



Privacy Advisory Commission

June 8, 2023; 5:00 PM

Oakland City Hall

Hearing Room 2

1 Frank H. Ogawa Plaza, 1st Floor

DRAFT Special Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III, Vice Chair, Mayoral Representative: Jessica Leavitt*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. Call to Order, determination of quorum

In attendance: Hofer, Tomlinson, Katz, Oliver, Leavitt and Gage

Absent: Commissioners Brown, DeLaCruz and Suleiman

2. Review and approval of the draft April 6, April 15 meeting minutes

Hofer moved to adopt the minutes, Tomlinson by second.

Passed unanimously.

3. Open Forum/Public Comment

No public comment

4. Sanctuary Contracting Ordinance – CPO – Presentation of Annual Report

a. Review and take possible action on the annual report

This ordinance prohibits the award of contracts to vendors that do business with ICE. Mr. DeVries indicated that the system works, and he receives a request to review and sign off Schedule I's as part of the contracting process as needed.

Approved and passed unanimously.

5. Surveillance Technology Ordinance – OPD – Biometric Crime Lab Annual Report, and proposed amendments to Use Policy & Impact Statement
 - a. Review and take possible action on the annual report, and proposed use policy

Chair Hofer asked the Commissioners if they had questions about the biometric annual report. The Chair requested a redlined changes to reports.

Bonnie Chang, criminalist with the crime lab provided an update on the Use Policy changes. She indicated that the major changes on page 2, under digestion and extraction in the middle of the page. Previously, the Easy 2 instrument was mentioned, and it's been purchased, validated and in use, in addition to the Easy 1. Productivity data was provided in the annual report.

Hofer indicated that OPD is seeking a waiver of the race analysis. He moved to waive the requirement. Commissioner Leavitt asked a question about race data in the system. Ms. Chang indicated that there is no race data only the DNA profile.

Commissioner Leavitt provided the second. The motion passed unanimously.

Chair Hofer moved to accept the annual report. Commissioner Tomlinson provided the second. Commissioner Leavitt had a question about security of the data. Ms. Chang indicated that the City's IT department housed the server and they could respond to any questions regarding security of the data. The motion passed unanimously.

On the Use Policy with the minor amendment as stated. Chair Hofer moved that the item is approved and forwarded to the Council with a recommendation to adopt as written. Commissioner Leavitt asked questions about the hard copies of the electronic files and how they are stored. She was requesting clarification about redundancy. Ms. Chang clarified that it's different type of data and the printed notes are the final copy of the case file, additionally the electronic files are kept should they be referred to at a later date. Commissioner Tomlinson raised a question about where the data is store and the lab stores the information at the Police Administration Building. Only the crime lab can access the hard copies. No statute of limitations on homicides.

Motion to approve the amendment on page 2. Commissioner Leavitt provided the second.

D 1 absent

D2 absent

D3 yes

D4 yes

D5 absent

D6 abstained
D7 abstained
At-large yes
Mayor – yes

The motion passed with 4 yes votes.

6. Surveillance Technology Ordinance – DPW – Illegal Dumping Cameras - Annual Report, and Proposed Amended Use Policy
 - a. Review and take possible action on the annual report, and proposed use policy

Commissioner Katz reported that the ad-hoc met with DPW is working very hard to do the right thing and the ad hoc is in agreement with what they've submitted. Chair Hofer requested a presentation on the annual report and the efficacy data to justify the use of the new technology.

Ms. Victoria Chak presented from Department of Public Works, Bureau of Environment. She presented the annual report for the period of March 2022 – February 2023. All installation of the portable observation device (POD) cameras are in the public right away.

The PODs are located in the neighborhoods with the most chronic dumping using data from Cityworks. The most illegal dumping hotspots are in Council Districts 3, 5, 6 and 7. The efficacy data was impacted by the February 8 ransomware attack and as a result a full 12 months of data was not captured in the report. The February ransom attack affected OPW's ability to collect data. Ms. Chak reported that there were 492 dumping incidents captured on camera, 72 citations and 101 incidents. There are many repeat offenders as evidenced by the camera footage and illegal dumping occurring in and around homeless encampments.

Mr. DeVries made a point regarding AB 645 which passed the assembly which will rely on ALPR. There is a huge enforcement issue if people continue to remove their license plate. A missing license plate is not actionable in the current policy.

Ms. Chak concluded by stating that previously there was no data to tell us what we can impact with the amount of investment, staffing and other limitations. As we continue to gather data we can see where public works staff can be more effective with the ALPR camera and catch the more opportunistic dumpers. Also, effective in educating residents about the appropriate places to dispose of their waste.

Chair Hofer's motioned to accept the annual report and recommend to the city council that they renegotiate the number of bulky pick-up days and reduce the rate of dumping fees at Waste Management. A second by Commissioner Oliver.

D1
D2

D3 yes
D4 yes
D5
D6 yes
D7 yes
Mayor yes
At large yes

The PAC proceeded to discuss the Illegal Dumping Use Policy. Ms. Chak continued sharing the PowerPoint presentation and provided an overview of the modifications requested in the Use Policy. The requested amendments to the Use Policy includes adding satellite pods and license plate reader cameras to the POD surveillance system. Additionally, reinstate provisions regarding the masking feature in section B to authorize use and modify the provision for sharing and preserving video data in section h.

Chair Hofer provided the following edits, on page 3, first paragraph, the sentence on facial recognition, strike that as there will be no facial recognition. Under section D, change the last sentence that reads “authorized to access and/or view surveillance camera information include,” rewrite the sentence to state the following individuals are authorized to access and/or view surveillance camera information, and then list only those people.

Under section E, delete the system has never been hacked and add “knowingly hacked.” Regarding 3rd party data sharing, the ordinance also defines 3rd parties has other departments and it needs to be spelled out. Add that the system is cloud based. Vendor may access the system or data for contractual obligations and no particular vendor is being endorsed. The retention limits are reasonable.

The ad hoc will meet and make necessary edits.

Motion: Hofer moved as the amendments read into the record and with the understanding that the chair will type and submit to staff, Chief Privacy Officer and Vice Chair. With those amendments and will not endorse any particular vendor and we may not acquire prohibited technologies as defined by our ordinance, including facial recognition and all bio-medic surveillance technology that we adopt the amended use policy.

2nd by Commissioner Gage

D1 absent
D2 absent
D3yes
D4 yes
D5 absent
D6yes

D7yes

Mayor yes

At-large yes

Item passed unanimously

7. Surveillance Technology Ordinance – OPD – Annual Reports

- a. Review and take possible action on the annual reports for ShotSpotter, Unmanned Aerial Vehicles/Drones, StarChase/GPS Tracker

Under surveillance ordinance item, for the record some reports submitted again, the live stream, the GPS and the cell site, the PAC already reviewed and approved.

Chair Hofer introduced the StarChase item has not been used in two years. Officer Pullen with the Bureau of Services explained that a very specific set of circumstances need to occur to launch the device and an officer would need to push a button.

Officer Pullen that there a very limited number of pursuits allowed. An officer would need to be directly behind a vehicle within a set number of feet for the technology to work. The time and distance have to be exact for the technology to work. Commissioner Gage requested further information about why the technology was not used and it may be helpful to find a way to use it.

Commissioner Oliver described the best time to use the device is the beginning of a pursuit, when an officer is close to the vehicle. It's more problematic and detrimental once a vehicle gets up to speed. Officer Pullen explained the technology is very difficult to use once someone starts to evade an officer.

Commissioner Gage moved to approve the item, second by Commissioner Oliver. No comments or discussion.

D3 - abstained

D4 - yes

D6 yes

D7 yes

At large - yes

Mayor – yes

Item carries.

The PAC proceeded to discuss the Annual report on the drones. The item was reviewed last month and there were questions related to efficacy and causation.

Lt. Febel with the Special Operations Section provided an update and clarification on the report under subsection H in the report. He explained that Mr. DeVries requested information about the 60 deployment of persons that were potentially armed and dangerous what conditions would result if the drones or UAV were not present. Lt. Febel explained that the UAV is a de-escalation tool and without the technology OPD personnel could potentially interact with suspects that are armed, barricaded and dangerous. These are called chance encounters that could result in escalation of force which is opposite of the intent of the UAV program which is de-escalation. Of the 109 deployments that are potentially armed and dangerous, the 60 deployments represent 80 percent of the usage.

During drones deployment, there was a 75 percent chance that a subject was located. Lt. Febel explained that without the technology officers would maybe locate half of those suspects. Of the 75 percent, there were over 140 subjects deployments and 76 resulted in arrests. Sixty-five firearms were recovered during the 2022 annual report and a notable benefit was the limited use of the swat team. In 2020 there 8 deployments of the SWAT in 2020 and there has only been 1 in 2023. The UAV and other tools create conditions to de-escalate use of force.

Commissioners requested clarification on the data. Lt. Febel answered a range of questions. Chair Hofer indicated there were some data discrepancy issues and indicated that the data can be corrected prior to forwarding to City Council. On page 5, there were 5 bullet points and Chair requested to correct the discrepancy on bullet point 2 where there are over 140 suspects and clarify the 200 people identified. In bullet point 4 insert the 2020 statistics of 8 entry team deployments.

Hofer motioned to accept the items and recommend ongoing use to the City Council, there was second by Commissioner Leavitt.

Friendly amendment by Commission Leavitt to correct the last bullet to reduce canine deployment by 20 percent and add by when. Friendly amendment accepted.

D1

D2

D3yes

D4yes

D5

D6 yes

D7 yes

Mayor – yes

At-large - yes

Item passed unanimously

The PAC discussed the Shotspotter annual report. Lt. Valle presented on behalf of OPD. He provided clarification and correction to items in the report.

Chair Hofer held the item to bring it back to the PAC with further clarification. He was opposed to language written in the report and is open to amending and discussing the authorized use section as it was inaccurate. Hofer wants to potentially amend the use policy. The concerns with the report will be discussed during an ad hoc meeting. OPD will bring back an amended report to address the data sharing aspect of the report and policy. Commissioners posed a range of questions regarding data sharing.