

George Cammarota: Why Santa Clara County needs a surveillance transparency ordinance

By George Cammarota, Special to The Mercury News
San Jose Mercury News

Posted: Fri Apr 08 12:42:57 MDT 2016

Stingrays, Hailstorms, Triggerfishes, FLIRs, Amberjacks, NGI, Harpoons and ALPRS are not exactly household names to most Santa Clara County residents. The names sound like something out of "Moby Dick" meets a science fiction novel. But these pieces of high-tech surveillance equipment and more like them are being used now by local law enforcement, often without public knowledge, input or consent.

That is why Santa Clara County's Board of Supervisors is considering a global surveillance equipment transparency ordinance. The proposed legislation covers all surveillance technology from cellphone interceptors to license plate readers to facial recognition software to those not invented yet. It dictates a cost-benefit analysis prior to purchase and a proposed usage policy -- vetted in a public forum -- and after purchase, an annual use audit to provide real data in real time.

High-tech gadgets can be useful tools in the investigation of crimes. But they can also be expensive boondoggles that rarely get used. Or worse, they can be used inappropriately and generate costly lawsuits and unjust outcomes.

This isn't just a theoretical worry. A 2012 audit of National Security Agency intelligence operations documented 2,776 privacy violations in just one year, including a dozen incidents dubbed "LOVEINT" -- meaning the use of the agency's formidable surveillance apparatus to stalk current or former love interests of NSA staffers.

Policing is not exempt from the racial divides that cross this country. Profiling and targeting can and have been applied disproportionately to certain groups including African-Americans, Latinos, religious groups, young people and those marching in the street for redress of grievances.

As people become aware of the billions in federal funding and the extensive equipment provided directly to law enforcement for surveillance, they want to know when and why it is being considered, what it is intended to do, and what are the real costs before being deployed. They also want rules to ensure proper use, oversight, accountability and safeguards for individual rights.

Gov. Jerry Brown heeded that call in 2015, signing into law three bills that increased surveillance transparency: SB 178 (email privacy), SB 741 (cellphone interceptors) and SB 34 (license plate data usage). But new innovations in technology race ahead faster than equipment-specific legislation can possibly keep up with.

It's understandable that some sectors of law enforcement have hesitated to embrace the ordinance wholeheartedly. They want to use every tool they can to do their job. But communities increasingly understand the need to ensure that time, energy and resources are not spent on systems that cost more and do less.

The county Finance and Government Operations Committee will review the surveillance transparency ordinance on April 14 at 3 p.m. at 70 West Hedding St. in San Jose. The meeting is open to the public and will have a comment period.

A lack of defined policies opens the door for mistakes, overreaches and even abuses, which thrive in the lack of established use policies. These mistakes create mistrust between law enforcement and residents, especially in communities where crime rates are higher -- that are often most surveilled. Such mistrust makes community policing harder, as beat cops must depend on relationships within neighborhoods to get information and investigate and prevent crimes.

Following the public outcry about NSA warrant-less spying and the use of paramilitary equipment by local police, community members deserve reassurance that safeguards and public oversight will be in place if surveillance equipment is going to be used.

It's plain good government.

George Cammarota is a longtime San Jose resident; retired electrical engineer; and community organizer in the anti-police violence, prison reform, and privacy and surveillance movements. He wrote this for the Mercury News.

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