



Privacy Advisory Commission
September 3, 2020 5:00 PM
Zoom Online Meeting
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:** Vacant

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

Members Present: Suleiman, Brown, Hofer, De La Cruz, Tomlinson, Oliver, Gage.

2. Open Forum/Public Comment

There was one public speaker: Asada Olugbala voiced concern that the oversight function of the PAC and other City bodies appears to monitor a variety of different operations in the protection of many populations but falls short in monitoring when the impacted community is African American. She also is concerned that some of the limitations the PAC supports will inadvertently protect criminals.

3. Review and approval of the draft August meeting minutes

The minutes were approved unanimously with one correction: Breonna Taylor's name was misspelled.

4. Surveillance Equipment Ordinance – OPD – Forensic Logic Impact Report and proposed Use Policy - review and take possible action.

The ad hoc committee draft Use Policy was presented for full approval and there was agreement on almost all the components of the policy after many meetings with OPD. However, DC Holmgren raised concern about the requirement that agencies outside Alameda County would not have access to Oakland data. He noted that many crime rings are Bay Area-wide and cross far into other states. Bob Batty with Forensic Logic cited an example of a human trafficking case from San Francisco was cited as an instance of where Oakland data was available to the SF DA and led to the conviction.

However, Commissioner Suleiman noted her and other commissioners discomfort with how readily available the Oakland data is to any other jurisdiction. Chairperson Hofer noted that if the restriction on sharing Oakland data outside Alameda County was proving to be problematic, during the annual review, it could be modified. Joe DeVries asked if the PAC would consider expanding to the Bay Area region and/or CA since all California jurisdictions are prohibited from data sharing with ICE through SB 54 but that suggestion did not receive support.

Other items discussed included audit trails, data security and management and predictive policing (which was restricted as per the policy).

The Use Policy was adopted with 5 yeas and 2 abstentions.

5. Surveillance Equipment Ordinance – OPD – Exigent Circumstances Use Reports – review and take possible action.

Sgt. Daza-Quiroz presented three reports of the use of UAS due to exigent circumstances. There were some questions as to whether the circumstance in the April 7th report were actually exigent and suggested that perhaps training on exigency at OPD might be worthwhile. However, it was noted that the already approved Use Policy for drones, once adopted by City Council, would eliminate the need for these reports as the circumstances would be allowable under that policy.

There was one public speaker, Asada Olugbala spoke about her concern when OPD has a “belief” that someone may be armed and dangerous, this can deadly for suspects.

The reports were adopted unanimously.

6. Surveillance Equipment Ordinance – OPD – Live Stream Use Reports – review and take possible action.

This first set of Live Stream Reports was tabled at the request of OPD so that the reports could include more information than the first drafts contained. They will come back next month.

7. Surveillance Equipment Ordinance Amendments – Hofer/Patterson/Gage – review and take possible action.

The PAC reviewed both the ad hoc and OPD’s proposed edits to the ordinance, especially the language surrounding biometric technology. A center of the debate was OPD’s request that Crime Lab technology that is currently in use be exempted as it does not consider the uses in the lab to qualify as surveillance.

Joe DeVries noted that he does not believe the current definition in the ordinance contemplated the oversight of the crime lab as the data it processes is taken from an active crime scene, and does not constitute the mass gathering of data as is typically the case with broad surveillance technology. He also noted concern that the Crime Labs core functions could be seriously derailed if a lengthy process of developing a Use Policy were to ensue, citing upcoming grant deadlines, supply shortages, and equipment that is at the end of its life.

Chairperson Hofer noted that the definition in the ordinance does not make that exception and that he felt the Crime Lab could easily have a Use Policy adopted by the PAC if one is submitted. He asked if any commissioner wanted to make a motion to exempt the lab as per the draft language that OPD submitted but no commissioner indicated an interest in doing so.

Further discussion is needed on other portions of the proposed ordinance revisions and the item was tabled until the following month.

There was one Public Speaker on the item: Asada Olugbala applauded the PAC for not supporting any exemptions to the ordinance.

8. Sanctuary Contracting Ordinance – CPO – Annual Report – review and take possible action.

Joe DeVries presented the first annual report and it was adopted unanimously.