

Santa Clara County Office of the Sheriff

Surveillance Use Policy for Crisis Negotiations Team ENT Call Box and Rescue Phone System (“System”)

1. Purpose

California Penal Code section 633.8 was enacted by the California Legislature “to provide law enforcement with the ability to use electronic amplifying or recording devices to eavesdrop on or record the otherwise confidential communications of individuals within a location when responding to an emergency situation that involves the taking of a hostage or the barricading of a location” (Penal Code section 633.8(a)). Authorized Sheriff’s personnel may use the Emergency Negotiations Telephone (ENT) Call Box and Rescue Phone System (“System”) during a “Barricading Situation” or a “Hostage Situation.”

A “Barricading Situation” is defined as a situation that occurs when a person refuses to come out from a covered or enclosed position. A “Barricading Situation” also occurs when a person is held against his or her will and the captor has not made a demand (PC 633.8(g)).

A “Hostage Situation” is defined as a situation that occurs when a person is held against his or her will and the captor has made a demand (PC 633.8(h)).

The System used by the Sheriff’s Office is the Cellular Response Console by Rescue Phone, Incorporated.

The System is a self-contained, multi-capable communications system designed to establish communications between a certified law enforcement crisis negotiator and victim, suspect, or involved person(s). During initial response, a search warrant shall not be required to use the ENT Call Box and Phone Rescue System. However, in all circumstances where the System is deployed, an application for a Court Order or search warrant for such use shall be requested from a magistrate within 48 hours of the System deployment (PC 633.8(e)).

2. Authorized and Prohibited Uses

The System shall only be used by Sheriff’s Office personnel for legal law enforcement activities, including crisis negotiations work relating to:

- Barricading situations;
- Hostage situations;
- Crisis interventions/negotiations (such as suicidal individuals not in an enclosed or covered position);
- Other law enforcement or first responder uses not prohibited by law.

The System shall not be used for personal or non-law-enforcement purposes.

Approved: 08/28/2018

3. Data Collection

The current System obtains real-time audio and video and does not have the capability to record. California Penal Code 633.8(f) requires that “the contents of any oral communications overheard pursuant to this section shall be recorded on tape or other comparable device.” Sheriff’s personnel working a Barricading or Hostage situation where the System is deployed shall record the content obtained by the System using Sheriff’s Digital Voice Recorders or other recording devices, which are subject to a separate Surveillance Use Policy.

4. Data Access

Access to real-time audio and video of the negotiation shall be limited to Sheriff’s Office personnel assigned to an incident in which the equipment is deployed. Crisis Negotiation Team (CNT) members, Tactical Command Staff, and Sheriff’s Command Staff may have access during an incident where the System is deployed.

5. Data Protection

The System shall provide only real-time data access. Data recorded and acquired via Digital Voice Recorders or other recording devices used shall be subject to the Data Protection requirements described in the Surveillance Use Policy applicable to those recording devices.

6. Data Retention

The System shall not record or retain data. Data recorded via Digital Voice Recorders or other recording devices shall be subject to the Data Retention requirements described in the Surveillance Use Policy applicable to those devices.

7. Public Access

The public shall not have access to the real-time audio stream or video stream provided by the System. Access to data retained by Digital Voice Recorders or other recording devices shall be subject the Public Access requirements of the Surveillance Use Policy applicable to those devices.

8. Third-Party Data-Sharing

For joint law enforcement operations, personnel from other law enforcement agencies may be provided access to live streaming audio or video from the System. Other third parties shall not be provided access to the System.

9. Training

Training for the operation of the System shall be provided to authorized System users by the vendor or Sheriff’s Office personnel familiar with the System.

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10. Oversight

The Sheriff's Office Special Operations Captain shall ensure compliance with this Surveillance Use Policy, including compliance with California Penal Code section 633.8, as applicable. An audit log shall be kept for usage of the System. Sheriff's Administration shall review the log for compliance as needed, and at least annually.

Approved as to Form and Legality

 4/30/18

Rob Coelho

Office of the County Counsel

