

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 Vehicle Trackers

I. RECOMMENDATION

The Privacy Advisory Board (PAB) recommends that the City Council provide an interim approval for the proposal with modifications as indicated below. Approval must be interim until manufacturer and device information are provided to the PAB for review.

II. RECOMMENDED MODIFICATIONS

The PAB reviewed the San Diego Police Department's (SDPD) Vehicle Tracker Surveillance Impact Report and proposed Use Policy. The PAB's review does not include review of the manufacturer, as required by the TRUST Ordinance, because this information was not provided by SDPD. Therefore, the below guidance and recommendations are interim ones until the PAB is provided this information or at the first annual review, whichever occurs first.

- A. DESCRIPTION:** The TRUST Ordinance requires specific information about the technology, including the manufacturer and product descriptions. These are missing from the current Surveillance Impact Report and Use Policy. The Surveillance Impact Report and Use Policy must be updated to provide this information.
- B. ALL SECTIONS:** As with all other use policies submitted by SDPD to date, the Use Policy should be modified in relevant sections to use limited lists. Currently, the policy uses open language. This indicates that there may be other, unlisted examples. To the maximum extent possible, the Use Policy should have exclusive lists.
- C. USE:** This section is intended to specify the authorized and prohibited uses of technology. Currently, it indicates the capabilities of the technology, rather than allowable and prohibited uses. This section must be updated to specify allowable and prohibited uses. For example, the use section should specifically prohibit personal and non-law enforcement uses or uses without a warrant or Fourth Amendment waiver.
- D. TRAINING:** The Use Policy should be modified to include training on the Policy itself.
- E. AUDITING AND OVERSIGHT:** The following addition is recommended: "Misuse of or inappropriate access to the trackers or data must be reported to and investigated by the Department's Internal Affairs unit."
- F. MAINTENANCE:** Erroneously included security information about Smart Streetlights must be deleted from this section, and additional information should be included about who is responsible for maintenance of the vehicle trackers and how often.

- G. **THIRD PARTY DEPENDENCE:** The Surveillance Impact Report third party dependence section does not address what third parties (*e.g.*, subcontractors) are required for this technology. It erroneously addresses third party *sharing* instead.
- H. **TRACK RECORD:** The Surveillance Impact Report must be updated to include specific information about the track record for the technology's specific use in San Diego, as required by the Ordinance.

For the above stated reasons, the Privacy Advisory Board respectfully recommends that the City Council provide **interim approval for the proposal** with the modifications stated.

Cc: SDPD Chief Nisleit
Chloe Madison

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