



CITY OF OAKLAND

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2017 NOV -2 AM 10:12

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Joe DeVries

SUBJECT: Privacy Advisory Commission Annual
Report 2017

DATE: October 9, 2017

City Administrator Approval

Date:

11/14/17

RECOMMENDATION

Staff Recommends That The Public Safety Committee Accept This Informational Report From The Privacy Advisory Commission.

EXECUTIVE SUMMARY

On January 19, 2016, the City Council adopted Ordinance No. 13349 C.M.S., which created and defined the duties of the Privacy Advisory Commission. Among those duties the PAC is required to submit annual reports and recommendations to the City Council regarding: (1) the City's use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.

The attached report (Attachment A) was prepared by the Chair of the PAC and approved by its members to be forwarded to the City Council.

ACTION REQUESTED BY THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The Public Safety Committee Accept This Informational Report From The Privacy Advisory Commission.

For questions regarding this report, please contact Joe DeVries, Assistant to the City Administrator at (510) 238-3083.

Respectfully submitted,

Joe DeVries
Assistant to the City Administrator
City Administrator's Office

Attachment A- PAC 2017 Annual Report

Item: _____
Public Safety Committee
November 14, 2017

TO: Public Safety Committee, City
Administrator Sabrina Landreth

FROM: Privacy Advisory
Commission (PAC)

SUBJECT: PAC 2017 Annual Report

DATE: July 7, 2017

The following pages contain the PAC 2017 Annual Report. It is formatted in the Council Agenda Report template to make it easier to read and follow.

EXECUTIVE SUMMARY

The objective of this report is to provide City stakeholders with an update on the activities of the Privacy Advisory Commission (PAC), including making recommendations on:

1. **Illegal Dumping Cameras**
2. **Cell Site Simulator Policy**
3. **Surveillance Equipment Ordinance**
4. **Streetline Parking Management**
5. **Civil Rights Ordinance**
6. **Anti-Registry Ordinance**
7. **Review Of Outside Entity/Database Sharing Agreements**
8. **Crime Analysis Software - Request For Proposal**

BACKGROUND / LEGISLATIVE HISTORY

In March 2014, the City Council established an Ad Hoc Advisory Committee to develop a Privacy and Data Retention Policy for the Domain Awareness Center (DAC), a City-Port security project located at the Emergency Operations Center.

This Committee developed a Policy for the DAC and proposed a set of additional recommendations for the City Council to consider. One of the key recommendations that the City Council considered and adopted was the Creation of a Permanent Standing Privacy Advisory Commission to develop and advise on citywide privacy concerns.

On January 19, 2016, the City Council adopted Ordinance No. 13349 C.M.S., which created and defined the duties of the Privacy Advisory Commission. Those duties broadly stated are:

- Provide advice and technical assistance to the City of Oakland on best practices to protect citizen privacy rights in connection with the City's purchase and use of surveillance equipment and other technology that collects or stores citizen data.
- Draft for City Council consideration, model legislation relevant to privacy and data protection, including a Surveillance Equipment Usage Ordinance.
- Submit annual reports and recommendations to the City Council regarding: (1) the City's use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.

- Provide analyses to the City Council of pending federal, state and local legislation relevant to the City's purchase and/or use of technology that collects, stores, transmits, handles or processes citizen data.
- Conduct public hearings, make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate including an annual report to be presented in writing to the City Council.
- Review and make recommendations to the City Council regarding any proposed changes to the operations of the Domain Awareness Center ("DAC") and/or proposed changes to the City's Policy for Privacy and Data Retention for the Port Domain Awareness Center ("DAC Policy") as specified in Resolution 85638 C.M.S.

Excerpt From Enabling Ordinance 13349:

Section 2. Duties And Functions

e. Submit annual reports and recommendations to the City Council regarding: (1) the City's use of surveillance equipment, and (2) whether new City surveillance equipment privacy and data retention policies should be developed or such existing policies be amended.

...

g. The Privacy Commission shall make reports, findings and recommendations either to the City Administrator or the City Council, as appropriate. An annual report will be presented in writing to the City Council...

RECENT ACHIEVEMENTS

1. **Illegal Dumping Cameras** – In recognition of Oakland's ongoing battle with illegal dumping, the City Council allocated funding for cameras to be placed in 'hot spots' where illegal dumping occurs. Several test sites have been established. Staff from the City Administrator's office has reported several times to the PAC about the ongoing project, and the PAC continues to monitor the program for possible impact to privacy interests where the cameras are located.
2. **Cell Site Simulator Policy** – Effective 2016, Senate Bill 741 (Hill) required that any entity in California intending to use a cell-site simulator (commonly called Stingray), implement a privacy policy prior to use. As a co-applicant for an upgraded cell-site simulator, along with Alameda County and the city of Fremont, the Oakland Police Department presented a draft policy to the PAC. Over the course of three months, the PAC questioned OPD about past and potential future use, discussed concerns regarding the technology, and studied relevant case law and statutory authority. After collaborating with the PAC, and improving upon the groundbreaking Alameda County policy, OPD's draft was unanimously approved by the City Council on February 7, 2017, and is now considered the 'gold standard' in the country.
3. **Surveillance Equipment Ordinance** – Required by the PAC's enabling legislation, the need for this ordinance was demonstrated by the Domain Awareness Center (DAC) ad hoc privacy commission, precursor to the PAC. Modeled upon the ACLU's Community Control Over Police Surveillance language, the PAC's version added whistleblower protections and a prohibition on non-disclosure agreements, and incorporated the PAC's role as an advisory body to the Council. The Public Safety Committee unanimously

approved the ordinance at its May 9, 2017 meeting, and staff is now in the “meet and confer” process with several employee unions, prior to proceeding to the City Council for consideration.

4. **Streetline Parking Management** – In what is likely the first of many such proposals to come in the age of Big Data, the PAC reviewed a submission from private vendor Streetline that offered to manage the City’s parking resources with the goal of increased revenue for the city and efficiency for users, in exchange for access to and repackaging of driver’s data to third party customers. During the course of several meetings, the PAC examined Streetline’s user app and data intended to be collected, end user and licensing agreements, and the proposed Resolution authorizing the public-private partnership, while working with the Streetline team to ensure that only aggregate driver habits would be collected and retained. After considering the PAC’s recommendation, Streetline’s proposal was ultimately approved by the City Council.
5. **Civil Rights Ordinance** – The PAC has begun a review of the outside entity (task force) and data sharing agreements that Oakland participates in, of which there are many. Recognizing that other entities may have weaker legal or investigative standards than does Oakland, Councilmember McElhaney sponsored legislation that requires that when participating in such an agreement, Oakland must abide by higher state or local standards. Approved unanimously by the PAC, the ordinance will be considered by the Public Safety Committee at its July 11 meeting.
6. **Anti-Registry Ordinance** – Like California, Oakland has begun considering policies and procedures that will guard against the Trump Administration’s infringement upon civil liberties, such as his proposed Muslim Registry and attempted Muslim Ban. Similar to proposed state legislation still under consideration (SB31), Councilmember McElhaney’s proposed anti-registry ordinance would prohibit the use of Oakland resources in support of any list, database, or registry designed to profile or target individuals based on their religious affiliation, national origin, or ethnicity. After receiving feedback from the city attorney’s office, the PAC will again review the ordinance at its July 6 meeting. The PAC also submitted a letter of support for SB31 to the City Council, which was then considering, and ultimately approved, a Resolution of support for SB31.
7. **Review Of Outside Entity/Database Sharing Agreements** – The PAC has begun a review of the outside entity (task force) and data sharing agreements that Oakland participates in, of which there are many. Working with OPD and a team of graduate students from UC Berkeley’s School of Information, the PAC will produce and submit a written report detailing the nature of our data sharing relationships, and the partners we share or receive data from. The PAC anticipates using this resource as we begin writing policies pursuant to the pending Surveillance Equipment Ordinance, and as a future guide for City Council decision making. As a result of the review conducted to this point, the PAC unanimously voted to recommend that OPD sever its task force ties with ICE. Councilmember Kaplan has sponsored the necessary Resolution to put into effect the PAC’s recommendation, and the Public Safety Committee will consider the resolution at its July 11 meeting.
8. **Crime Analysis Software Request For Proposal** – Prior to its issuance, the PAC reviewed a Request For Proposal by OPD, pertaining to crime analysis software. After

meeting with the PAC, OPD revised the proposal before releasing it. It is expected that as the project advances, OPD will return to the PAC for further review.

UPCOMING PROJECTS

1. **Surveillance Equipment Policies** – Having unanimously cleared the Public Safety Committee, it is expected that the Surveillance Equipment Ordinance will be adopted in the near future upon completion of the meet and confer process. Pursuant to the ordinance, which has retroactive applicability, the PAC and OPD will begin a month's long process of writing policies for existing surveillance equipment used by OPD. Each of these policies will be submitted to the City Council, and requires its approval.

For questions regarding this report, please contact Brian Hofer, PAC Chair, at 510-303-2871.

Respectfully submitted,



Brian Hofer
Privacy Advisory Commission, Chair

Reviewed by:

Privacy Advisory Commission

Joe DeVries, Assistant to the City Administrator

Prepared by:

Brian Hofer

PAC Chair