



Privacy Advisory Commission
December 5, 2019 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Regular Meeting Agenda

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian M. Hofer, 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, Mayoral Representative: Heather Patterson*

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

Present: Brown, Suleiman, Tomlinson, Hofer, Katz, Gage, Patterson, Oliver

2. Open Forum/Public Comment

There were no Open Forum Speakers.

3. Review and approval of the draft November meeting minutes

The November Minutes were approved unanimously.

4. Surveillance Equipment Ordinance – OFD – Data Collection for Wildfire District and Fire Safety Inspections Impact Statement and proposed Use Policy – review and take possible action

Chairperson Hofer noted this is the second review of the Policy and Impact Statement and that there were some outstanding questions last month. OFD Captain Sanders explained that the impact statement changed, but the Use Policy is essentially the same as last month. Member Oliver raised the concern about what portion of California Code allows OFD to photograph private property and Chairperson Hofer noted where it is now highlighted in the Impact Statement.

Member Katz had questions about how OFD avoids photographing the outside of a building and also access to the photographs. Captain Sanders clarified that only the property owner can have access to the photos—not the general public. Member Katz suggested some clarifying language in the Impact Statement that was accepted.

Chairperson Hofer asked for clarifying language under 3rd party data sharing noting that it should clarify which city (City of Oakland) and (registered) owners have access to the photos.

There were some additional questions about access to the photos for owners without internet access and Captain Sanders responded that owners can visit the bureau and view them in person. There were also questions about old data being transferred to the new Accela system but Captain Sanders noted that the photos are only part of the new system.

Member Brown asked about clarification as to when OFD would take photos inside a property and Chairperson Hofer proposed some clarifying language about consent and/or court ordered access.

With the suggested edits, the PAC voted unanimously to approve the Impact Statement and Use Policy and forward it to the City Council.

5. Federal Task Force Transparency Ordinance – OPD – FBI’s Joint Terrorism Task Force MOU – review and take possible action

Chairperson Hofer opened the conversation noting that this is 3rd or 4th time the PAC has reviewed this document this year and had an ad hoc committee work directly with OPD staff to try to offer amendments that align with the PAC’s mission. Unfortunately, the ad hoc committee felt that it was not possible to get this accomplished and is proposing an alternate resolution concluding that the City of Oakland not participate in the JTTF. He articulated that it is not about OPD, but is about the parts of the agreement that are outside of their control; specifically, the federal guidelines.

Bruce Stoffmacher articulated that he felt OPD could monitor whether the FBI would ask them to violate a the policy and that the PAC should support and forward OPD's resolution to Council. He distinguished between OPD and the polices being considered and the recently published "white paper" that highlighted problems with the JTTF and local control versus federal overstep. He also stated that the FBI said they were willing to meet with the PAC ad hoc committee annually. Finally, he noted that this is a 3 year MOU not permanent and that OPS was trying to strike a compromise.

There were three public speakers on this item:

Ali Talib with the Asian law caucus urged voting in support of the alternative resolution, and against the OPD one. He noted that the Federal government has a recent track record of separating families and religious discrimination.

Jeff Wang, also with the caucus noted that the white paper showed FBI officials allowed and directed local officers to violate the local policies that has been put in place and discriminated against the Muslim community on numerous occasions.

Javeria Jamil, also with Asian Law Caucus noted that the FBI surveils and targets vulnerable communities.

Member Katz asked if the FBI reached out to OPD to enter into the JTTF or did Oakland reach out to FBI?

-Bruce stated that he was not sure of the history but at this point in time, it's mutual, both departments see the value in collaborating.

Member Suleiman pointed out that the City is already working with the FBI on the homicide task force and the PAC supports that relationship but sees little benefit to joining this terrorism task force based on its track record. She does not understand the possible added benefits in this MOU which is written on the FBI's terms.

Member Tomlinson asked how the JTTF is working for other cities and Bruce pointed out that SF had thoughts of revisiting their removal from task force after the Pier 39 incident. He explained that the main benefit is an OPD officer can go into FBI buildings and get access to their meetings, can get alerts, and share intelligence.

Vice Chair Patterson asked about whether the OPD officer assigned previously was active, pointing out that the lack of activity in 2018 caused her to struggle to understand the benefits as well. Chairperson Hofer stated that Federal agencies will still notify OPD if there's a real threat and collaborate with them. He pointed out that the FBI's definition of terrorism is just challenging the status quo and first amendment protected activity and that the City and Feds already have a violent crime task force.

Chairperson Hofer made a motion to adopt the alternative resolution, Member Oliver seconded the motion and it passed unanimously.

6. Surveillance Equipment Ordinance – OPD – Mobile ID Reader Impact Report and proposed Use Policy – review and take possible action

Lt. Mark Rhoden presented the Impact Statement, Policy, and gave an overview of the technology. He explained that it is only used when OPD has already decided person is arrestable before it can be used and the purpose is to avoid the arrest. There is no cost to OPD since Alameda County pays and maintains the database and no information is saved or stored. The only data is data already in the CRIMS database.

This technology will eliminate the time of taking someone to jail just because the officer cannot ID them and there is no 5th amendment issue because it's by consent. Member Oliver asked if this has this been submitted to the Monitor, Bruce said it had not. There were some other clarifying questions about the purpose and use of the equipment and the item was continued to the January Meeting.

7. Election of PAC Vice Chair

Chairperson Hofer nominated Member Heather Patterson to be the new Vice Chair, this was seconded by Reem Suleiman and approved unanimously.