



Privacy Advisory Commission
December 7, 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: Sean Everhart, 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

All Commissioners were in attendance.

2. Review and approval of the draft November 2 meeting minutes

The minutes were approved pending a correction and completion of third to the last paragraph, a sentence needs to be completed.

Minutes were approved unanimously.

3. Open Forum/Public Comment for non-agenda items

No public comment.

4. Recognition of Commissioner Robert Oliver for his years of service – Council Member Reid's office Chief of Staff to District 7 Haley Hester provided sincere thanks to former Commissioner Oliver for his service on the Privacy Commission.

5. Welcome new Commissioner Sean Everhart – Council Member Reid's office

Haley Hester also welcomed Sean Everhart to the PAC. Commissioner Everhart is a member of the Sheffield Village community. He has 10 years of experience in the area of privacy.

Commissioner Everhart reported that he's been in the data protection space, including ransomware and backup recovery.

6. Surveillance Technology Ordinance – OPD – Cellebrite Cellphone Data Extraction Technology
 - a. Review impact report and take possible action on a proposed use policy

An ad-hoc was set up at the previous meeting to address questions that were raised by the full body. The ad-hoc was pleased with the draft overall. The ad-hoc worked with Oakland Police Department, Sgt. Yun Zhou on the draft Cellebrite policy. Sgt. Zhou reported that changes were made to the policy for probation and parole searches in regard to Cellebrite. OPD will not use the Cellebrite to download phone data based on being on probation and parole only. OPD also added documentation regarding consent by an individual to request specific information to be downloaded. The consent will take place on a form or via video recording.

In addition, provisions were added regarding data protection and third party file sharing. All data needs to be stored safely and password protected. Third party file sharing with different agencies is allowed under specific circumstances in the context of discovery requirements for criminal prosecution and if OPD has a California Electronic Communication Privacy Act compliant search warrant or a compliant sharing order.

Finally, the storage and handling of the device was clarified. The device will not go out into the field. It will be stored in a secure office at OPD that a limited number of people will have access. It is not going out in the community barring exigent circumstances that will be documented under OMC requirements. As a standard normal use, the Cellebrite will remain in an OPD office.

A further change is reflected on page 3 of the policy under number 4, the device cannot be used at a Ceasefire call-in.

Commissioners raised a variety of questions regarding data collection for the annual report. The plan is to track individual usage. Commissioners recommended that all data is tracked, including when the device is used and the legal authority. They will also track the race of the device owner and suspect in the criminal case. The type of case will also be included, such as robbery, homicide, etc. A status of the case will be tracked in an excel spreadsheet, for example if an individual is charged or not.

Chair Hofer raised a question about the estimated number of cases and phones being searched. Sgt. Zhou estimated that 50-70 phones to start. He estimated a total of 700 devices per year. Chair Hofer also requested to track the amount of staff time it takes to collect the information.

The item passed unanimously.