

COMMITTEE AGENDA: 10/06/2022

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ITEM: (d)3.

# Memorandum

**TO:** SMART CITIES AND SERVICE IMPROVEMENTS COMMITTEE

**FROM:** Khaled Tawfik

**SUBJECT:** DIGITAL PRIVACY COMMUNITY ENGAGEMENT STATUS REPORT

**DATE:** September 27, 2022

Approved

A handwritten signature in blue ink that appears to read "Khaled Tawfik".

Date

A handwritten date in blue ink that reads "9/27/2022".

## RECOMMENDATION

Accept the status report on the Digital Privacy community engagement program efforts to augment public participation, partnership with the Digital Privacy Advisory Task Force, and effective public outreach and signage.

## OUTCOME

The Committee will provide feedback on the City's Digital Privacy community engagement program efforts to augment public participation, partnership with the Digital Privacy Advisory Task Force, and effective public outreach and signage.

## BACKGROUND

### Why the City engages the community on public technology

There is a growing criticism of smart cities for implementing sensing technologies without addressing privacy concerns and ensuring community awareness and engagement. Case studies like San Diego's smart lighting<sup>1</sup> and Toronto's partnership with Sidewalk Labs<sup>2</sup> stressed that innovative projects can fail when they appear to put technology before people, or otherwise neglect to communicate the civic value sought in the use of data and associated technologies. In contrast, the City of San José set its principles and standards to proactively engage the community on initiatives, centering residents' privacy and equity in its technology plans, learning through thoughtful discussions and collaborative design, and ensuring everyone benefits from innovation investments the City makes.

<sup>1</sup> McLemore, Brie. "WHEN THE STREETLIGHTS COME ON." (2021).

<sup>2</sup> Jacobs, Carrie. "Toronto wants to kill the smart city forever: The city wants to get right what Sidewalk Labs got so wrong." MIT Technology Review, June 29, 2022.

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History of outreach on Privacy in San José

The City has developed a strong history of engaging the community, academics, and industry experts on privacy and technology. In 2018, staff from the City Manager's Office and the Information Technology Department (ITD) worked with the Harvard Berkman Klein Center for Internet & Society, residents, and privacy advisory groups to define San José's path towards a modern Digital Privacy program. Staff and partners gathered community input through a series of stakeholder interviews and public forums conducted in English, Spanish, and Vietnamese.<sup>3</sup>

On December 8, 2020, City Council approved the City of San José's Digital Privacy Policy<sup>4,5</sup>, effective July 1, 2021. This established the City's Digital Privacy Program with seven guiding principles,<sup>6</sup> five focusing specifically on public engagement:

1. Notice: The City will strive to provide citizens with detail on what data is being collected, why it's being collected, and how it will be used;
2. Accountability: The City will maintain documentation for public review to show the City complies with its Privacy Policy;
3. Responsible Data Sharing: The City will maintain documentation to ensure its data sharing partners also comply with the City's Privacy Policy.
4. Accuracy: The City will make every reasonable effort to provide the public with information on how predictive or automated systems are used; and
5. Equity: The City will work with residents to ensure that the data it collects will serve all San José communities. Residents will have an avenue to raise concerns around equity in City technology.

Advising support from the Digital Privacy Advisory Taskforce

Established in 2018,<sup>7</sup> the Digital Privacy Advisory Taskforce (Taskforce) serves as the main body for external expert advice on the City's approach to privacy. This group includes representatives from academia, business, government, and civil liberties organizations.<sup>8</sup> From 2018 to 2021, the Taskforce advised on framing and building the City's privacy program structure, including formal adoption of the following:

1. Privacy Principles;
2. Digital Privacy Policy; and
3. The process to define and interview candidates for the City's Privacy Officer responsible for implementing the Digital Privacy Policy.

<sup>3</sup> Privacy Policy Update to Smart Cities Committee on 9/5/2019:  
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=4082494&GUID=4A244286-126B-41CF-BE0E-0BDDA9230B96&Options=&Search=>

<sup>4</sup> Digital Privacy memo and presentation from 12/8/2020 City Council Meeting:  
<https://sanjose.legistar.com/View.ashx?M=F&ID=8931718&GUID=5744C552-4DED-40B8-9D1A-123DCB1CF2CC> and  
<https://sanjose.legistar.com/View.ashx?M=F&ID=8997095&GUID=CEB58E6D-8D87-4459-AA7B-5B26F9881A4C>

<sup>5</sup> City of San José Digital Privacy Policy: <https://www.sanjoseca.gov/home/showpublisheddocument?id=68053>

<sup>6</sup> Notice, retention,

<sup>7</sup> Past meetings from the Digital Privacy Advisory Taskforce are available on our City website: <https://www.sanjoseca.gov/your-government-departments-offices/information-technology/digital-privacy>

<sup>8</sup> Current list of Digital Privacy Advisory Taskforce members: <https://www.sanjoseca.gov/your-government-departments-offices/information-technology/digital-privacy>

<b>Input from Digital Privacy Advisory Taskforce</b>	<b>Action by the City</b>
Elevate oversight of City technology and sensing technologies to a Citywide function	Under the direction of the City Manager or their designee, Digital Privacy Officer (DPO) must approve all new technology procurements and use specific to privacy, and has power to inspect and recommend modifications to City Manager's Office
City contract language should require vendors to follow the same privacy standards as the City	Implemented "IT and Security requirements" and "Privacy and Disclosure Policy", requiring vendors to comply with City standards and allowing audits of vendors
Privacy governance should cover 1) Leadership and oversight, 2) Risk assessments, 3) Policies and procedures	Hired DPO; developed privacy reviews required for new initiatives and technology

*Table 1: Summary of the input from the Digital Privacy Taskforce on the implementation of the privacy program*

### Digital Privacy outreach efforts and guidance from City Council

In the August 16, 2022, City Council meeting, City Council asked staff to take a more proactive approach in community engagement. Alongside partnerships with non-profits, community-based organizations, and specialized consultants, Council asked that staff engage residents directly.<sup>9</sup>

On September 20, 2022, ITD and the Police department presented to City Council an update on Digital Privacy, including the Digital Privacy outreach efforts. Council provided feedback on the program including:

- Plan future outreach for other City technology and prioritize based on privacy risk;
- Take learnings from initial outreach to streamline future efforts; and
- Appreciation for engaging the community.

### ANALYSIS

#### Digital privacy outreach in 2022

The City historically took an informative approach when communicating the use of sensing technologies with the community. Based on the lessons of engagement failures in other

<sup>9</sup> See Council item 8.2 from the August 16, 2022 Council meeting:

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5754115&GUID=8C950E4F-3ED2-4950-8A5D-0C319010E6F4&Options=&Search=>

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communities and Taskforce input, the City purposefully focused on public participation in its digital privacy efforts, including:

1. In-person outreach and discussion at neighborhood association meetings, Council and committee meetings, community organization meeting, and a regional online webinar—reaching over 1,000 people in total;
2. Permanent outreach through the digital privacy webpage and signage; and
3. Detailed meetings with the Digital Privacy Advisory Task Force and interdepartmental Digital Privacy Working Group.

In the Summer of 2022, City staff presented at six Project Hope-supported neighborhood association meetings on City technology and privacy at the Foxdale, Cadillac/Winchester, Poco Way, Roundtable, Jeanne/McKinley, and Guadalupe/Washington neighborhoods. These locations were chosen based on the City’s planned technology expansions—gunshot detection and automated license plate readers—in these areas.<sup>10,11</sup> Staff also conducted an online meeting on August 24, 2022, to reach residents who could not attend previous in-person events.

Staff introduced the Digital Privacy program, providing information on City technology and deployment plans, and shared with residents how the City is protecting the privacy of its residents to balance their interests with the use of data tools for public safety and other uses.

The City addressed foundational concerns communicated by residents:

- Confirming collected resident data was not being sold by the City or the City’s vendors;
- Assuring no data, either by the City or those the City shares data with, would be used to investigate one’s immigration status;
- Showing “what the technology sees” and how the data collected makes many services possible; and
- Detailing the City’s capacity to audit the resident’s data through the City and City vendor systems to mitigate the risk of data falling into the wrong hands.

Most meetings ended with residents requesting the City explore additional technologies in their neighborhoods. Residents gained a point of contact to discuss their privacy concerns and the technology around them.

To maintain resident confidence, ITD continues to grow its relationships with Project Hope, branch out to community-based organizations and neighborhood associations, and is coordinating input with stakeholder departments like the Police and Transportation departments. Neighborhood associations outside of Project Hope have contacted the Digital Privacy team to request presentations and engagement at their future meetings.

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<sup>10</sup> Public Safety, Finance, and Strategic Support memo from September 15, 2022, page 7:  
<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5765025&GUID=D321CCEA-4EA1-4211-93E2-DB8C82BCEFCE&Options=&Search=>

<sup>11</sup> Fiscal Year 2022-2023 Council Budget Document #22, “Camera/Gun Shot Detection in District 1”:  
<https://www.sanjoseca.gov/home/showpublisheddocument/86261/637891579353030000>

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*Permanent outreach through physical signs and online*

To promote communication with residents who are not able to attend events, ITD teamed with the City Manager's Office of Communications and other departments to establish additional avenues for communications online and through physical materials—e.g., signs, flyers, and online collateral.

The City's digital privacy webpage explains the City's approach to digital privacy, the internal and external experts involved, and technology initiatives the City has approved and rejected following privacy review. This is leading work and rare in state and local government based on feedback from peer agencies and the National Privacy Council. The webpage provides residents a phone number and email to contact City staff about the privacy program, and a form for residents to contact the City anonymously.



*Figure 1: The signs notify residents of the technology, and how it is being used. It provides a QR code that links to the City's privacy webpage with more detail.*

As departments pilot new technology to serve residents, the City is also testing signage to inform and educate residents on how the pilots work. San José is one of only a handful of jurisdictions in the nation piloting notification of “smart city” technologies in the urban space. Signage, when connected with an online portal, increase government transparency, inform residents how public services operate, and give opportunities for community engagement.

Unlike traffic signs, national standards for smart city technologies signage does not exist. Signs thus require communication and explanation of their intended purpose to be effective. Additionally, signs can normally show one language prominently let they become cluttered, leaving other language speakers unaware. The City is spearheading an initiative with representatives from the State of California, the cities of Oakland, Long Beach, and Sacramento, and other local agencies to standardize icons and signs nationally, so they can eventually be recognizable without text. Major work on this initiative begins in November.

*A detailed discussion with the City's Digital Privacy Advisory Task Force*

Since the Digital Privacy Policy went into effect on July 1, 2021, the City has discussed the application of its policy to new and existing technologies with the Digital Privacy Taskforce. Communications have involved meetings and written feedback. The Taskforce provided several detailed comments that informed the design of the City's revised data usage policies for specific cases, and in the City's general approach to using data.

The Taskforce's input informed the fundamentals of the City's data usage policy and practices, including strategies to minimize data access to necessary parties, measuring the effectiveness of systems, and ensuring data usage is auditable for appropriate use.

<b>Input from Digital Privacy Advisory Taskforce</b>	<b>Action by the City</b>
Ensure audibility of data usage	Where possible, systems will automatically generate an audit trail of all data access. Council and Digital Privacy Program have power to audit data usage
Mitigate the risk of unintended disclosure	Specifying in policies that personal information will <u>not</u> be available for public access unless required by law or explicitly stated upon collection
Measure the effectiveness and accuracy of the technology systems City should investigate resident concerns of a system's impact on privacy or equity	Requiring annual usage reports on priority sensing technologies on system accuracy and effectiveness Residents can submit complaints online, via email, or during outreach, and City will perform an investigation and determine a corrective action plan, if necessary.
Explicitly restrict the sale of the data by the City and by vendors	Prohibited sale of data explicitly under prohibited uses for all technology, also prohibited vendors from selling the data collected on behalf of the City
Ensure City has ownership of data collected to provide services, and vendors cannot access raw data except when needed to provide services as requested by City	Developed privacy and disclosure policy to attach to vendor agreements when a system processes personal information. Policy ensures vendor can only use data as instructed by City.

*Table 2: A non-exhaustive list of input from the Digital Privacy Advisory Taskforce on data usage and practices*

***Next steps for the Digital Privacy Advisory Taskforce***

The City's privacy program is growing from principles to execution. The Taskforce has provided key input on the design of the privacy program to date. Now, the City is updating the Taskforce membership to reflect a shift in focus to applied expertise. The Taskforce aims to maintain two representatives each from government, academia, civil liberties organizations, and industry.

While some long-time members still provide the necessary support, the City is recruiting additional members that can provide critical feedback in areas of emerging importance:

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1. One local member from civil liberties organizations or privacy advocacy groups with an interest in mitigating bias and reducing privacy risks in city technologies;
2. One member from academia with expertise in government technology policy, technology regulation, and an interest in piloting responsible innovative approaches to privacy; and
3. Two members from government that can provide insight into their approaches to privacy regulation, resident engagement, and policy implementation.

Value of public outreach: building confidence and learning from residents

The City's privacy-focused approach to technology and proactive information sharing has grown the collaborative relationship between City technology initiatives and its residents. Following the in-person presentations, residents from all six neighborhood association meetings provided City staff with the areas in their neighborhoods that they felt could benefit the most from additional sensing technology.

Local news outlets also responded positively to the City's outreach. Prior to the City's summer information sessions, news outlets had mixed responses to the City's expanding Automated License Plate Reader technology, with most citing unanswered privacy concerns. Following the summer information sessions, news outlets acknowledged that the City had addressed privacy concerns and have reported more neutral or positive reactions.

April 2022

**MOTHERBOARD**  
HOME PAGE

**The 'Capital of Silicon Valley' Is Ignoring Its Privacy Experts**

San José created a privacy taskforce to keep 'smart city' technology in check. Then its members started resigning.

By Eliyahu Kamisher | [ekamisher@bayareanewsgroup.com](#) | Bay Area News Group  
PUBLISHED: April 22, 2022 at 5:05 a.m. | UPDATED: April 22, 2022 at 4:05 p.m.  
     

**Flock Catchers**

As San Jose moves ahead, their eyes open

Amid rash of traffic deaths in San Jose, dangerous intersection gets cameras

As Bay Area's biggest city scrambles to reduce traffic deaths, privacy advocates raise concerns over cameras

Dangerous intersection in SJ gets fixed license plate cameras as traffic deaths on record pace

SHARE  TWEET 

August 2022

**San Jose expecting more fixed license plate cameras; city, police address privacy concerns**

By Amanda del Castillo via  Thursday, August 25, 2022 12:19AM



Figure 2: A sample of the news outlet headlines discussing San José's installation of Automated License Plate Readers released before the summer engagement effort and after

*Long-term impacts of the outreach: building bridges between City government and its residents*

Following the summer information sessions, other neighborhood associations began requesting information session at their meetings. Residents are excited to learn about the technology and discuss with the City where it could best help their neighborhoods. Residents have also contacted the Digital Privacy Officer directly to raise privacy concerns in their communities.

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One example is a resident that contacted the Digital Privacy Officer about a privacy concern regarding a loved one. Together the City and resident were able to address the concern, and in the process address a broader privacy issue before any incidents occurred. This reciprocal relationship between residents and City staff is quickly becoming an invaluable resource for the new and very effective privacy program.

#### A team effort: acknowledging the work of many City staff

To maximize community engagement and ensure effective public communication, ITD collaborated with staff across several departments who dedicated substantial time, effort, and resources to making this engagement possible. Including:

1. Project Hope from Parks, Recreation, and Neighborhood Services for connecting ITD with neighborhood associations and providing translation services at the information sessions;
2. San José Police Department for providing officer representation to answer Police-specific questions at community engagement events; and
3. The City Manager's Office of Communications for supporting the engagement strategy, fielding media requests, and making the Citywide webinar possible.

#### *Next steps: continuing public engagement and growing in maturity*

City staff has adopted the International Association of Public Participation (IAP2) spectrum for stakeholder participation as a framework to track its maturity in public engagement. To date, the City has largely engaged in Informing and Consulting residents, transitioning to involvement in recent months. ITD will continue maturing its engagement practices so residents can Collaborate with staff on technology and data usage to produce innovations that make San José safer, more transparent, and more respectful of privacy. The level of engagement will vary based on the specific case.

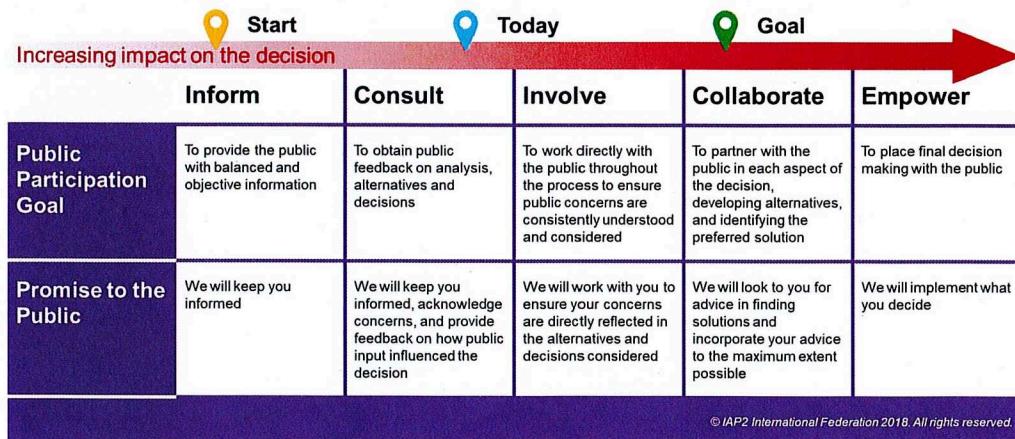


Figure 3: International Association of Public Participation (IAP2) public participation spectrum

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ITD oversees San José 311, Downtown WiFi, Digital Inclusion, Equity through Data, and Digital Privacy—which involve engaging residents directly on services and technology. To grow its community engagement capacity, ITD is exploring a dedicated role for public outreach and engagement.

## **CONCLUSION**

The City of San José continues to grow its Digital Privacy program as an enabler for human-centered, responsible innovation. By tackling the privacy questions first and engaging the community in the conversation, the City can build the necessary trust and public collaboration in its programs, maximizing the value and impact of City investments. These are clear lessons from failed initiatives in other communities.

Moving forward the City will continue to grow its resident and expert engagement on privacy. The Digital Privacy Advisory Taskforce is in the process of recruiting new members from academia, government, and civil liberties organizations to support the further implementation of the City's privacy policy. ITD is working across City departments and with the City Manager's Office of Communications to build on the recent outreach successes, developing a long-term strategy to ensure effective ongoing outreach for City technology in general.

The City is taking a leading role in digital privacy nationally. The City has presented its privacy program multiple times to state and local governments across the country. One of the topics San José is spearheading is communication of technology to residents. In November, the staff plans to host government leaders across California to initiate defining standards and best practices for smart city technology signage and resident engagement.

As privacy becomes more top-of-mind for residents, the City is taking a thoughtful approach to ensure that innovative government solutions can benefit and protect all residents.

## **EVALUATION AND FOLLOW-UP**

Staff is scheduled to present an update to the Smart Cities and Service Improvements Committee in June 2023.

## **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

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**PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the October 6, 2022, Smart Cities Committee meeting.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, City Manager's Office, and the Information Technology Department.

**COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

**CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

/s/

KHALED TAWFIK  
CHIEF INFORMATION OFFICER  
Information Technology Department

For questions, please contact Albert Gehami, Digital Privacy Officer, at  
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