



Privacy Advisory Commission
May 4, 2023 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Regular 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, Vice Chair District 5 Representative: Omar De La Cruz, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III Mayoral Representative: Jessica Leavitt

1. Call to Order, determination of quorum

In attendance: Chair Hofer, Gina Tomlinson, Lou Katz, Reem Suleiman, Chloe Brown, Gina Tomlinson, Robert Oliver, Jessica Leavitt

2. Open Forum

No public comment

3. PAC – Annual Election of Chair, Vice-Chair
 - a. Nominate and elect officer
Nominate Chair Hofer

Chair Hofer asked members of the Commission if anyone wanted to run for the position of chair for one year. Commissioner Suleiman reminded Commissioners that a discussion during the retreat included figuring out a transition plan as several of the original board members terms start to phase out. An idea was proposed that Chair Hofer would continue as chair for one more year and put in place a transition plan to train the next Chair.

Commissioner Suleiman made a motion that Chair Hofer continue as chair, which was uncontested. There was no opposition.

The motion passed unanimously

Chair Hofer requested nominations for Vice Chair. Chair Hofer nominated Commissioner Henry Gage as Vice Chair as his term will continue beyond many others on the Commission. Commissioner Gage was not present at the time of the nomination; however, the chair had earlier confirmed his interest to serve. Commissioner Brown seconded.

A voice vote was taken with seven Commissioners voting yes. There was one abstention by Commissioner Katz.

4. Surveillance Technology Ordinance – DPW – Illegal Dumping Cameras
 - a. Third party sharing (Use Policy Sec. H) notice and report
 - b. Review and take possible action, including to receive the report and possibly make recommendations to the City Council.

Chair Hofer introduced this item and indicated that under the Surveillance Technology Ordinance, there is a notice and report provision. Mr. Joe DeVries, the Chief Privacy Officer (CPO) provided a brief introduction of this issue during the retreat. The provision was activated by the Department of Public Works as it pertains to the illegal dumping camera program. As required by the ordinance staff proactively contacted the Chair of the Privacy Advisory Commission and the Chief Privacy Officer.

Victoria Chak, Administrative Services Manager, Oakland Public Works, Bureau of the Environment provided an update on an incident captured on the cameras. She presented updates from a memo that was included in the agenda packet entitled: [PAC Info Memo OPD Video Data Request Data Sharing Final signed](#). The incident occurred near Wood Street as this area is a chronic dumping hotspot with repeat, opportunistic dumpers taking advantage of the blighted conditions in the area. The incident occurred on April 12, 2023 in the midst of operations to close the Wood Street encampment.

Ms. Chak reported that OPW received a request from the Oakland Police Department (OPD) to receive video data from one of the Wood Street pods. Staff complied with the 72-hour notification to the PAC chair and the CPO. As stipulated in the illegal dumping surveillance camera use policy details of the sequence of events are captured in the informational memo.

Chair Hofer stated that the larger concern in these issues is to compare the requirements of the use policy and the ordinance. The PAC needs to review the policy that's been approved and measure compliance. The City Council agreed that to avoid mission creep as the cameras would be limited to illegal dumping footage; refers back to OPD policy general

order J04. The crimes were not violent, however, violent forcible crimes could potentially be viewed if captured. OPD secured a warrant and due process was honored.

Joe DeVries indicated that staff would like to hear the Commissions thoughts on this matter. Staff did not contemplate potential litigation when crafting the ordinance and the request that we set aside a unit, which is technically a violation since the data is not being overwritten, but it's also not being shared at this time. The due diligence is being done in this case. This is an issue to consider for this technology and future technologies when there is potential litigation. Chair Hofer indicated that the policy does not state what happens pursuit to a court order or warrant not spelled out in the policy. It is stated in other policies established by the PAC.

Vice Chair Katz indicated that the ad hoc can consider the illegal dumping cameras along with the ALPR policy. The ad hoc could consider any potential litigation and how to handle in the instance of a court order. Staff is working with the City Attorney's Office to determine policy amendments. The proposed changes can be discussed by the ad hoc committee in advance of the item returning to the PAC.

Commissioner Katz made a motion to accept the report and Chair Hofer seconded the motion. The item passed unanimously.

5. Dept. of Transportation – Speed Safety System Pilot Program

- a. DOT will present on AB 645 and request a motion of support for the bill. The SOS Initiative aims to prevent severe and fatal traffic crashes, eliminate injury inequities, and carefully assess and mitigate any equity impacts resulting from safety measures. As part of its work, the SOS Initiative has supported the piloting of automated speed enforcement systems in Oakland to address the traffic violence on Oakland city streets and the disproportionate impact traffic violence has on Black, Indigenous, and People of Color communities, seniors, children, and people with disabilities.
- b. Review and take possible action

Tony Dang, Senior Advisor for policy and intergovernmental affairs for DOT made a presentation on behalf of the Safe Oakland Streets Initiative which is an interdepartmental collaboration between the CAO, OPD, DOT, DVP and the department of race and equity. He was seeking support for AB 645 which authorizes a select number of cities in California to establish a pilot automated speed enforcement program. Currently, state law prevents any city from setting up a program. The bill would authorize 6 cities to set up a time limited five-year pilot program and require the cities to conduct and evaluation for effectiveness. Further action from the state would be needed to continue programs beyond 2032. A presentation and text of the legislation was included in the agenda packet. Mr. Dang provided highlights of the bill, including that only photographic evidence is allowed, no use of video.

Mr. DeVries clarified that a use policy and impact report would need to come back to the PAC.

Commissioner Officer Robert Oliver indicated that no operational motors unit in 2022. Research as shown that having an officer present does reduce speed for about one week, however; a camera reduces vehicle speed over a much longer period of time. OakDot will use an equity lens, schools and the high injury network when implementing the policy, if it passes at the state level.

Commissioner Gage inquired about a fee schedule; can you adopt one higher than in the legislation. Staff indicated that the fee schedule is prescriptive.

Commissioner Tomlinson is requesting more information about the locations. Staff indicated that it be provided after the use policy and community outreach efforts are completed. Lots of community members will be engaged in the process.

Commissioner Gage made a motion to accept the report, endorse the draft legislation and make a recommendation to council to do the same. Commissioner Suleman seconded the motion. The motion passed unanimously.

During the discussion, Chair Hofer highlighted that the Privacy Commission does not find significant privacy intrusion sufficient to oppose this bill. Commissioner Suleiman indicated that the purpose of the endorsement is to support the privacy aspects of the legislation.

Roll call:

D1 yes

D2 yes

D3 yes

D4 no

D5 absent

D6 abstain

D7 yes

Mayoral - yes

At-large – yes

The motion passed.

6. Surveillance Technology Ordinance – OPD – Annual Reports

- a. Review and take possible action on the annual reports for ShotSpotter, Cell-Site Simulator, Unmanned Aerial Vehicles/Drones, Live Stream Camera, and Mobile Fingerprinting ID

OPD moved to approve five annual reports that are required as part of the surveillance ordinance. Dr. Beckman clarified that the reports are for the year of 2022. He called attention to section G of the report

that refers to a statement from the information technology department about the ransomware attack. OPD's research indicates that there was no unauthorized access or breaches.

Chair Hofer moved to accept the Annual Report on the cell site simulator. Commissioner Brown seconded the motion.

Commissioner Katz asked did OPD have a cell cite stimulator and Dr. Beckman reported that they do not. The motion passed unanimously.

Chair Hofer proceeded to the Live Stream camera annual report. Motion made by Chair Hofer, second by commissioner Katz. No one opposed or abstained.

The next annual report discussed was Mobile ID. Chair Hofer had a question regarding the system that former Sherriff Ahern received a \$600k biometric system and there was a large number of storage purchased and significant upgrades. Chair Hofer indicated that if the system was getting larger then the policy might need to be revisited.

Officer Pullen indicated that OPD returned all their equipment to the Sherriff's department and have not gotten it back since the upgrade occurred. He indicated that it was returned for software upgrades. He indicated that they planned to engage again in the future.

Chair Hofer moved to accept the item. There was a second by Commissioner Brown. There was a voice vote with no opposition or abstentions.

The next OPD report discussed was the drones. Chair Hofer stated that he believed the report possibly needed to be re-written. The issue that needs to be resolved is to track the use of the technology. It's difficult to determine the benefits of the technology. In section H, for example there is a table of Oakland crime data and with that information alone it is difficult to determine causation. In this case with flight logs and other auditing and tracking that should occur where the volume isn't large like body worn cameras and license plate readers it would be helpful to determine the link between the usage of drones and solving crimes. The annual report does not mention anything about the drones' solving crimes.

Lt. Febel, Special Operations Section provided an update on the drones annual report. He explained that this will now be governed by military equipment annual report and there are very stringent requirements under AB 481 and the departments I25 policy and the local municipal code. The Police Commission and City Council approved policies to oversee the technology. The tracking of all military equipment, drones are subject to that same reporting and tracking. There is a system being developed through a comprehensive Vision database to track a variety of data points, including where the drones are being deployed, any related complaints and who is affected by the technology. The 2022 data is going to presented to the Police Commission for AB 481 for the period July 2022 to January 2023.

Commissioner Gage emphasized the need for data to make informed decisions and advocate for resources. Commissioner Oliver requested a copy of I25.

Hofer recommended tabling the drones item until the data is presented to the PAC and requested that the item come back in June.

The final annual report discussed was ShotSpotter. Commissioners asked questions regarding the cost per year for ShotSpotter which was covered in the report. Lt. Steve Valle responded and indicated that a response to the question was covered in the report and the cost was \$798,486.00.

Commissioners raised a range of questions regarding ShotSpotter and third-party data sharing. Lt. Valle, indicated that ATF does not have access to the system. It did state in the annual report that ATF has access, this is incorrect and needs to be corrected. Chair Hofer stated that 3rd party data sharing section needed to be revised in the annual report to reflect that the Oakland Housing Authority (OHA) does have access to the system and they are authorized users. Lt. Valle explained that OHA has properties all over the city and many are in high crime areas where gun fire takes place and providing OHA access to shots potter is a benefit to respond to crime scenes quickly. OHA's access to ShotSpotter information is not in the approved use policy. The 3rd party data sharing agreements may need to be changed to reflect the current or needed uses of the technology.

Chair Hofer requested that the ShotSpotter annual report return to the PAC to address the PAC's 3rd party data concerns.

7. Surveillance Technology Ordinance – DOT – Parking Mobile Payment System
 - a. Review and take possible action

Chair Hofer introduced the item and requested information about the provider. He indicated that this could be sent to an ad-hoc. The PAC was waiting on the contract to make sure everything matches with the proposed use policy. It's also important to consider the adopted privacy principles in the process.

Michael Ford with the Department of Transportation stated that the current extension goes through August. The most important aspect of the contract is the scope of work (attachment A). Mr. Ford indicated that he welcomes the opportunity to sit down with the ad-hoc.

Chair Hofer raised a question about when the law clinic students were meeting with Mr. Ford and DOT staff it was clear that a data map is developed. It's important to figure out the verification process. There is a need to verify and protect personally identifiable information (PII) data.

Commissioner Oliver had a number of questions about the parking system and how citations are issued. Citations are issued once a day if the vehicle is left in the same location. Once a valid citation is written then the registered owner will be held accountable for it and the citation is mailed to them.

Chair Hofer requested to know if the vendors had a privacy policy under SB 34 which is the state law that pertains to license plate readers. SB 34 governs privacy issues for some companies and their complaint policies are stated on websites.

An ad hoc will be convened to work with Mr. Ford on the vendor contract, use policy and/or impact statement.

The meeting was adjourned.