



Privacy Advisory Commission
September 7, 2023 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
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

In attendance: Commissioner Suleiman, Chair Hofer, Commissioner Katz, Commissioner Tomlinson, Commissioner Gage, Commissioner Leavitt

Absent: Commissioner Oliver, Chloe Brown

2. Review and approval of the draft May meeting minute

Chair Hofer moved to approve the minutes and seconded by Commissioner Gage

Approved unanimously.

3. Open Forum/Public Comment

Ms. Assata Olugbala commented on her driver's license regarding federal limits apply. She provided background on the process and documents needed.

4. Surveillance Technology Ordinance – Department of Transportation (DOT) – Mobile Parking Payment System

- a. Review and take possible action on the proposed use policy

Chair Hofer introduced the item and provided background information including the work completed by the Cleveland law students and Commissioner Leavitt.

Michael Ford provided a staff update. He shared a summary including some clarification of terms in the use policy and impact analysis to help facilitate the discussion.

Chair Hofer further indicated the document includes clarification on terms regarding the data flow who would have raw data, *anonymized data* and aggregated data and those issues have been resolved. The retention periods are reasonable. Its subject to the ordinance and including these terms in the municipal contracts so the vendors take it seriously and honor our use policy terms and data security practices that the Privacy Advisory Commission (PAC) favors. The City Attorney's Office was also engaged in the process of negotiating the contracts.

Commissioner Tomlinson raised questions about the data protection section under number 5. This section states that the DOT will rely on each provider to securely store, transmit information and audit transactions, etc. So does that mean there were six different methodologies and protocols or did the DOT provide a framework for the six (6) providers? Mr. Ford indicated that DOT made changes to the system security plan that each vendor is responsible for following. He stated that each vendor will have their own system and their own terms and conditions, each will be responsible for implementing the system security protocol.

Commissioner Suleiman requested clarification on the attachment A addendum and indicated that this is what the vendor is responsible for following in the security protocol. Mr. Ford stated that part of the effort was to hold staff accountable for the surveillance technology ordinance, but to also bring it forward and include it in the professional services agreement. This will be a part of the negotiations with the contractors. The goal of the PAC has been to include this at the RFP process and Commissioner Suleiman indicated that she would like to hear feedback from the vendors and hopes that this could be a new standard for other departments to use going forward. Chair Hofer stated that this is an aspect of Privacy by Design which includes communicating with the designers in the procurement process.

The Commissioners proceeded to discuss clarification on ownership of the data between the individual and the contractor. The contract language was referenced in the motion.

Public Comment: Assata Olugbala stated information shared in the park mobile app including your license plate, phone and vehicle number, credit card number and other information could be at risk.

Chair Hofer clarified that the vendor cannot repurpose or sell data.

Motion: Commissioner Hofer moved that the PAC forward this to city council with a favorable recommendation to adopt the use policy and we also encourage the city attorney and DOT to address the individuals data ownership rights with possible clarification needed to the definitions in section 3 of the data addendum. Commissioner Leavitt seconded.

Commissioner Suleiman – yes
Commissioner Brown – absent
Chair Hofer – yes
Commissioner Katz - yes
Commissioner Tomlinson - yes
Commissioner Gage – yes
Commissioner Leavitt – yes
Commissioner Oliver - absent

Motion passed.

5. Surveillance Technology Ordinance – OPD – Fixed Wing Aircraft (with surveillance technology)
 - a. Review and take possible action on a proposed use policy

Chair Hofer provided an overview on this item. Commissioner Leavitt and Chair Hofer served on the ad hoc for this item and met with the vendor and discussed the capacity of the Fixed Wing Aircraft and they were able to see the flight plan and hear about the various restrictions. There were concerns about the retention policy and it was adjusted from two years to 6 months.

Officer Brandon Mart with OPD in the Air Support Unit made a brief presentation. He provided an update from the meeting in July when this item was last heard by the PAC. Changes were made to the use policy and impact report to alleviate concerns during that meeting. The vendor was in attendance to address questions as needed. The goal is to transition from the OPD helicopter to a fixed wing aircraft. The fixed wing camera will be activated to capture the overall nature of the scene. Body worn cameras are activated when officers are on scene.

Commissioner Gage recommended defining what the OPD means by “actively conducting” since it is mentioned throughout the document. As Officer Mart explained it, the definition is that members are on the scene on the ground, which is different from once the officers are dispatched. This needs to be defined more clearly and could be covered in section A3 under specific discretionary activations.

Mr. Joe DeVries recommended change to the document in sentence 1, under B2 which remains the same up to the semi-colon and then add and/or where a subject as been observed as being actively violent towards community members or officers.

Commissioners emphasized the need to state specific authorized uses, which could include fire suppression and investigation. Authorized uses are listed under B2. This could also include reckless drivers or natural disasters.

Chair Hofer stated with the edits, suggested amendments previously discussed on video and to be confirmed between members of the PAC and staff at a subsequent time before the Public Safety Committee. Chair Hofer moved that the PAC forward this with a favorable recommendation to the City Council. Seconded by Commissioner Gage.

Commissioner Suleiman – yes

Chair Hofer – yes

Commissioner Katz - yes

Commissioner Tomlinson - yes

Vice Chair Gage - yes

Commissioner Leavitt – yes

The item passed.

The meeting was adjourned.