

MEMORANDUM

DATE: [xxx]
FROM: City of San Diego Privacy Advisory Board
TO: The Honorable Council President Elo-Rivera and Members of the San Diego City Council
RE: San Diego Police Department's Proposal for 836 Technologies Tactical Throw Phone

I. RECOMMENDATION

The Privacy Advisory Board (PAB) recommends that the City Council approve the proposal with modifications as indicated below.

II. RECOMMENDED MODIFICATIONS

The PAB recommends the following revisions to the Surveillance Impact Report and Use Policy to bring the documents in line with the requirements of the TRUST Ordinance.

- A. **DESCRIPTION:** The "Impact" section of the Surveillance Impact Report states that the equipment can provide information about the "location [...], presence of weapons [...]" and the layout of the surrounding areas." The "Data Collection Section" of the Use Policy states that video is also captured. However, none of these capabilities is explained in the "Description" section, which merely states that the equipment operates as a "landline, tethered, telephone." SDPD is advised to provide more information about the capabilities of this technology.¹
- B. **USE:** As with all other use policies submitted by SDPD to date, this section must be updated to provide authorized and prohibited uses, as well as the legal standard that will be used. Currently, it indicates the capabilities of the technology, rather than allowable and prohibited uses.

The following should be moved from the "Data Collection" section to the "Use" section: "In events requiring a search warrant under California Penal Code 633.8, data recorded by the CINT Commander II would be entered into evidence and documented accordingly. The documentation would then be submitted to the authorizing court."

- C. **DATA ACCESS:** The Use Policy must specify that access to recorded data is granted based on the need-to-know/right-to-know principle, ensuring that only individuals directly involved in the negotiation process or authorized supervisors can access the data.
- D. **DATA PROTECTION:** This section currently only provides information about physical security of the equipment and department access to the drive. It should be updated to provide details of technical security controls and encryption information (typically from the manufacturer).
- E. **PUBLIC ACCESS:** This section must specify how information is shared with criminal defendants. It should also be updated to remove the statement that recordings do not have probative value and do not become evidence.

¹ The manufacturer website provides no information on this technology, stating that further information can only be obtained by phone or email "due to the covert nature of these products."

F. **TRAINING:** The Use Policy must be modified to include training on the Policy itself. Formal training on the equipment and software should also be provided to members of the team.

G. **AUDITING AND OVERSIGHT:**

1. The Use Policy must be modified to provide information about who does audits of uses and sharing of this technology and data and who has oversight of uses. The current document does not specify any auditing requirements except for logging of access.
2. The following addition is also recommended: “Misuse of the system, data, or recordings must be reported to and investigated by the Department’s Internal Affairs unit.”

H. **PUBLIC ENGAGEMENT AND COMMENTS:** The PAB recommends that departments follow the “minimum necessary” privacy principle when utilizing personal information and refrain from providing the names or specific descriptors of those who provide comments or ask questions. This is unnecessary in the Surveillance Impact Report.

For the above stated reasons, the Privacy Advisory Board respectfully recommends that the City Council **approve the proposal** with the modifications stated.

Cc: SDPD Chief Nisleit

Chloe Madison