

# MEMORANDUM

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Milpitas Police Department



**DATE:** April 6, 2021

**TO:** Mayor and Councilmembers

**THROUGH:** Steve McHarris, City Manager *Steve McHarris*

**FROM:** Jared Hernandez, Acting Chief of Police *Jared Hernandez*

**SUBJECT:** California Department of Justice (CA DOJ) Mandate – Radio Encryption

This memorandum provides information related to the State mandate to encrypt police radio traffic that contains sensitive personal information and the implementation of this mandate balancing the public's interest in our activities with the protection of personally identifiable information (PII) of persons we encounter and the safety of our officers. This topic has been in the South Bay news lately, and the Police Department recently received media questions about this matter. I am sharing information with you in advance of any public communications about the topic.

Before discussing encryption, it is important to understand that the California Department of Justice (CA DOJ) authorizes the Milpitas Police Department to access the California Law Enforcement Telecommunications System (CLETS). CLETS is a computer network that provides law enforcement and criminal justice agencies with access to a variety of databases that contain sensitive data such as a person's criminal history, warrant information, criminal record, and driving record information. CLETS access is necessary for our officers, dispatch staff, and records staff to do their jobs. Officers can access CLETS information directly from an enabled computer terminal or more commonly through the assistance of a police dispatcher. When accessing CLETS through a dispatcher, the information is transmitted using our police radio system operated through the Silicon Valley Regional Interoperability Authority (SVRIA). SVRIA is the shared digital radio system that all police and fire departments use in Santa Clara County. An example of how the police department regularly uses SVRIA to access CLETS data would be when an officer makes a traffic stop and needs to verify that the driver has a valid license and is not wanted. In order to accomplish these checks, the officer provides personally identifiable information, such as name and birthdate, over the radio to the emergency communication dispatchers. The dispatcher accesses CLETS and provides the officer the requested information.

Recently, the CA DOJ notified every police department in the State of a policy update that mandates the transmission of PII be encrypted (CA DOJ memo attached as a reference) by the end of 2021. The purpose of the mandate is to protect the privacy and identity of any person whose information is broadcast over the air. This serves to not only prevent potential identity theft, but also to give privacy to victims of crime. Currently our main radio channel is not encrypted and anyone with a commercial scanner or a smartphone scanning app can listen and capture this sensitive information. We have no option but to comply with the CA DOJ mandate. Therefore, no later than September 1, 2021, we will encrypt our main radio channel. This option will have the least impact on current operations and is the safest option for our officers in order to quickly transmit information especially in critical incidences. However, encrypting the channel will prevent public access to our radio transmissions.

We do not know how many residents follow the Police Department's radio transmissions and encrypting our radio transmissions may raise concern with some members of the public. Therefore, we will continue proactively message our community about critical incidents via social media balancing the public's

interest in our activities with the privacy interests of persons we encounter and the safety of our officers. The Milpitas Police Department actively shares information through Twitter, Facebook, and NextDoor. Many of the mainstream media outlets seem to rely on police department Twitter accounts for breaking news.

Currently, all police departments in Santa Clara County have switched to encrypted radio channels except for the Santa Clara Police Department and the Milpitas Police Department. The Santa Clara Police Department expects to transition to an encrypted main radio channel in the next several weeks. I am aware of at least one agency that transitioned to an encrypted radio channel and received criticism from the media and their community after the transition. In this community, there was no public outreach or council notification explaining the CA DOJ mandate prior to the switch. This has sparked additional debate and media interest in public access to police radio communications.

Therefore, as the first step to inform the public about this planned change, Police Department staff will seek input from the Public Safety and Emergency Preparedness Commission at their May 20th meeting. Following the PSEPC meeting, we will finalize our compliance with the DOJ mandate and prepare a public statement to be shared with media outlets and on our social media platforms.

If you have any questions or concerns about this topic, please let me know.