



Privacy Advisory Commission
November 2, 2023 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Draft 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: Vacant, 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
2. Review and approval of the draft September 7 and October 5 meeting minutes

Chair Hofer made a motion to approve the minutes, seconded by Vice Chair Gage.
Approved unanimously.

3. Open Forum/Public Comment
No public comment.
4. Surveillance Technology Ordinance – OPD – Cellebrite Cellphone Data Extraction Technology
 - a. Review impact report and take possible action on a proposed use policy

Sgt. Yung Zhou from the Homicide Division provided background on this item. He oversees how OPD manages electronic evidence, including cell phones. Sgt. Zhou provided an update on departmental general order I30, the universal forensic extraction device, commonly referred to as Cellebrite. He described it as a box connected to a computer and it has a couple cords coming from it. After OPD receives a search warrant, the phone is attached to the Cellebrite, it analyzes the type of phone it is and extracts the data that is on the phone including call logs, text messages, photos or other data that exists on the phone. Once the data is copied over it is stored onto a USB or removable storage media and

stored in OPD's property section. OPD can truncate particular items that they need depending on the legal authority, some search warrants limit what can be downloaded or provide a timeframe. The data is truncated based on the legal authority or what the search warrant allows to be viewed on the device. It's usually based on date range.

The data is fed into a Cellebrite physical analyzer which is a software that reads what we download and generates into a viewable format, e.g., chronically. OPD is interested in the meta data, including when the photo was taken, location information and how the data was sent, for example. The goal is preserving the data on the device into a medium to avoid compromising the data, therefore; it can be turned over to prosecution or defense in investigation of cases.

The types of investigations in which the Cellebrite is used involves violent felonies, homicide or robbery investigations. The use of the Cellebrite tends to be used on Part I investigations.

On page 6, of the Use Policy it is shared with the DA's office at the time of prosecution will comply with the discovery process and share with other law enforcement partners the proper legal authorization or a sharing order. A sharing order is drafted into a search warrant if there is a nexus with another agency's investigation. It has to be a judicial order authorized by a judge.

Commissioner Katz requested information about data retention. The statute of limitation is different for each crime. Homicide is forever.

Hofer is recommending no action because there are some holes in the policy. He requested the Cellebrite manual, proposed contract and price quote to be in compliance with this ordinance. Also, identify potential sources of funding to purchase the item which could include general fund or a grant.

Once the item is approved OPD will seek an upgrade, ideally the entire process will be completed at one time. An ad hoc will be created to address concerns regarding the Cellebrite technology.

Hofer announced that Commissioner Oliver's term has ended, and a new district 7 appoint will be made. Commissioner Oliver was an original appointment to the Privacy Advisory Council and his service and expertise is appreciated. His law enforcement perspective will be missed on the Commission.

No public comment.