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OAKLAND

13 DEC -5 PM 3:45

AGENDA REPORT

TO: President Kemighan and Rules & Legislation Committee
FROM: Councilmember Dan Kalb
DATE: December 5, 2013

**SUBJECT: RESOLUTION IN SUPPORT OF THE NATIONWIDE SECURE
OUR SMARTPHONES INITIATIVE, BEST KNOWN AS THE S.O.S.
INITIATIVE, AND REQUESTING STATE LEGISLATION MANDATING
A KILL SWITCH REQUIREMENT FOR NEW SMARTPHONES SOLD
IN CALIFORNIA**

RECOMMENDATION

Adopt a resolution in support of the nationwide Secure Our Smartphones initiative, best known as the S.O.S. initiative, and that requests state legislation mandating a “kill switch” requirement for new smartphones sold in California.

OUTCOME

Approval of this resolution will establish and document that the Oakland City Council supports the S.O.S. initiative and recommends that the California State Legislature adopt statutory requirements for a mandatory “kill switch” or similar technology in all new smartphones sold in California. This resolution supports public safety by both supporting an existing campaign concerned about the illegal resale of stolen smartphones and advocating for the creation of needed state legislation. The purpose of such legislation is to demonstrably reduce the resale value of stolen cellular phones and similar portable electronic devices in order to disincentivize theft of such devices, thereby helping to curb the alarming trend in robberies. The goals of S.O.S. campaign include “Working with device manufacturers to make a ‘kill switch’, or equally effective deterrent technology, a standard feature of their product.”

BACKGROUND

Most people in the City of Oakland and throughout the state carry and use a cell phone with them wherever they go and more complex and expensive devices, commonly known as smartphones, are increasingly becoming a part of people’s daily lives. The practice of regularly carrying and using cell phones and other personal electronic devices, their monetary value, and the ability to be reused by others has increasingly made the devices a target for thieves.

Theft of handheld electronic devices has become all too frequent, with 1.6 million stolen in the United State last year, according to the National Consumers League. Various press accounts

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have noted that the Oakland Police Department (OPD) has observed that criminal enterprises are increasingly focusing on stolen personal electronics and that the local surge in robberies is being driven by the resale value of cell phones. An October 30, 2013 East Bay Express article, "What's Driving Oakland's Robbery Epidemic?," reported that OPD estimated that 75% of all robberies involved theft of a cell phone. A May 7, 2013 Oakland Tribune article, "Oakland: Robbery Capital of America," reported that stolen cell phones can be resold for between \$50 and \$400 each.

Thousands of robberies occurred in Oakland last year and the occurrence of robberies in our City remains an atrocious, glaring public safety crisis. OPD's 2012 Year End Report on crime statistics documents the occurrence of 4,126 robberies in Oakland last year, hundreds more than the 3,195 – 3,590 per year occurring from 2008 – 2011. As of December 1, 2013, OPD's summary of 2013 crime statistics documents that 4,515 robberies have already occurred this year in Oakland by that date, with a full 30 days left to go in the year.

A surge in robberies and the role of cell phones in the surge is not unique to Oakland. In June of this year, New York State Attorney General Eric Schneiderman and San Francisco District Attorney George Gascón announced the formation of a nationwide Secure Our Smartphones (S.O.S.) Initiative aimed at encouraging the cell phone industry to adopt technologies that would deter theft by during up the secondary market related to stolen devices. The stated focus areas of the initiative are:

1. Analyzing patterns, causes and trends behind the growing and increasingly violent problem of device theft;
2. Investigating the capability of manufacturers to develop technology that would deter theft, including a "kill switch" that would enable stolen devices to be permanently disabled, therefore eliminating the economic incentives for would-be thieves;
3. Understanding how the economics of device theft have affected decision-making by the smartphone industry;
4. Working with device manufacturers to make a "kill switch," or equally effective deterrent technology, a standard feature of their products; and
5. As appropriate and necessary, investigating impropriety on the part of manufacturers, raising public and shareholder awareness about industry practices in this area, and using all available tools to press for safety-oriented innovation and responsible corporate citizenship.

Since the announcement of the initiative, numerous media reports have highlighted the work of the initiative, including testing of deterrence technologies, as well as that the nation's largest cell phone carriers have rejected installation of a "kill switch" offered by cell phone manufacturer Samsung Electronics. While other theft deterrence technologies are commercially available, they are not a standard feature in new phones, typically require an additional purchase, are not available for all smartphones, and may not offer the same level of security as a "kill switch."

ANALYSIS

Given the resale value of stolen smartphones, the lure that they present to thieves, and the level of robberies in Oakland and other areas, it stands to reason that routine installation of effective theft deterrence technology would de incentivize theft of the devices and thereby have a positive impact on the robbery rate. Such is a central point of the S.O.S. campaign.

Other types of deterrence techniques that do not result in permanently deactivated phones have thus far been of limited effectiveness. For example, a database of stolen phones maintained by CTIA, a trade group for wireless carriers, has not stemmed the tide of thefts, as stolen phones can still be utilized via techniques such as “jail breaking,” as specifically noted by the S.O.S. campaign.

Media articles regarding carriers rejection of a “kill switch” have indicated that the reasons for the rejection offered by carriers have included concerns about malicious hacking for the purpose of causing disruption. However, concerns have been raised that profit is a motive for the resistance to “kill switch,” including the value of theft insurance premiums.

Press accounts have noted that the government of South Korea is examining mandatory kill switches for smartphones. In the United States, the industry is offering substantial resistance to even the idea of such legislation. For major issues affecting our community where complex issues related to industry and public safety intersect, legislative requirements from government are an appropriate solution for protecting residents and consumers.

If smartphones uniformly become inoperable following theft, the motive for theft will surely decrease. The City Council of Oakland should join the growing coalition of government officials in support of the S.O.S. initiative. In addition, the state of California, with its rich history of being a leader in new consumer protection reforms and regulation, should adopt legislation that significantly reduces the value of stolen phones and thereby curbs cell phone theft.

FISCAL IMPACT

None.

SUSTAINABLE OPPORTUNITIES


Economic: The proposed resolution is unlikely to lead to any economic impact, though passage legislation mandating a kill switch or similar technology in new smartphones sold in California would likely negatively impact the illegal, secondary resale market.

Environmental: The proposed resolution is unlikely to lead to any environmental impact.

Social Equity: The proposed resolution advocates for public safety and passage of the recommended legislation would likely be of direct benefit to local public safety.

For questions regarding this report, please contact Oliver Luby, Policy Manager, at (510) 238-7013.

Respectfully submitted,



Dan Kalb
Oakland City Councilmember, District 1

Prepared by:
Oliver Luby, Policy Manager,
Councilmember Dan Kalb

Attachment

Secure Our Smartphones Initiative Statement

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Attorney General Eric T. Schneiderman

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Secure Our Smartphones Initiative Statement



June 13, 2013

We are members of law enforcement, elected leaders from across the country, and consumer advocates. Collectively, we are responsible for the consumer protections and public safety of millions of Americans. In order to end the disturbing trend of robberies involving mobile communications devices, we have come together to create The Secure Our Smartphones Initiative.

It's time for manufacturers and carriers to put public safety before corporate profits. In 2012, 1.6 million Americans were victimized for their smartphones. This is a growing epidemic affecting all corners of our nation and accounting for a majority of the robberies in our cities. Last year, 50 percent of the robberies in San Francisco involved a stolen mobile communications device. Washington D.C Police report smartphone theft accounting for 38 percent of their robberies, with Philadelphia Police reporting this type of theft accounting for 33 percent of all robberies. In New York City, 20 percent of all robberies involved the theft of a smartphone; a 40 percent increase in the past year. These crimes have led to severe injuries and the loss of life. The trend indicates that the problem will only get worse if manufacturers and carriers do not take immediate action.

We appreciate the incremental effort made to create the CTIA database. Unfortunately, it has not had an impact. It does not prevent phones that have been "jail broaked" from being reactivated. By far the clearest indication that the CTIA database has failed, however, is the fact that a similar database failed to slow cell phone thefts in the U.K., and the number of robberies in the U.S. has continued to rise since its implementation last year.

Unlike other types of crimes, manufacturers and carriers have the ability to end the growing number of smartphone thefts with a technological solution. The implementation of a "kill switch" would render stolen devices inoperable on any network, anywhere in the world. Such a feature would disable the device even if it is turned off or the SIM card has been removed. By eliminating the ability for the phone to be reactivated, the value of these mobile communications devices would be equivalent to that of a paperweight. As a result, the incentive to steal them would be eliminated.

We have seen technology prevent crime in the past. For example, when auto theft was on the rise in the 1990's, manufacturers created anti-theft technology which greatly reduced vehicle thefts nationwide. Law enforcement worked hand in hand with manufacturers to harness a technological solution then, preventing crime and victimization, there's no reason we cannot do it again.

With smartphone security firms indicating that manufacturers and carriers have the ability to implement a "kill switch" on all smartphones, the time for this technological solution to be realized is now. In the United States alone, smartphone manufacturers raked in over \$69 billion in sales last year. Mobile communications device manufacturers and carriers have an opportunity to end the victimization of millions of Americans and demonstrate their corporate responsibility by implementing a "kill switch."

Secure Our Smartphone (S.O.S.)

- Secure Our Smartphones Initiative Statement
- Secure Our Smartphones Initiative Members
- Letters to the Smartphone Industry
- The Rise of Apple Picking Nationwide
- The Rise in Apple Picking in New York City & San Francisco

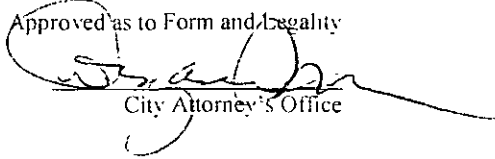
Secure Our Smartphones is unwavering in its commitment to public safety. With robberies involving mobile communication devices at an all-time high, we cannot stand by when a solution to the problem is readily available. Manufacturers and carriers have the opportunity to deter crime, eliminate the secondhand market for stolen mobile communications devices, and prevent their customers from becoming the next victim.

Executive	Criminal Justice	Economic Justice	Social Justice	State Counsel	Administration
Community and Intergovernmental Affairs	Automobile Insurance Fraud	Antitrust Bureau	Charities Bureau	Civil Recoveries Bureau	Budget & Fiscal Management Bureau
FOIL	Criminal Enforcement & Financial Crimes Bureau	Consumer Frauds Bureau	Civil Rights Bureau	Claims Bureau	Legal Recruitment
Press	Organized Crime Task Force	Internet Bureau	Environmental Protection Bureau	Litigation Bureau	Human Resources
Regional Offices	Medicaid fraud Control Unit	Investor Protection Bureau	Health Care Bureau	Real Property Bureau	
Solicitor General	Public Integrity Bureau	Real Estate Finance Bureau	Labor Bureau	Sex Offender Management Bureau	
Criminal Appeals and Opinions	Investigations Bureau		Tobacco Compliance Bureau		
Conviction Review Bureau	Taxpayer Protection Bureau				

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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION IN SUPPORT OF THE NATIONWIDE SECURE OUR SMARTPHONES INITIATIVE, BEST KNOWN AS THE S.O.S. INITIATIVE, AND REQUESTING STATE LEGISLATION MANDATING A KILL SWITCH REQUIREMENT FOR NEW SMARTPHONES SOLD IN CALIFORNIA

WHEREAS, many residents of Oakland and other cities throughout California and the rest of the country carry and use a cell phone with them wherever they go and smart phones are increasingly becoming part of people's daily lives; and

WHEREAS, the practice of regularly carrying and using cell phones and other personal electronic devices and their monetary value has made the devices a target for thieves; and

WHEREAS, theft of handheld electronic devices has reached epidemic proportions, with 1.6 million stolen in the United States last year, according to the National Consumers League; and

WHEREAS, the Oakland Police Department (OPD) has observed that criminal enterprises are increasingly focused on stolen personal electronics and that the local surge in robberies is being driven by the resale value of cell phones, as noted by various media stories; and

WHEREAS, well over 4,000 robberies occurred in Oakland alone last year and the rate of robberies in Oakland remains horrendously high, creating a crisis for Oakland residents; and

WHEREAS, an October 30, 2013 East Bay Express article, "What's Driving Oakland's Robbery Epidemic?," reported that (1) OPD estimated that 75% of all robberies involved theft of a cell phone and (2) Lookout, a cell phone security company, estimated that lost and stolen cell phones cost consumers \$30 billion last year; and

WHEREAS, a May 7, 2013 Oakland Tribune article reported that stolen cell phones can be resold for between \$50 to \$400 each; and

WHEREAS, OPD's published Safety Tips regarding avoiding being a robbery victim state "Always conceal what you have to steal, such as money or a cell phone. Cell phones are just like cash—when thieves see a cell phone they want it;" and

WHEREAS, theft-detering technology, sometimes referred to as a "kill switch," has been developed by manufacturers and, if installed in cell phones, would likely hamper the ability to

profit from the sale of stolen cell phones and thereby curb interest in committing robbery for the purpose of obtaining cell phones; and

WHEREAS, New York State Attorney General Eric Schneiderman and San Francisco District Attorney George Gascón announced in June the formation of a nationwide Secure Our Smartphones (S.O.S) Initiative aimed at encouraging the cell phone industry to adopt technologies that would deter theft by drying up the secondary market related to stolen devices; and

WHEREAS, numerous media articles have recently reported that the nation's largest cell phone carriers have rejected cell phone manufacturer Samsung Electronics' anti-theft "kill switch" and, while some other features such as Apple's Activation Lock are available for some devices, concerns remain that the available features are not consistently free, standard, and universal; now, therefore be it

RESOLVED: That the Oakland City Council applauds the formation of and formally endorses the work by the nationwide S.O.S. initiative; and be it

FURTHER RESOLVED: That the Oakland City Council recommends that the California State Legislature adopt statutory requirements for a mandatory "kill switch" or similar technology on all new smart phones sold in California, which would demonstrably reduce the value of stolen smart phones.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID,
 SCHAAF AND PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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