



Privacy Advisory Commission
September 1, 2016 5:00 PM
Oakland City Hall
Council Chambers, third floor
1 Frank H. Ogawa Plaza, 1st Floor
Meeting Agenda

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Yaman Salahi, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Clint M. Johnson, District 7 Representative: Currently Vacant, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Currently Vacant.*

Commission Website: <http://www2.oaklandnet.com/OAK057463>

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. 5:00pm: Call to Order, determination of quorum
2. 5:05pm: Review and approval of August 11 meeting minutes
3. 5:10pm: Discuss and take possible action on a Surveillance Equipment Ordinance and Surveillance Technology Assessment Questionnaire.
4. 6:50pm: Open Forum
5. 7:00pm: Adjournment

This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email jdevries@oaklandnet.com or call (510) 238-3083 or (510) 238-3254 for TDD/TTY five days in advance.

Esta reunión es accesible para sillas de ruedas. ¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico jdevries@oaklandnet.com o llame al (510) 238-3083 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

會場有適合輪椅出入設施。你需要手語、西班牙語、粵語或國語翻譯服務嗎？請在會議前五個工作天電郵 jdevries@oaklandnet.com 或致電 (510) 238-3083 或 (510) 238-3254 TDD/TTY。



CITY OF OAKLAND

Privacy Advisory Commission

Special Meeting

August 11th, 2016 5:00 PM

Oakland City Hall

Hearing Room 1

1 Frank H. Ogawa Plaza, 1st Floor

Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Yaman Salahi, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Clint M. Johnson, District 7 Representative: Currently Vacant, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Currently Vacant.*

Commission Website: <http://www2.oaklandnet.com/OAK057463>

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. 5:00pm: Call to Order, determination of quorum

Members Present: *Hofer, Katz, Jacquez, Johnson, Karamooz, Suleiman. Members absent: Salahi.*

2. 5:05pm: Review and approval of July 14 meeting minutes

The July 14, 2016 minutes were approved unanimously with three edits to typos noted.

3. 5:10pm: Presentation by Greg Minor on Illegal Dumping Camera pilot program. Discuss and take possible action by Commission.

Greg Minor provided an overview of the program; there was \$100,000 allotted to a mattress recycling program that was no longer needed due to a state program that does the same. Therefore the City Council

This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email jdevries@oaklandnet.com or call (510) 238-3083 or (510) 238-3254 for TDD/TTY five days in advance.

Esta reunión es accesible para sillas de ruedas. ¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico jdevries@oaklandnet.com o llame al (510) 238-3083 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

會場有適合輪椅出入設施。你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議前五個工作天電郵 jdevries@oaklandnet.com 或致電 (510) 238-3083 或 (510) 238-3254 TDD/TTY。

reallocated that money to addressing illegal dumping enforcement with at least 75% of the allocation to be used on surveillance cameras to catch dumpers. He explained that there are locations that are chronic dumping spots due to there being few "eyes on the street" at those locations. His team has been researching cameras that would be able to capture license plates and other photographic evidence when people are dumping so they can be pursued with fines and penalties.

Because his group was researching a purchase at the same time the Privacy Advisory Commission was being created, he felt that it made sense to bring the item to the Commission for guidance and input. Having received the draft questionnaire from the commission, he offered to fill it out in part and return to the Commission with more information later.

There was one Public Speaker: Brian Geiser had questions about the number and location of cameras and whether the public would be made aware of them. Also, he asked if they would have audio capability. He also noted that a lot of dumping happens because renters did not have access to bulky pick-up services until the new garbage contract was signed.

Member Karamooz asked questions about the cost of monitoring these cameras, whether their known presence would make the sites useless for catching people (causing the City to need to constantly move the cameras), and whether the City Council was no longer considering other low-tech options.

Member Katz had the same question about equipment relocation and whether the vendor would collect the images (and have access to that data) or whether they would go right to the City of Oakland.

Chairperson Hofer moved that the Commission accept Mr. Minor's offer to return with a completed survey at which time the Commission can make some recommendations. The motion passed unanimously.

4. 5:25pm: Presentation by Deputy Chief Darren Allison on Cell-Site Simulator Policy.

DC Allison gave an overview of the relationship between Alameda County and OPD in using the Counties technology. He summarized the draft report that was distributed with the agenda. He noted that the draft resolution calls for annual reporting on the usage of the technology to the Commission.

Chairperson Hofer noted that even though this technology has existed in Oakland for ten years, this is the first public presentation on its usage. He felt this was an impressive sign of how far the City has come with transparency.

This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email jdevries@oaklandnet.com or call (510) 238-3083 or (510) 238-3254 for TDD/TTY five days in advance.

Esta reunión es accesible para sillas de ruedas. ¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico jdevries@oaklandnet.com o llame al (510) 238-3083 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

會場有適合輪椅出入設施。你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議前五個工作天電郵 jdevries@oaklandnet.com 或致電 (510) 238-3083 或 (510) 238-3254 TDD/TTY。

The Commission asked several clarifying questions about the technology including how Oakland uses them and whether data exists about the effectiveness of using Stingray devices.

5. 5:35pm: Presentation by ACLU Staff Attorney Matt Cagle on Cell-Site Simulators, and Model Surveillance Equipment Ordinance.

Matt Cagle outlined the concerns about how the technology is used and the need for safeguards to be in place that are transparent and effective to avoid abuse. He noted ways in which Stingray technology can be used in a dragnet fashion to gather a large amount of information about people such as who they associate with, who they have called and who calls them. He also noted that measuring effectiveness is important to avoid law enforcement agencies spending taxpayer resources on technology that is expensive and potentially ineffectively used.

He urged the Commission to help develop and implement standards (through a technology ordinance) to ensure technology such as these simulators are used properly.

6. 5:45pm: Discuss and take possible action on Cell-Site Simulator Policy.

After discussion the Commission decided to bring the item back at a later date for action.

7. 6:15pm: Discuss draft Surveillance Equipment Ordinance and draft Surveillance Technology Assessment Questionnaire. No action on these items will be taken at this meeting.

They reviewed the draft ordinance and the questionnaire provided by Member Karamooz who will return with an updated version in September.

8. 6:50pm: Open Forum

Brian Geiser spoke about a few housekeeping items and also noted that the Sting Ray technology is for G3 phones but there is a new device called a Hailstorm that captures G4 device information.

9. 7:00pm: Adjournment

This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email jdevries@oaklandnet.com or call (510) 238-3083 or (510) 238-3254 for TDD/TTY five days in advance.

Esta reunión es accesible para sillas de ruedas. ¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico jdevries@oaklandnet.com o llame al (510) 238-3083 o al (510) 238-3254 Para TDD/TTY por lo menos cinco días antes de la reunión. Gracias.

會場有適合輪椅出入設施。你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議前五個工作天電郵 jdevries@oaklandnet.com 或致電 (510) 238-3083 或 (510) 238-3254 TDD/TTY。

**City of Oakland
Privacy Advisory Commission
Surveillance Technology Assessment Questionnaire (STAQ)**

Document Overview

The purpose of this document is create both a guideline as to the information necessary to make an informed decision regarding surveillance equipment use, and a methodology for assessing proposed acquisitions or uses in a consistent, objective, and transparent manner. It is intended that this framework will be augmented and improved each time the Privacy Advisory Commission (PAC) evaluates surveillance technology.

Pursuant to the Surveillance Equipment Ordinance, a City entity or department seeking approval of such equipment acquisition or use shall complete this Surveillance Technology Assessment Questionnaire (STAQ), and incorporate the information into the required Surveillance Impact Report pertaining to the acquisition or use. All categories may not be applicable.

Questionnaire

Question	Response	Supporting Documentation
1	Why: Initiative Overview	
1.1	What is the specific problem this equipment or use will resolve?	
1.2	How will success be demonstrated?	
1.3	What is the success rate for this equipment or use?	
1.4	What non-surveillance alternatives were considered?	
1.5	Why were the non-surveillance alternatives not pursued?	
2	What: Surveillance Technology Detail	
2.1	What equipment capabilities do you intend to use?	
2.2	What other equipment capabilities are possible?	
2.3	What safeguards will be implemented to ensure that unauthorized capabilities or uses will not be implemented?	
2.4	What information can the	

**City of Oakland
Privacy Advisory Commission
Surveillance Technology Assessment Questionnaire (STAQ)**

	Question	Response	Supporting Documentation
	technology capture?		
2.5	What information can the technology store?		
2.6	How long will information be retained?		
2.7	How will you ensure that data is not retained for longer than allowed?		
3	Who: Authorized Users		
3.1	Who is authorized to access the technology?		
3.2	How are users authenticated?		
3.3	How is access to the technology audited?		
3.4	What is the mechanism for monitoring compliance with access policies?		
4	Where: Location(s) of deployment and data storage		
4.1	Where will the technology be deployed within the community?		
4.2	What is the basis for selecting these locations?		
4.3	What are the crime statistics for each proposed deployment location?		
4.4	Where will the information be stored (on-site, remote, cloud)?		
4.5	What are the safeguards, monitors, and audits to ensure security of information at storage (at rest) and when accessed (transmission)?		
5	How: Protecting Civil Rights and Liberties		
5.1	Could the technology or		

**City of Oakland
Privacy Advisory Commission
Surveillance Technology Assessment Questionnaire (STAQ)**

	Question	Response	Supporting Documentation
	use collect information related to race, citizenship status, gender, age, socioeconomic level, reproductive choices, or sexual orientation? If so, what safeguards are in place to limit such collection?		
5.2	Will the technology be deployed in communities with minority residents, non-citizens, low-income residents, or any group historically vulnerable to disproportionate civil liberties violations?		
5.3	Could the technology be used on groups, public gatherings, or crowds and thus have an effect on First Amendment activities such as protests? If so, what safeguards are in place to limit this?		
5.4	Does the technology collect and retain information about individuals not suspected of wrongdoing? If so, how could such information impact their right to privacy?		
6	How Much: Initial and On-going Costs of Technology		
6.1	What are the initial costs, including acquisition, infrastructure upgrades, licensing, software, training, and hiring of personnel?		
6.2	What are the ongoing costs, including measures		

**City of Oakland
 Privacy Advisory Commission
 Surveillance Technology Assessment Questionnaire (STAQ)**

	Question	Response	Supporting Documentation
	to secure data and data storage?		
6.3	What is the funding source for the proposed acquisition or use?		
6.4	Are there other tools capable of furthering the identified purpose that the community may wish to spend these funds on (e.g., community-based policing, improved lighting)?		

DRAFT

The City Council finds it is essential to have an informed public debate as early as possible about decisions related to surveillance technology.

The City Council finds that, while surveillance technology may threaten the privacy of all citizens, throughout history, surveillance efforts have been used to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective.

The City Council finds that surveillance technology includes not just technology capable of accessing non-public places or information (such as wiretaps) but also technology which aggregates publicly available information, because such information, in the aggregate or when pieced together with other information, has the potential to reveal a wealth of detail about a person's familial, political, professional, religious, or sexual associations.

The City Council finds that no decisions relating to surveillance technology should occur without strong consideration being given to the impact such technologies may have on civil rights and civil liberties, including those rights guaranteed by the California and United States Constitutions.

The City Council finds that any and all decisions regarding if and how surveillance technologies should be funded, acquired, or used should include meaningful public input and that public opinion should be given significant weight.

The City Council finds that legally enforceable safeguards, including robust transparency, oversight, and accountability measures, must be in place to protect civil rights and civil liberties before any surveillance technology is deployed.

The City Council finds that, if a surveillance technology is approved, data reporting measures must be adopted that empower the City Council and public to verify that mandated civil rights and civil liberties safeguards have been strictly adhered to.

NOW, THEREFORE, BE IT ORDAINED that the City Council of Oakland adopts the following:

Section 1. Title

This ordinance shall be known as the Surveillance & Community Safety Ordinance.

Section 2. City Council Approval Requirement

- 1) A City entity must obtain City Council approval, subsequent to a mandatory, properly-noticed, germane, public hearing prior to any of the following:
 - a) Seeking funds for surveillance technology, including but not limited to applying for a grant or soliciting or accepting state or federal funds or in-kind or other donations;
 - b) Acquiring new surveillance technology, including but not limited to procuring such technology without the exchange of monies or consideration;
 - c) Using new surveillance technology, or using existing surveillance technology for a purpose, in a manner or in a location not previously approved by the City Council; or
 - d) Soliciting proposals for or entering into an agreement with a non-City entity to acquire, share or otherwise use surveillance technology or the information it provides.
- 2) A City entity must obtain City Council approval of a Surveillance Use Policy prior to engaging in any of the activities described in subsection (1)(b)-(d).

Section 3. Information Required

- 1) The City entity seeking approval under Section 2 shall submit to the City Council a Surveillance Impact Report and a proposed Surveillance Use Policy at least forty-five (45) days prior to the public hearing. A Surveillance Use Policy shall be considered a draft proposal until such time as it is approved pursuant to a vote of the City Council.
 - a. Prior to seeking City Council approval under Section 2, the City entity shall submit the Surveillance Impact Report and proposed Surveillance Use Policy to the Privacy Advisory Commission for its review at a regularly noticed meeting.
 - b. The Privacy Advisory Commission shall recommend that the City Council adopt, modify, or reject the proposed Surveillance Use Policy.
- 2) After receiving the recommendation of the Privacy Advisory Commission, the City Council shall publicly release in print and online the Surveillance Impact Report, proposed Surveillance Use Policy, and Privacy Advisory Commission recommendation at least thirty (30) days prior to the public hearing.
- 3) The City Council, or its appointed designee, shall continue to make the Surveillance Impact Report and Surveillance Use Policy, and updated versions thereof, available to the public as long as the municipal entity continues to utilize the surveillance technology in accordance with its request pursuant to Section 2(1).

Section 4. Determination by City Council that Benefits Outweigh Costs and Concerns

The City Council shall only approve any action described in Section 2, subsection (1) or Section 5 of this ordinance after first considering the recommendation of the Privacy Advisory Commission, and subsequently making a determination that the benefits to the community of the surveillance technology outweigh the costs; that the proposal will safeguard civil liberties and civil rights; and that, in the City Council's judgment, no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective.

Section 5. Compliance for Existing Surveillance Technology

Each City entity possessing or using surveillance technology prior to the effective date of this ordinance shall submit a Surveillance Impact Report and a proposed Surveillance Use Policy in compliance with Section 3 (1) (a-b), and no later than one hundred eighty (180) days following the effective date of this ordinance for review and approval by the City Council pursuant to Section 4. If such review and approval has not occurred within sixty (60) days of the City Council submission date, the City entity shall cease its use of the surveillance technology until such review and approval occurs.

Section 6. Oversight Following City Council Approval

- 1) A City entity which obtained approval for the use of surveillance technology must submit a written Surveillance Report for each such surveillance technology to the City Council within twelve (12) months of City Council approval and annually thereafter on or before November 1.
 - a. Prior to submission of the Surveillance Report to the City Council, the City entity shall submit the Surveillance Report to the Privacy Advisory Commission for its review.
 - b. The Privacy Advisory Commission shall recommend to the City Council that the benefits to the community of the surveillance technology outweigh the costs and that civil liberties and civil rights are safeguarded; that use of the surveillance technology cease; or propose modifications to the Surveillance Use Policy that will resolve the concerns.

- 2) Based upon information provided in the Surveillance Report and after considering the recommendation of the Privacy Advisory Commission, the City Council shall determine whether the requirements of Section 4 are still satisfied. If the requirements of Section 4 are not satisfied, the City Council shall direct that use of the surveillance technology cease and/or require modifications to the Surveillance Use Policy that will resolve any deficiencies.
- 3) No later than January 15 of each year, the City Council shall hold a public meeting and publicly release in print and online a report that includes, for the prior year:
 - a. A summary of all requests for City Council approval pursuant to Section 2 or Section 5 and the pertinent Privacy Advisory Commission recommendation, including whether the City Council approved or rejected the proposal and/or required changes to a proposed Surveillance Use Policy before approval; and
 - b. All Surveillance Reports submitted.

Section 7. Definitions

The following definitions apply to this Ordinance:

- 1) “Surveillance Report” means a written report concerning a specific surveillance technology that includes all of the following:
 - a. A description of how the surveillance technology was used, including the quantity of data gathered or analyzed by the technology;
 - b. Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s);
 - c. Where applicable, a breakdown of what physical objects the surveillance technology software was installed upon; for surveillance technology software, a breakdown of what data sources the surveillance technology was applied to;
 - d. Where applicable, a breakdown of where the surveillance technology was deployed geographically, by individual census tract as defined in the relevant year by the United States Census Bureau;
 - e. A summary of community complaints or concerns about the surveillance technology, and an analysis of any discriminatory uses of the technology and effects on the public’s civil rights and civil liberties, including but not limited to those guaranteed by the California and Federal Constitutions;
 - f. The results of any internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response;
 - g. Information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response;
 - h. Information, including crime statistics, that help the community assess whether the surveillance technology has been effective at achieving its identified purposes;
 - i. Statistics and information about public records act requests, including response rates;
 - j. Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year; and
 - k. Any requested modifications to the Surveillance Use Policy and a detailed basis for the request.
- 2) “City entity” means any department, bureau, division, or unit of the City of Oakland.

- 3) "Surveillance technology" means any electronic device, system utilizing an electronic device, or similar used, designed, or primarily intended to collect, retain, process, or share audio, electronic, visual, location, thermal, olfactory, biometric, or similar information specifically associated with, or capable of being associated with, any individual or group.
 - a. "Surveillance technology" does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a surveillance technology as defined in Section 7(3): (a) routine office hardware, such as televisions, computers, and printers, that is in widespread public use and will not be used for any surveillance or law enforcement functions; (b) Parking Ticket Devices (PTDs); (c) manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles; (e) manually-operated technological devices used primarily for internal municipal entity communications and are not designed to surreptitiously collect surveillance data, such as radios and email systems; (f) municipal agency databases that do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology.
- 4) "Surveillance Impact Report" means a publicly-released written report including at a minimum the following:
 - a. **Description:** Information describing the surveillance technology and how it works, including product descriptions from manufacturers;
 - b. **Purpose:** information on the proposed purposes(s) for the surveillance technology;
 - c. **Location:** the location(s) it may be deployed and crime statistics for any location(s);
 - d. **Impact:** an assessment identifying any potential impact on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups if the surveillance technology was used or deployed, intentionally or inadvertently, in a manner that is discriminatory, viewpoint-based, or biased via algorithm. In addition, identify specific, affirmative measures that will be implemented to safeguard the public from each such impacts;
 - e. **Data Sources:** a list of all sources of data to be collected, analyzed, or processed by the surveillance technology, including "open source" data;
 - f. **Data Security:** information about the steps that will be taken to ensure that adequate security measures are used to safeguard the data collected or generated by the technology from unauthorized access or disclosure;
 - g. **Fiscal Cost:** the fiscal costs for the surveillance technology, including initial purchase, personnel and other ongoing costs, and any current or potential sources of funding;
 - h. **Third Party Dependence:** whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis;
 - i. **Alternatives:** a summary of all alternative methods (whether involving the use of a new technology or not) considered before deciding to use the proposed surveillance technology, including the costs and benefits associated with each alternative and an explanation of the reasons why each alternative is inadequate; and,
 - j. **Track Record:** a summary of the experience (if any) other entities, especially government entities, have had with the proposed technology, including, if available, quantitative information about the effectiveness of the proposed technology in achieving

its stated purpose in other jurisdictions, and any known adverse information about the technology (such as unanticipated costs, failures, or civil rights and civil liberties abuses).

- 5) "Surveillance Use Policy" means a publicly-released and legally-enforceable policy for use of the surveillance technology that at a minimum specifies the following:
- a. **Purpose:** The specific purpose(s) that the surveillance technology is intended to advance;
 - b. **Authorized Use:** The uses that are authorized, the rules and processes required prior to such use, and the uses that are prohibited;
 - c. **Data Collection:** The information that can be collected by the surveillance technology. Where applicable, list any data sources the technology will rely upon, including "open source" data;
 - d. **Data Access:** The individuals who can access or use the collected information, and the rules and processes required prior to access or use of the information;
 - e. **Data Protection:** The safeguards that protect information from unauthorized access, including encryption and access control mechanisms;
 - f. **Data Retention:** The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond that period;
 - g. **Public Access:** How collected information can be accessed or used by members of the public, including criminal defendants;
 - h. **Third Party Data Sharing:** If and how other City or non-City entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information;
 - i. **Training:** The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology, including any training materials;
 - j. **Auditing and Oversight:** The mechanisms to ensure that the Surveillance Use Policy is followed, including internal personnel assigned to ensure compliance with the policy, internal recordkeeping of the use of the technology or access to information collected by the technology, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the legally enforceable sanctions for violations of the policy; and
 - k. **Maintenance:** The mechanisms and procedures to ensure that the security and integrity of the surveillance technology and collected information will be maintained.

Section 8. Enforcement

- 1) Any violation of this Ordinance, or of a Surveillance Use Policy promulgated under this Ordinance, constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this Ordinance. An action instituted under this paragraph shall be brought against the respective city agency, the City of Oakland, and, if necessary to effectuate compliance with this Ordinance or a Surveillance Use Policy (including to expunge information unlawfully collected, retained, or shared thereunder), any third-party with possession, custody, or control of data subject to this Ordinance.
- 2) Any person who has been subjected to a surveillance technology in violation of this Ordinance, or about whom information has been obtained, retained, accessed, shared, or used in violation of this

Ordinance or of a Surveillance Use Policy, may institute proceedings in any court of competent jurisdiction against any person who committed such violation and shall be entitled to recover actual damages (but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater) and punitive damages.

- 3) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought under paragraphs (1) and (2).
- 4) In addition, for a willful, intentional, or reckless violation of this Ordinance or of a Surveillance Use Policy, an individual shall be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$1,000 per violation.

Section 9. Secrecy of Surveillance Technology

It shall be unlawful for the City of Oakland or any municipal entity to enter into any contract or other agreement that conflicts with the provisions of this Ordinance, and any conflicting provisions in such contracts or agreements, including but not limited to non-disclosure agreements, shall be deemed void and legally unenforceable. Conflicting provisions in contracts or agreements signed prior to the enactment of this Ordinance shall be deemed void and legally unenforceable to the extent permitted by law. This section shall not apply to collective bargaining agreements and related memorandums of agreement or understanding that pre-date this Ordinance.

Section 10. Whistleblower Protections.

(1) No municipal entity or anyone acting on behalf of a municipal entity may take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment, including but not limited to discriminating with respect to compensation, terms, conditions, access to information, restrictions on due process rights, privileges of employment, or civil or criminal liability, because:

(a) The employee or applicant was perceived to, about to, or assisted in any lawful disclosure of information concerning the funding, acquisition, or use of a surveillance technology or surveillance data to any relevant municipal agency, municipal law enforcement, prosecutorial, or investigatory office, or City Council Member, based upon a good faith belief that the disclosure evidenced a violation of this Ordinance; or

(b) The employee or applicant was perceived to, about to, or assisted or participated in any proceeding or action to carry out the purposes of this Ordinance.

(2) It shall be grounds for disciplinary action for a municipal employee or anyone else acting on behalf of a municipal entity to retaliate against an individual who makes a good-faith complaint that there has been a failure to comply with any part of this Ordinance.

(3) Any employee or applicant who is injured by a violation of Section 10 may institute a proceeding for monetary damages and injunctive relief in any court of competent jurisdiction.

Section 11. Severability

The provisions in this Ordinance are severable. If any part of provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 12. Construction

The provisions of this Ordinance, including the terms defined in Section 7, are to be construed broadly so as to effectuate the purposes of this Ordinance.

Section 13. Effective Date

This Ordinance shall take effect on [DATE].