

DRAFT for PAB Consideration

MEMORANDUM

DATE: February 25, 2024

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 Use Policies for CellHawk

I. RECOMMENDATION

The PAB recommends that the City Council approve the proposal with modifications as indicated below.

II. REQUESTED MODIFICATIONS

The SDPD kindly provided comprehensive answers to PAB questions about this technology. The PAB recommends that content from these answers be incorporated into the Use Policy and Surveillance Impact Report as appropriate. Below we provide some more detailed guidelines, extracting information from the SDPC response and providing recommendations about placement of this information in the current documents.

Use Policy, USE Section, please extend the first paragraph to include information along the following lines:

Exigent circumstances are emergencies requiring law enforcement action prior to obtaining a search warrant (i.e., kidnapping, pursuit of a violent suspect, etc.). In this instance, Cellhawk would be utilized to map live ping transactions of an individual's phone. Note the cell phone carrier provides the ping locations, and Cellhawk is used solely for mapping the provided locations. After an exigent situation has been resolved, an after-action search warrant is required.

Impact Report, PURPOSE Section, please add information along following lines:

Cellhawk does not extract any information from a device directly. All information displayed by Cellhawk is ingested from files provided by the service provider and then uploaded by the user. These files, typically in Excel or PDF format, would be obtained as a result of a search warrant or during exigent circumstances. The information extracted from the tool are phone transaction types (i.e., voice, text, data), dates/times, phone numbers associated with the record (i.e., who called who), and the cell tower information used to conduct the transaction (i.e., cell tower location, the direction of antennae, and estimation of the phone location from the tower if available).

Use Policy, THIRD PARTY DATA SHARING Section, please add information along the following lines:

Every Cellhawk (Leads Online) employee is required to meet Criminal Justice Information Services (CJIS) certification standards in order to work with the application. No vendor analysts have access to the underlying data available in a specific agency's profile with the exemption of exigent support. Two of the Cellhawk analysts are designated as certified exigent support staff and have the ability to view data on an agency's profile if the agency grants permission. However, this permission would only be granted on a specific basis for work on a specific case and not be granted for the entire agency's available data.

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

Cc: SDPD Chief Nisleit
CPT Jim Jordon
LT. Eric Portnoy
Chloe Madison