



The City of San Diego

Staff Report

DATE ISSUED: November 6, 2023

TO: Privacy Advisory Board

FROM: San Diego Police Department (SDPD)

SUBJECT: Presentation of Use Policies and Surveillance Impact Reports Associated with WHOOSTER Data Solutions

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Council District(s): Citywide

OVERVIEW:

On August 10, 2022, the City of San Diego amended and added Chapter 2, Article 10, of the San Diego Municipal Code – the “Transparent and Responsible Use of Surveillance Technology” (Surveillance Ordinance). The Surveillance Ordinance is designed to provide greater transparency to the City Council and the public when the City uses or acquires any technology that meets the City’s definition of surveillance. The Surveillance Ordinance requires that for each technology that meets the criteria for surveillance, City Departments must:

- Hold at least one or more community meetings in each City Council district where the proposed surveillance technology is deployed, with an opportunity for public comment and written response.
- Prepare a Surveillance Use Policy that includes the purpose, use, data collection, data access, data protection, data retention, public access, third-party data sharing, training, auditing, oversight, and maintenance.
- Prepare a Surveillance Impact Report including description, purpose, location, impact assessment, mitigations, data types and sources, data security, fiscal cost, third-party dependence, alternatives, track record, public engagement, and comments.
- Present the item to the Privacy Advisory Board for review.
- Present the item to the City Council for the acquisition and deployment of all new and currently used surveillance technologies.
- Provide annual reports on surveillance technology use, impact, and acquisitions.

PROPOSED ACTIONS:

In accordance with the Board Notification and Review Requirements outlined in section 210.0102 of the Surveillance Ordinance, the San Diego Police Department (SDPD) requests approval for the use, funding, acquisition, and sharing of technology that falls within the definition of surveillance technology under the ordinance. Specifically, the item being requested is known as WHOOSTER Data Solutions. (WHOOSTER).

DISCUSSION OF ITEM:

SDPD's mission is to provide the highest quality police services to the communities it serves. SDPD values transparency, and public input and welcomes open dialogue about its practices and operations. The preservation and sustainability of public safety, officer safety, and civil rights are paramount. SDPD further recognizes the importance and value of public disclosure regarding the qualified surveillance technology we use. We intend to present to the Privacy Advisory Board our use of WHOOSTER

SDPD's lead, the Internet Crimes Against Children Task Force (SDICAC) is one of a national network of sixty-one coordinated task forces, representing over 5,400 federal, state, and local law enforcement agencies, dedicated to investigating, prosecuting, and developing effective responses to internet crimes against children. SDICAC is composed of thirty-three law enforcement agencies and four prosecutorial bodies spanning three counties: San Diego, Riverside, and Imperial Valley. As the lead agency of the task force, the Commander, a San Diego Police Department Detective Sergeant, is responsible for providing and procuring technology/equipment, training, and travel to each member of the task force, ensuring each agency/investigator/prosecutor is capable of executing their duties to proactively and reactively protect children from online predators. SDICAC is funded primarily through grant funding awarded by the Department of Justice, Office of Juvenile Justice and Delinquency Program. Additional grant funding is provided by the California Governor's Office of Emergency Services (CalOES).

WHOOSTER is an internet-based, online subscription service available to law enforcement and public safety agencies, the Department of Defense, retail and commercial entities, insurance and financial services, and collections and recovery agencies. As defined on WHOOSTER.com, the service provides, "unprecedented access to a broad spectrum of historical and real-time public and private data sources. Analyzed in isolation or collectively, these datasets illuminate circumstances and connections that, until now, have been largely unknown or inaccessible to most departments." It offers real-time resources to locate information about individuals, social media, phone information, court case filings, real estate, assets, international and transnational activity, motor vehicle matters, licenses, and company-related information. WHOOSTER is used by SDICAC to support criminal investigations.

SDICAC members utilize WHOOSTER to conduct research into suspects, victims, and witnesses relevant to an investigation. That data, information such as records pertaining to a person's name, address, professional association, social media accounts, phone numbers, court filings, real estate ventures, criminal histories, assets, motor vehicles, and licenses, is then analyzed to determine its

evidentiary value and used to develop investigative leads. This type of data is used in active investigations into the sexual exploitation and enticement of children.

WHOOSTER is an online subscription service that can be accessed using many internet-connected devices. Only task force members, investigators, and certified forensic examiners, who have been authorized by the task force commander can access WHOOSTER. They must be able to articulate a "need to know, right to know" requirement. All transactions are for the furtherance of law enforcement activity.

Data retained is limited to the files selected by the task force member to be downloaded into their digital case file located on the ICAC Network Attached Storage (NAS) system located in the secured SDICAC office.

When a task force member determines that downloaded WHOOSTER information no longer has a legitimate law enforcement use, the information is destroyed in a manner so that the identity of the subject can no longer be reasonably ascertained, e.g., shredding printouts, deleting electronic records & clearing from trash folders.

In an effort to fight the online exploitation and enticement of children and to collect relevant digital evidence/information, SDICAC incorporates the collection and analysis of digital information. SDICAC, as with all law enforcement agencies, is challenged by the ever-growing world of online predators and is constantly seeking the most effective means to conduct research related to its investigations. WHOOSTER is one such tool that provides critical information to investigators who then must corroborate that information through additional investigative work.

The materials required under the Surveillance Ordinance accompany this Staff Report in compliance with the ordinance to provide information surrounding the proposed use of WHOOSTER and answer the many questions associated with their use and community impact.

David Nisleit

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Chief of Police