

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION APPROVING THE OAKLAND POLICE DEPARTMENT (OPD) BODY-WORN CAMERA (BWC) SURVEILLANCE USE POLICY AND SURVEILLANCE IMPACT REPORT

WHEREAS, OPD first developed General Order (DGO) I:15 “BWC Program” to set forth Departmental policy and procedures for the BWC system; and

WHEREAS, OPD has adopted BWC technology because of its usefulness in capturing audio/video evidence and enhancing the Department’s ability to conduct criminal investigations, administrative investigations, and review of police procedures and tactics; and

WHEREAS, OPD requires that sworn officers utilize BWCs to document the actions during field operations, and seeks to balance the benefits provided by digital documentation with the privacy rights of individuals who may be recorded during the course of legal and procedurally just public interactions; and

WHEREAS, Oakland’s Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018 adds Chapter 9.64 to the Oakland Municipal Code (OMC) covering policy areas related to surveillance technology; and

WHEREAS, OMC 9.64.030(1)(C) C requires City Council approval for new and existing surveillance technology; and

WHEREAS, OMC Section 9.64.020(2) requires that prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, city staff shall submit a surveillance impact report (“Impact Report”) and surveillance use policy (“Use Policy”) to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting; and

WHEREAS, OPD staff presented DGO I:15 BWC Program Use Policy and BWC Impact Report to the PAC at their September 2, 2021 meeting; and

WHEREAS, the Use Policy covers several relevant areas required by the Surveillance Ordinance, including the following areas: Technology Description, Authorized Use, Use Restrictions, Data Access, Data Collection and Retention, and Security, Monitoring and Reporting, and System Training; and

WHEREAS, the Impact Report covers the following areas as required by the Surveillance Ordinance: Information describing the system and how it works, Purpose of the technology, Locations where, and situations in which the technology may be used (along with area crime data), Privacy Impact of the technology, Mitigations to prevent privacy impacts, Data Types and Sources, Data Security, Costs, Third Party Dependence, Alternatives Considered, and Track Record of Other Entities; and

WHEREAS, at the September 2, 2021 PAC meeting, after another robust discussion between PAC commissioners and OPD staff, the PAC voted unanimously to recommend that the City Council approve OPD's DGO I-15 BWC Use Policy and BWC Impact Report, with the following amendments: add a requirement of a verbal consent to use BWC during a search, change the default 30 second silent buffer where BWCs are continuously recording to a 2-minute buffer, and with audio recording during the buffer (current default is no audio during continuous buffer), add required verbal consent to use BWC when officers take a statement from members of the public, and clarify in the "Training Section" of the Use Policy that training, "for those who are assigned a BWC, and training regarding the process for uploading and downloading BWC data," will be for the BWC Use Policy in particular; therefore be it

RESOLVED: that City Council does hereby approve the OPD BWC Impact Report as provided in *Attachment A* to the report accompanying this resolution; and be it

RESOLVED: that City Council does hereby approve the OPD DGO I:15 BWC Use Policy as provided in *Attachment B* to the report accompanying this resolution; and be it

FURTHER RESOLVED: that pursuant to OMC 9.64.020.2, City Council has considered the PAC's recommendation to favor City Council authorization of the acquisition and use of live stream transmitter technology; and be it

FURTHER RESOLVED: That pursuant to OMC Section 9.64.020.2, for the reasons referenced above by City staff and addressed in the agenda report and surveillance impact report accompanying this resolution, the City Council finds that the benefits to the community of the surveillance technology outweigh the costs (cost benefit determination); that the proposal will safeguard civil liberties and civil rights, and that, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and so authorizes the City Administrator or designee's acquisition and use of BWCs

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT
FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

ASHA REED

City Clerk and Clerk of the Council
of the City of Oakland, California