F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Required response explanation, summary, and timeframe:

23-C-008 *Inadvertent Recording of Privileged Communications* was released to Corrections Staff on July 13, 2023.