

DRAFT FOR PAB VOTE: APPROVE WITH MODIFICATIONS

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 Proposal for Use, Funding, Acquisition, and Sharing of Axon Body Worn Cameras and Evidence.com

I. SUMMARY

The Privacy Advisory Board ("PAB") recommends that the City Council approve the San Diego Police Department ("Department") proposal related to Body Worn Cameras ("BWCs") and evidence.com, with the proposed modifications. The modifications recommended by the PAB include a revised Use Policy that clarifies existing Use Policy language and suggests updated processes when necessary.

II. KEY CONCEPTS

This recommendation takes into account existing information on the use of BWC and goes further to suggest an updated Use Policy that we believe will add sufficient guardrails for their use. Use policies from various US cities, including New York City, Portland, Baltimore, and Oakland were examined in conjunction with San Diego's use policy and departmental procedures. Updated areas of note include required and prohibited uses, review procedures, security details, auditing and oversight, among others.

III. RECOMMENDATION

The PAB recommends that the City Council approve the proposal with our suggested modifications.

IV. DISCUSSION

The existing Use Policy has areas that are strong on their own. With that in mind, the use of BWCs requires clear protocols to protect their data. Use Policies from New York City, Portland, Baltimore, and Oakland were analyzed and compared to Department policy in an effort to broaden the scope of our investigation. We highlighted the following areas for revision and provide suggestions for each of them in the accompanying revised Use Policy:

1. Issuance and Wearing:

The Use Policy updates protocols for the issuance and wearing of BWCs for Patrol, Enforcement, and Support Units. Administrative/Investigative Units whose duties may also utilize BWCs have supporting policies with appropriate exceptions included. Also addressed are pre-shift checks and how BWCs are worn.

2. **Use:**

The use of BWC technology is well-supported, and a fitting policy is necessary that details how the cameras are to be used. We also revise the procedure for when BWCs are used to record events along with language describing how and when BWCs are to be used in special circumstances, such as in hospitals or when interviewing victims of sexual violence.

3. **Data Collection:**

Revised information on the nature of BWC recordings is provided as a reminder to Department staff.

4. **Data Access:**

All digital evidence collected using the BWC is considered an investigative record for the SDPD and is for official use only. The Use Policy outlines the purposes for which BWC videos may be viewed, including when members can review videos related to Category I-IV uses of force incidents and when supervisors are required to review videos. The Use Policy also updates specific video review provisions and guidance for copying BWC video files.

5. **Data Protection:**

Access control and user authorization policy is updated. The Use Policy also provides safeguards for accessing BWC footage, Axon Cloud Services, and Evidence.com.

6. **Data Retention:**

The PAB recommends a data retention process that is comprehensive. Also updated are policies with regards to video deletion and accidental recordings.

7. **Public Access**

Public access protocols remain mostly unchanged. We provide a timeline for the release of critical footage for officer-involved shootings.

8. **Third Party Data Sharing**

We provide meaningful terminology for parties who can access BWC footage. Additionally, the range of scenarios in which the Department may share BWC footage is outlined, such as when vendors or contractors are allowed access.

9. **Training**

The PAB recommends updated training procedures that includes training on the accompanying updated Use Policy.

10. **Auditing and Oversight**

Detailed changes are recommended for:

- Departmental inspections and reviews
- Supervisor specified incident reviews
- Force Investigation reviews
- Vehicle pursuit investigation reviews
- Division-level investigation reviews
- Use of Force investigation reviews
- Command reviews

11. **Maintenance**

Routine BWC maintenance and testing is recommended, along with updated policies regarding lost, stolen, misplaced, or malfunctioning BWCs.

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

Cc: SDPD Chief Nisleit
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