



SURVEILLANCE TECHNOLOGY REPORTING BY VIRGINIA LAW ENFORCEMENT

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OVERVIEW OF SURVEILLANCE TECHNOLOGY REPORTING REQUIREMENTS

Legislation enacted during the 2024 Regular Session of the General Assembly requires each state and local law enforcement agency and sheriff's department in Virginia to annually report all surveillance technology it procured to the Virginia Department of Criminal Justice Services (DCJS).³³⁹ This reporting requirement does not apply to private or campus police departments.³⁴⁰

The 2024 legislation defines "surveillance technology" as "any electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or capable of being associated with, any specific individual, group, or place or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software."³⁴¹ In addition, the legislation provides the following examples of surveillance technology:

- International mobile subscriber identity (IMSI) catchers and other cell site simulators;
- Automatic license plate readers;
- Electronic toll readers;
- Closed-circuit television cameras;
- Biometric surveillance technology, including facial, voice, iris, and gait-recognition software and databases;
- Mobile DNA capture technology;
- Gunshot detection and location hardware and services;
- X-ray vans;
- Video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras;
- Surveillance enabled or capable lightbulbs or light fixtures;
- Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
- Social media monitoring software;

³³⁹ 2024 Va. Acts ch. 614. House Bill 1496, 2024 Regular Session of the General Assembly. (Del. Sam Rasoul). <https://legacylis.virginia.gov/cgi-bin/legp604.exe?ses=241&typ=bil&val=hb1496>.

³⁴⁰ See VA. CODE ANN. § 9.1-101 (2024) for the definition of "private police department." See also VA. CODE ANN. § 23.1-809 et. seq. (2024) for laws pertaining to campus police departments.

³⁴¹ VA. CODE ANN. § 9.1-116.10(A) (2024).

- Through-the-wall radar or similar imaging technology;
- Passive scanners of radio networks;
- Long-range Bluetooth and other wireless-scanning devices;
- Radio-frequency I.D. (RFID) scanners; and,
- Software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software.³⁴²

However, the legislation specifically excludes the following devices or hardware from the surveillance technology reporting requirement:

- Routine office hardware, such as televisions, computers, and printers, that is in widespread use and will not be used for any surveillance-related functions;
- Parking ticket devices;
- Manually operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video and/or audio recordings;
- Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
- Databases not intended to store or compile surveillance data; and,
- Manually operated technological devices used primarily for internal communications and not designed to surreptitiously collect surveillance data, such as radios and email systems.³⁴³

DCJS SURVEY ON LAW ENFORCEMENT ACQUISITION OF SURVEILLANCE TECHNOLOGY

To facilitate the annual surveillance technology reporting requirement, DCJS conducted a survey of law enforcement agencies and sheriff's departments in October 2024. Although the 2024 legislation only mandates the reporting of surveillance technology that agencies procured (i.e., purchased),³⁴⁴ DCJS broadened the reporting parameters to include surveillance technology "acquired" by any means. The survey collected: (i) an agency contact, (ii) all surveillance technology equipment listed in the reporting statute that was procured or acquired by the agency, and (iii) any surveillance technology equipment not included in the reporting statute that was procured or acquired by the agency.

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ VA. CODE ANN. § 9.1-116.10(B) (2024).

DCJS reported an 82% (275 of 335) survey response rate from law enforcement agencies and sheriff's departments.³⁴⁵ The survey findings revealed that:

- 87% (240 of 275) of responding law enforcement agencies reported having procured/acquired video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras;
- 51% (141 of 275) of responding law enforcement agencies reported having procured/acquired closed-circuit television cameras (CCTV);
- 51% (140 of 275) of responding law enforcement agencies reported having procured/acquired automatic license plate readers (ALPR);
- A much smaller percentage of responding law enforcement agencies reported having procured/acquired other types of technologies, such as gunshot detection and location hardware and services (5%), social media monitoring software (4%), facial recognition technology (3%), or mobile DNA capture technology (1%); and,
- A small number of responding law enforcement agencies reported having procured/acquired other surveillance technology that was not included in the reporting statute, such as drones, cameras, and GPS trackers.

DCJS PRESENTATION OF SURVEY FINDINGS TO THE CRIME COMMISSION

At the December 2024 Crime Commission meeting, DCJS presented its survey findings and outlined potential changes to clarify the surveillance technology reporting requirements and improve data collection.³⁴⁶ These potential changes included legislative amendments to the reporting statute, as well as administrative changes to DCJS's own data collection and reporting practices.

DCJS advised that legislative amendments to the reporting statute could clarify:

- Whether law enforcement must report on all surveillance technology it procures each year, or if a report is only required for newly procured surveillance technology each year;
- Whether reporting access to surveillance technology through other law enforcement agencies or third-part services or subscriptions should be required; and,
- How to interpret the phrase "*unauthorized access*" when law enforcement has a search warrant to access a computer, computer service, or computer network.

³⁴⁵ Virginia Department of Criminal Justice Services. (2024). *Summary report on surveillance technology equipment procured by Virginia law enforcement agencies, 2024*.

<https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/research/summary-report-surveillance-technology-equipment-procured-virginia-law-enforcement-agencies-2024.pdf>

³⁴⁶ Johnson, S. (2024, December 16). Findings from the 2024 surveillance technology equipment reporting. Virginia Department of Criminal Justice Services' presentation at the December 16, 2024, Crime Commission Meeting (Richmond, VA). <https://vscc.virginia.gov/2024/Dec16Mtg/DCJS%20-%20Findings%20from%202024%20Surveillance%20Technology%20Equipment%20Reporting.pdf>.

In addition, DCJS noted that it could make the following administrative changes without legislation to improve future data collection related to surveillance technology reporting:

- Create a guidance document for law enforcement that will define the surveillance technology equipment that is listed in the statute;
- Add other types of surveillance technology equipment in the survey that are not explicitly listed as examples in the statute, but were commonly reported by law enforcement, such as drones and GPS trackers; and,
- Include additional questions in the survey to gather information on the possession, access, and use of surveillance technology equipment by law enforcement.

CRIME COMMISSION LEGISLATION

The Crime Commission endorsed legislation at its January 2025 meeting to amend the surveillance technology reporting statute to clarify what constitutes surveillance technology and what is to be reported to DCJS.³⁴⁷ This legislation was introduced as House Bill 2725 during the 2025 Regular Session of the General Assembly as part of the Crime Commission’s legislative package.³⁴⁸ The bill passed the General Assembly and was signed into law by the Governor.³⁴⁹ As enacted into law, the bill makes the following changes to the surveillance technology reporting statute:

- Requires each law enforcement agency to report all surveillance technology that it has used, accessed, or procured during the previous fiscal year, regardless of whether that technology belonged to the reporting agency or to another law enforcement agency.
- Directs each law enforcement agency to report any third-party services or third-party subscriptions that it used to access or obtain any surveillance technology or data.
- Deletes the term “*unauthorized*” from “(xi) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network” to clarify any ambiguity over whether access is authorized or not when law enforcement has obtained a search warrant for the computer, computer service, or computer network.
- Adds the phrase “*software, service, or subscription*” to the listed items that do not constitute surveillance technology because some of the existing exclusions are not “*devices or hardware*”, such as databases and email systems.

Finally, in addition to these clarifying amendments, House Bill 2725 requires that the surveillance technology information reported to DCJS be shared with the Crime Commission and the Joint Commission on Technology and Science (JCOTS) by December 1st each year. This amendment

³⁴⁷ VA. CODE ANN. § 9.1-116.10 (2024).

³⁴⁸ House Bill 2725, 2025 Regular Session of the General Assembly. (Del. Sam Rasoul). <https://lis.virginia.gov/bill-details/2025/HB2725>.

³⁴⁹ 2025 Va. Acts ch. 420.

ensures that the Crime Commission and JCOTS will have access to the information to help inform policy decisions prior to or during the General Assembly Session.

