

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 11

August 17, 2022

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON AUGUST 16, 2022

SUBJECT: ACQUISITION AND ANNUAL REPORTING OF CERTAIN INFORMATION SYSTEMS AND TECHNOLOGIES – ESTABLISHED; ACQUISITION OF INFORMATION SYSTEMS AND TECHNOLOGIES REVIEW AND EVALUATION REQUEST – ACTIVATED; TECHNOLOGY USE AND DATA PRIVACY REPORT – ACTIVATED

BACKGROUND: Technological developments in the law enforcement industry allow for critical real-time information to assist in criminal investigations. New and emerging technologies increasingly play a crucial role in the daily work of police officers, equipping them with enforcement and investigative tools intended to keep officers better informed and thus more efficient and effective. At the same time, such technologies can cause public concern about the amount of data being collected, maintained, and used by the Department.

It is the Department's mandate to govern the adoption, deployment, and use of technology in order to protect the civil liberties of individuals and their reasonable expectation of privacy. Affording protections to data collected, stored, and used are essential to ensure effective and sustainable implementation of new technologies, and maintain the public trust. Thoughtfully developed policies provide a framework that ensures responsible use, accountability, and constitutional compliance.

PURPOSE: The purpose of this Order is to outline the process for the acquisition of any new information system or technology the Department intends to use in an enforcement or investigative capacity which impacts constitutional (i.e., California and United States) rights. In acquiring and using such products, the Department must balance service improvement with the public's reasonable expectation of privacy and the protection of civil liberties. This policy endeavors to find the right balance, and to ensure that the public is informed about the Department's decisions and the use of technology that impacts them. Before its purchase and implementation, any information system or technology which may have said impact shall be approved by the Board of Police Commissioners (BOPC).

Note: The BOPC's approval shall not be required for the Department's use of technology approved or prescribed by a court order, or the acquisition of any technology or equipment necessary to implement a court order.

Definitions.

Technology. For the purposes of this policy, "technology" means systems, hardware, or software, including data aggregators, that are owned, licensed, used, or shared by or with the Department and can access non-public places or information or that aggregates publicly available information which can reveal considerable personal information about individuals.

Originating Entity refers to the Department employee or entity, or community stakeholder who proposes the review and evaluation of a technology by Innovation Management Division (IMD) for acquisition and deployment by the Department.

Note: If the Department receives a formal request for the acquisition of a new system or technology from a community stakeholder, IMD shall be the originating entity.

PROCEDURE:

- I. **ACQUISITION AND ANNUAL REPORTING OF CERTAIN INFORMATION SYSTEMS AND TECHNOLOGIES – ESTABLISHED.** Department Manual Section 1/140.15, *Acquisition and Annual Reporting of Certain Information Systems and Technologies*, has been established and is attached.
- II. **ACQUISITION OF INFORMATION SYSTEMS AND TECHNOLOGIES REVIEW AND EVALUATION REQUEST – ACTIVATED.** The Acquisition of Information Systems and Technologies Review and Evaluation Request (AISTRER) form has been activated. The form is available on the Information Technology Bureau (ITB) Local Area Network (LAN) page, in E-Forms, and is attached for immediate use and duplication.

Form Use and Completion:

- A. **Use of Form.** This form shall be completed by Department employees when requesting new information systems or technologies which have an impact on individual privacy rights, civil liberties, or other constitutional rights. It does not apply to internal Department systems which do not collect data on or information from the public.
- B. **Completion.** This form shall be completed per IMD guidelines.
- C. **Distribution.**

1 - Original, Innovation Management Division.

- III. **TECHNOLOGY USE AND DATA PRIVACY REPORT – ACTIVATED.** The Technology Use and Data Privacy Report (TUDPR) has been activated. The form is available on the ITB LAN page, in E-Forms, and is attached for immediate use and duplication.

Form Use and Completion:

- D. **Use of Form.** This form shall be completed by Department employees when requesting new information systems or technologies (upon their conditional approval by IMD) which have an impact on individual privacy rights, civil liberties, or other constitutional rights. It does not apply to internal Department systems which do not collect data on or information from the public.
- E. **Completion.** This form shall be completed per IMD guidelines.

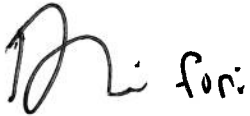
F. Distribution.

1 - Original, Innovation Management Division.

FORM AVAILABILITY: The AISTRER and TUDPR forms have been attached for immediate use and duplication and are available on the ITB page of the LAN, and in E-Forms.

AMENDMENT: This Order adds Section 1/140.15 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION "D"

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140.15 ACQUISITION AND ANNUAL REPORTING OF CERTAIN INFORMATION SYSTEMS AND TECHNOLOGIES. *In acquiring and using technology as defined below, the Department must balance service improvement with the public's reasonable expectation of privacy and the protection of civil liberties. Outlined herein are the steps required before acquiring or continuing to use any technology that has an impact on individual privacy rights, civil liberties, or other constitutional rights. These steps, in conjunction with the oversight of the Board of Police Commissioners (BOPC), shall provide the public an understanding and opportunity for comment prior to the acquisition and use of any equipment or software defined herein. This will provide transparency and increase public trust.*

Technology to Which this Policy Applies

For the purposes of this policy, "technology" means systems, hardware, or software, including data aggregators, that are owned, licensed, used, or shared by or with the Department and can access non-public places or information, or that aggregates publicly available information which can reveal considerable personal information about individuals. Such items shall be referred to as "Technology" in this policy.

***Note:** This policy does not apply to the acquisition or use of information systems and technologies (e.g., Records Management System, handheld radios, email platforms) used for internal Department functions which do not collect data on, or information from, the public – or additional items as determined by the BOPC in consultation with the Chief of Police.*

Acquisition of Certain New Technologies

Employee's Responsibilities. *Any Department entity or employee (i.e., originating entity) who would like to request the consideration of a new information system and/or technology that would improve Department operations, and may have an impact on individual privacy rights, civil liberties, or other constitutional rights, shall complete an Acquisition of Information Systems and Technologies Review and Evaluation Request (AISTRER) form.*

The originating entity shall also prepare a new or revised policy as necessary to ensure that the Technology will be used by the Department in accordance with the tenants of Constitutional Policing. Such policy shall include but is not limited to:

- *The authorized use of and users of the technology;*
- *The authorized use of any data or information that is obtained from the use of the technology;*
- *Any limits on the use of the technology or the data obtained from it;*
- *Any data protections necessary;*
- *The authorized or required data retention and/or deletion practices that will be employed by the Department; and,*
- *Any necessary or available auditing and oversight of the technology.*

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Upon completion, the AISTRER form and proposed use policy shall be submitted to the requestor's commanding officer.

***Note:** Should the originating entity believe that a new policy is not necessary, it shall explain why existing policies, as written, satisfy the above articulated criteria.*

***Commanding Officer's Responsibilities.** Any commanding officer (CO) who receives an AISTRER form from within his or her command, shall ensure it has been properly completed. The CO shall further ensure the form is forwarded to Innovation Management Division (IMD) for review and processing.*

***Innovation Management Division's Responsibilities.** Innovation Management Division shall be responsible for two primary functions with respect to the acquisition of new Technologies:*

Pre-Acquisition of New Technologies

- I. Innovation Management Division shall review all AISTRER forms received. Innovation Management Division shall vet the proposed technology to ensure both the vendor, technology and its proposed use are consistent with the Department's Core Values and commitment to constitutional policing. Innovation Management Division shall prepare a report for the Chief of Police which provides a comprehensive evaluation of the vendor and technology with respect to these precepts.*
- II. Upon IMD's conditional approval of the acquisition request, the originating entity shall produce a Technology Use and Data Privacy Report (TUDPR) for the proposed technology. The TUDPR shall be prepared in consultation with IMD. Any AISTRER request received that is not sufficiently completed shall be returned to the originating entity's CO for further investigation.*

Innovation Management Division shall submit the AISTRER, TUDPR, and written evaluation (including any recommendations) of the proposed acquisition through Information Technology Bureau (ITB) to the Chief of Police for consideration. Innovation Management Division shall further liaise with Police Training and Education to develop appropriate training for all new Technology and notify Employee Relations Group of the proposed technology.

***Police Training and Education Responsibilities.** Police Training and Education (PTE) shall develop a training plan for the end users of any proposed new Technology. The training plan shall include, but not be limited to:*

- Who will coordinate the training;*
- When such training shall begin;*
- Any tests that will be part of the training;*
- How those in charge of the training will account for those trained; and,*
- Any limits on the use of the technology or the data obtained from the technology.*

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With the Chief of Police's concurrence, the "full proposal" (i.e., AISTRER, TUDPR, written evaluation, training proposal, and policy, as necessary) shall be submitted to the BOPC for review and approval.

Acquisition Approval of Certain Technologies

In consideration of the acquisition of certain new Technology as defined and outlined above, IMD and PTE shall confer with the Office of Constitutional Policing and Policy (OCP) and subsequently present the full written proposal to the BOPC in open session, thereby communicating to the public:

- 1. The Technology and its application;*
- 2. The proposed policy governing the Technology's use and restrictions; and,*
- 3. The plan for training personnel on the use of the Technology and the application of its policy, as necessary.*

The presentation shall further include, but not be limited to:

- A detailed description of the technology and its functionality;*
- The type of data the technology is capable of collecting;*
- Location(s) or type of location where the technology will be deployed;*
- Identification of any potential impact on privacy and civil rights, and strategies to safeguard those rights;*
- An assessment of how the submitted technology can be used;*
- Data protection and ability of data sharing;*
- Data retention or deletion capabilities;*
- Potential public access to the data;*
- Mitigations for all identified concerns;*
- Fiscal impact of the technology; and,*
- Expense for additional personnel or projections for additional funding, if needed.*

*Department personnel shall **not** acquire or use any technology subject to this policy prior to the approval of the proposed Technology's policy, application, and training by the BOPC.*

Annual Reporting Requirements for Existing Technologies

*For all Technology defined above, **including Technology that is in use at the time this policy is established** or acquired after the adoption of this policy, the Department shall periodically monitor and evaluate its use. Innovation Management Division shall track and maintain records of all reports from end users of systems and technologies under the purview of this policy. Additionally, IMD shall compile, schedule, and coordinate the presentation of an annual Comprehensive Technology Report (CTR) to the BOPC. The CTR shall include but not be limited to the following for each technology or system used by the Department:*

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- *An analysis of whether the technology, as used by the Department met the expectations of any presentation to the BOPC or of the Department when it obtained the technology;*
- *The frequency of use of the technology;*
- *The efficacy of the technology;*
- *The personnel compliance of all end users [i.e., each Area/division or bureau] with any policy regarding the technology;*
- *The cost of the technology, including a cost benefits analysis for the technology;*
- *Any identified concerns and proposed mitigations;*
- *The efficacy of the existing policy regarding the technology and any proposed additions, deletions or amendments; and,*
- *The efficacy of the training on the policy and any proposed additions, changes, or necessary repetition.*

***Note:** The annual CTR shall not contain investigative (i.e., evidentiary) data regarding any court ordered use of Technology that could interfere with an ongoing investigation of legal action. Only aggregate data shall be presented to the BOPC.*

The CTR shall be collectively presented by each end user, as identified by IMD, to the BOPC.

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

Description of Technology

Product brochure attached (if available)

Proposed Purpose and Primary Use of the Technology

Locations to be Deployed

- Location: Public Private
- Type of location: _____
- Geographical Area/division(s): _____

Types and Sources of Data Collected

- Types of data collected/stored:

- How is data collected:

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

- Will data be stored: Yes No

Data Retention

- Proposed data retention/storage time period: _____
- Mechanism(s) to delete data: _____
- How is data retained and maintained?

- Projected cost of data storage: _____

Data Security

- Plan to safeguard data (i.e., encrypt data, cloud-based storage, restrict access):

- Plan to safeguard hardware:

- Multi-Factor Authentication: Yes No

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

Potential Impact on Privacy and Civil Rights

Plan to Safeguard Privacy and Civil Rights

Third Party Sharing

- Will data be shared with a third-party? Yes No

If yes, with whom: _____

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

- What procedures are in place to maintain security, including operational, administrative, technical, and physical safeguard against unauthorized access to the data?

Public Access to the Data

- Can a member of the public access the data? Yes No
- What are the procedures for the public to gain access to the data?

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

- Are there any functions of the investigative data gathering that may be subject to the Freedom of Information Act (FOIA)? Yes No
- Are there reasons to restrict public access to data? Yes No

Fiscal Cost of the Technology and Funding Source

Need and Cost for Additional Department Personnel to Operate the Technology

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

Third-Party Dependency and Cost to Operate and Maintain the Technology

- Is maintenance by a third-party required? Yes No If yes, explain.

- What are the processes to screen individuals to grant authorization to access and use data?

- Will data be used for investigation or any other purpose? Yes No

- When and/or under what circumstance(s) can data be used?

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

Training Needed

- Is training needed for the technology? Yes No If yes or no, explain.

Alternative to the Requested Technology

Track Record of the Technology

Auditing and Oversight

- What mechanisms are in place for auditing and oversight?

TECHNOLOGY USE AND DATA PRIVACY REPORT (TUDPR)

- What is the frequency of inspections/audits? _____
- What entity is responsible for auditing and oversight? _____

Completed by (Name and Serial No.):	Contact Number:
Supervisor Reviewing (Name and Serial No.):	Supervisor's Signature:
Commanding Officer Approving:	Commanding Officer's Signature:

ACQUISITION OF INFORMATION SYSTEMS AND TECHNOLOGIES REVIEW AND EVALUATION REQUEST (AISTRER)

1. Originating entity.

Rank, Name & Serial No.: _____

Area/division of Assignment: _____

Phone Number: _____

2. Category of the technology (check those that apply to your requested technology).

- Communication device
- Transportation - Small unmanned aircraft/aerial system (sUAS)
 - Robotic vehicle
 - Other: _____

- Computer
- Photo, video, audio recorder
- Thermal imaging/sensing device
- Biometric technology - Facial recognition
 - DNA
 - Fingerprints
 - Retina recognition
 - Voice recognition
 - Other: _____

- Geolocation tracking
- Other: _____

3. Manufacturer's description of the technology/product (attach the product brochure if available).

4. Is the technology/product requested for evaluation, replacing an existing technology/product? Yes No

If yes, what is the current technology/product in use? _____

5. Originating entity's proposed use.

Describe the proposed use of the technology product: _____

6. Where will the technology/product be deployed?

Geographic: _____

Venue: _____

Investigation: _____

Tactical deployment: _____

Other: _____

ACQUISITION OF INFORMATION SYSTEMS AND TECHNOLOGIES REVIEW AND EVALUATION REQUEST (AISTRER)

7. Has the requested technology/product been approved for use by the Department?

Yes - Name the Department publication that approved it: _____

No

8. Is there required training to use the technology/product?

Yes. Name the required training: _____

No

9. Will data (photo, video, audio, biometric, geolocation, etc.) be collected, recorded, or captured?

Yes No

If data will be collected, recorded, or captured utilizing the technology:

a. Describe types of data: _____

b. Location data stored: _____

c. Data protection plan: _____

d. Would data be available for public access? Yes No

Data retention/purge plan: _____

e. Will a third party (outside agency) share any of the collected data? Yes No

f. If yes, name the agency(ies): _____

10. Who will be authorized to access/use collected data?

• Area/division authorized: _____

• Rank of personnel authorized access/use data: _____

11. Fiscal impact of the technology/product acquisition.

a. Quantity of technology/product requested: _____

b. Unit cost: _____

c. Expected life span of the technology: _____

d. Expected annual maintenance cost: _____

12. Audit and oversight.

Is there a plan for audit and oversight of usage of the technology and collected data?

Explain: _____

ACQUISITION OF INFORMATION SYSTEMS AND TECHNOLOGIES REVIEW AND EVALUATION REQUEST (AISTRER)

Completed by (Name and Serial No.):	Contact Number:
Supervisor Reviewing (Name and Serial No.):	Supervisor's Signature:
Commanding Officer Approving:	Commanding Officer's Signature:

FOR IMD USE ONLY	
Date request received:	
Person reviewing:	
Surveillance technology:	Yes No
Recommended for further acquisition review:	Yes No