



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Deanna Santana

SUBJECT: Framework for Discussion of the
Domain Awareness Center (DAC)
Privacy and Data Retention Policy

DATE: February 11, 2014

INFORMATION

This Informational Memo is designed to provide an update on the development of the framework for discussion of the Privacy and Data Retention Policy for the City-Port Domain Awareness Center (DAC). On July 30th, 2013 the Oakland City Council passed resolution 84593 authorizing the City Administrator to accept and appropriate funding for the development of Phase 2 of the DAC. This resolution also stated:

“During Phase 2, City/Port staff will develop a Privacy and Data Retention Policy that governs the collection, retention, storage, and dissemination of information processed by the DAC ensuring the protection of privacy rights by individuals, and will return said policy to the Council for approval no later than March 2014.”

The resolution further stipulated that the DAC capabilities not be activated until the City Council approves the Privacy and Data Retention Policy. Based on testimony received at City Council Meetings and in writing, staff has prepared a framework for discussion and public comment so that the draft policy that is returned to Council allows for a high level of community input.

Attached please find a draft framework of privacy concerns for discussion. Staff is taking a new and aggressive approach to public engagement around this draft framework. Distribution of this framework will happen via EngageOakland, a survey monkey, and broad dissemination via the Neighborhood Service Coordinators. This framework is being disseminated for a thirty day public comment period. During that time period there will be two public meetings scheduled for **Wednesday, February 26th** in City Council Chambers, and **Thursday, March 13th** at the Dimond Branch Library located at 3565 Fruitvale Avenue. Both meetings will occur between 6 to 8pm.

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In addition the City will be establishing an AD-Hoc committee comprised of privacy advocates and residents recommended by the Mayor and the Public Safety Committee Members of the Oakland City Council. These Ad-Hoc committee members will be asked to vet the framework, consider the comments from the public meetings, and make recommendations to the City based on their review.

All of the input received during this process will be incorporated into the draft policy that will be forwarded to the City Council for review.

Respectfully submitted,

/s/

DEANNA J. SANTANA

City Administrator

For questions, please contact Joe DeVries, at (510) 238-3083.

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2/11/14

City of Oakland

Framework for Discussion of a

Policy for Privacy and Data Retention for the Joint City-Port Domain Awareness Center

I. Background and Overview

The Joint City-Port Domain Awareness Center (interchangeably referred to in this document as “Joint City-Port Domain Awareness Center”, “Domain Awareness Center,” or “DAC”) was first proposed to the City Council’s Public Safety Committee on June 18, 2009, in an information report regarding the City of Oakland partnering with the Port of Oakland to apply for Port Security Grant funding under the American Recovery and Reinvestment Act, 2009.

Under this grant program, funding was available for Maritime Domain Awareness (MDA) projects relative to “maritime” or “waterside”. The Port and City were encouraged to consider the development of a joint City Port Domain Awareness Center. The joint DAC would create a center that would bring together the technology, systems and processes that would provide for an effective understanding of anything associated with the City of Oakland boundaries as well as the Oakland maritime operations that could impact the security, safety, economy or environment.

The Joint City -Port domain awareness goal is to improve readiness to prevent, respond to and recover from major emergencies in the Oakland region and would ensure better multi-agency coordination across the larger San Francisco Bay Area. This goal continues to be the focus of the DAC project along with leveraging the system’s capabilities to reduce crime and enhance day-to-day first responder operations, as other cities have done nationally.

The term Domain Awareness Center finds its origin in the Dictionary of Military and Associated Terms with “Maritime Domain Awareness.” Maritime Domain Awareness (MDA) is defined by the International Maritime Organization as the effective understanding of anything associated with the maritime domain that could impact the security, safety, economy, or environment.

“Joint City-Port Domain Awareness” can be defined as the effective understanding of anything associated with all areas and things of on, under, relating to, adjacent to, or bordering the city limits, the sea, ocean, or other navigable waterways, including all first responder and maritime related activities, infrastructure, people, cargo, and vessels and other conveyances that could impact the security, safety, economy, or environment.

The Joint City-Port Domain Awareness Center would be utilized as a tool or system to accomplish this effective understanding as it relates to the security, safety, economy or environment of the City of Oakland and the Port of Oakland.

II. Mission of the Domain Awareness Center

The mission of the Domain Awareness Center (DAC) is to: (1) improve readiness to prevent, respond to, and recover from major emergencies at the Port and in the greater Oakland region and (2) ensure better multi-agency coordination in response to emergencies across the larger San Francisco Bay Area.

III. Policy Purpose

This policy's purpose is to protect the privacy of the general public and erect safeguards around any data captured and retained by the DAC, against improper use and/or distribution.

IV. Policy Updates

This Privacy and Data Retention Policy Framework is developed as a working document, and will be periodically updated to ensure the relevance of policy with the ever changing field of technology. At no time will this policy be changed without returning to the City Council for approval.

V. Definitions

As used in this policy framework, the following terms are defined below:

“Analytics” means the discovery and understanding of meaningful patterns and trends in data for well-informed decisions. Especially valuable in areas rich with recorded information, analytics relies on the simultaneous application of statistics, computer programming and operations research to quantify performance.

“DAC Staff” means the individuals who will be responsible for monitoring the equipment within the DAC on a day-to-day basis, including supervisors.

“DAC System” means the integration of various hardware, software, and network components to provide the situation awareness of any incident to the users.

“DAC Data” means any information fed and stored into the DAC System either from Port Cameras, City Cameras, or any other source that is at the facility including but not limited to: Shot Spotter, GIS Mapping, Port Vessel Tracking Systems, and Port Truck Management Systems.

“Major Emergency” means the existence of conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of the City of Oakland or having a significant adverse impact within the territorial limits of the City of Oakland, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the state Governor's warning of an earthquake or volcanic

prediction, or an earthquake, or other conditions, which are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Oakland and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission.

“Incident” means an occurrence or event, natural or human caused, that requires an emergency response.

“Tracking” means the use of surveillance cameras linked to the DAC to track movement in the cameras’ field of view or across networked cameras.

VI. Technological Capabilities of DAC System/Equipment

Additional technology integrated into DAC requires council approval

The Oakland City Council has placed limits on current and future technology for the DAC. Specifically, Oakland City Council Resolution 84593 provides in relevant part, the following:

The City/Port Joint Domain Awareness Center (DAC) Phases 1 and 2 includes data and video feeds from the following, surveillance, security sensor and video analytics sources only: Port Video and Intrusion Detection Cameras, Port of Oakland Vessel Tracking System, City of Oakland traffic cameras, City of Oakland-owned cameras operated by the City in non-residential areas, City of Oakland Shot Spotter Audio Sensor System, and License Plate Recognition systems, and that the addition of any new surveillance, security sensor or video analytics capability, feed or data sources shall require approval of the Council, including confirmation of compliance by the DAC and all City and Port data sources with the City’s Privacy and Data Retention Policy to the extent allowed by law.

Analytics, including facial and gait recognition software

1. There is no facial or gait recognition software installed and/or planned for Phase 2.
2. Some Port security cameras have video analytics capability and these cameras are used as motion sensors for intrusion detection purposes.
3. No analytics are planned that would use biometric data to identify individuals.
4. Some Port security cameras have video analytics capability and these cameras are used as motion sensors for intrusion detection purposes. Specifically, analytics are in use to identify significant security events at the Port of Oakland such as:
 - a. Crossing of fence lines from public areas into secured areas
 - b. Unusual activity within secured areas
 - c. Object sensors that identify vehicles traveling far above the speed limit, which are used to alert for drag racing at the Port.

5. Future uses of analytics at the Port of Oakland could include further alerts to enhance public safety such as:
 - a. Large container ships traveling at high speeds toward bridge supports.
 - b. Large trucks parked in unauthorized areas
4. Before any future analytic capabilities are integrated, staff will return to Council for permission to integrate such capabilities. If Council approves use of such integration, this policy will be updated prior to implementation to address the use of such analytic capabilities.

License Plate Readers

The City has equipped some police fleet vehicles with the automatic License Plate Recognition (LPR) system. LPR is used to identify vehicles by their license plates. The LPR equipped police cars are used to detect stolen cars and felons with warrants.

LPR technology is not integrated into the DAC System.

License Plate Readers (LPR's) are used to raise alerts of license plates that are on a "hot list". The DAC does not receive or database LPR data directly, but will receive alerts from systems that process LPR data. The LPR technology is neither currently linked to DAC nor planned for Phase 2.

Before any future integration of LPR technology into the DAC System, staff will return to Council for approval of integration of LPR technology. If such integration is approved by Council, the DAC Privacy and Data Retention Policy will be updated to address LPR use prior to implementation.

Shot Spotter

The DAC receives Shot Spotter alerts from the system provider identifying geo-location and coordinates on a Geographic Information System (GIS) Map. The DAC does not receive audio data from Shot Spotter sensors. Alerts that match pre-determined criteria are stored in the DAC system as events.

Before any future integration of Shot Spotter technology into the DAC System, staff will return to Council for approval. If integration of Shot Spotter technology is approved by Council, the DAC Privacy and Data Retention Policy will be updated prior to implementation to address the use of Shot Spotter at the DAC.

Social Media:

The DAC does not currently have privileged access agreements with any social media provider. Privacy of social media data is controlled by each individual social media provider. Social media could be accessed by the DAC via the same methods available to the public. Individual operators

of the DAC could also potentially access social media using their own means according to that individual's employment agreement, Human Resources policy or other applicable policy.

No Social Media feed is either currently linked to DAC or planned for Phase 2. Before any future integration between Social Media feeds and the DAC System, staff will return to Council for approval. If integration of Social Media feed is approved by Council, the DAC Privacy and Data Retention Policy will be updated prior to implementation.

VII. Access to the DAC system/ equipment

Day to Day Operations

The DAC computer and network equipment is maintained by the City's Department of Information and Technology (DIT) staff.

Only City of Oakland and Port of Oakland Employees will be used to monitor any data systems or camera feeds that will come into the DAC. No private contractors will serve such a role. All employees who are assigned to monitor the data systems and camera feeds coming into the DAC will be required to undergo security background checks at the local level as well as security clearances at state and/or federal levels to ensure data and information security.

Training

All City of Oakland and Port Employees who are assigned to monitor the data systems and camera feeds coming into the DAC will be required to participate in specific training around constitutional rights, protections, and appropriate uses of the data systems and the camera surveillance systems.

Critical incidents/emergencies/EOC activations

During a major emergency, City of Oakland Agency Directors and/or their designees in the Emergency Operations Center (EOC) and outside governmental agencies and non-governmental agencies' staff assisting with the major emergency or disaster (such as the Red Cross) that would report to EOC may have access to the DAC computers and displays. Such access will only be provided on a need to know, right to know basis and if there was a direct correlation between the major emergency or disaster and DAC operations.

Support and Repairs

DIT staff and vendors that installed the systems as well as other maintenance providers will have

access to the system components but will be restricted from access to actual stored data. Various manufacturers and vendors are hired to provide additional support services. Any system and network level access by these vendors require either background check or City/DIT employee presence. The system level access is maintained by DIT staff, however the Applications level access, as far as end-users are concerned, is maintained by the DAC operations group.

Auditing Purposes

Third Party Auditors, Federal, State, or Local grantor auditors or the City Auditor may have access to any stored data solely for audit purposes.

VIII. Access to information and data obtained through DAC

Only City employees with a need to know or right to know will have access to the data gathered by the DAC. Other than staff at the DAC, any sworn or non-sworn personnel without a direct role in investigating an incident will not be permitted access to DAC data.

IX. Use Restrictions

General restrictions

Under no circumstances shall the DAC be used for the purpose of infringing upon First Amendment rights. Operators of the DAC shall not target or observe individuals solely based on their race, gender, sexual orientation, disability or other classifications protected by law. The City (and any of its employees) shall not “track” the movement of an individual(s) by using the DAC system unless there is a reasonable suspicion of criminal wrongdoing.

Surveillance Video Camera Use

- The City shall not use audio in conjunction with closed circuit television cameras unless appropriate court orders are obtained.
- Operators shall abide by the restrictions set forth in this policy regardless of the sources of the closed circuit television video feeds.
- Closed circuit television systems shall only be used to observe locations that are in public view and where there is no reasonable expectation of privacy.
- The City will only add additional cameras to feed into the DAC upon the approval of the City Council.
- Operators shall not focus on hand bills, fliers, etc., being distributed or carried pursuant to First Amendment rights.

DAC system/equipment Data storage for Port and City cameras

Pursuant to Government Code Section 34090 the City will retain any recorded data for two years. The exception to this rule is when an incident or emergency is recorded by DAC monitoring staff that will be used for evidentiary purposes as part of a criminal investigation at which point the data retention policies of the agency that has conducted the monitoring will apply (OPD, OFD, or Port).

DAC system/equipment data for storage of outside systems

Pursuant to Oakland City Council Resolution 84593 (excerpted above in Section VI.), the addition of any new surveillance, security sensor or video analytics capability, feed or data sources shall require approval of the Council, including confirmation of compliance by the DAC and all City and Port data sources with the City's Privacy and Data Retention Policy to the extent allowed by law.

In the event that Council approves outside camera systems, the DAC will not store (record) data received from outside camera systems except when those systems have no recording capability. Nor will the City attempt to require outside systems to modify their data storage and retention policies.

If a private system is connected to the DAC, its data will only be stored at the DAC if an incident that is captured by that feeder system is recorded by DAC staff.

If the City provides funding for the purchase and installation of any private or quasi-public video surveillance system that is connected to the DAC, the only data storage requirement that the city will impose is that the owner/operator provide access to the footage for the city when there is a recorded incident or major crime in the area. If the private system wishes to retain data for any length of time, the data will not be subject to the City's policies.

Before any future private video feeds are considered for integration to the DAC system, staff will return to Council for approval. If integration of such outside camera system(s) is approved by Council, the DAC Privacy and Data Retention Policy will be updated prior to implementation.

Information sharing

In order for the DAC staff to provide any stored data to other agencies there must be a warrant or subpoena for records from the requesting agency. Additionally, if the information, data or video that is being requested is from a third party or outside feeder source, the law enforcement agency seeking such information must go to the original source of the information to request the data, video or information.

Outside of ththosescenarios mentioned , the City of Oakland DAC staff must have a written Memorandum of Understanding (MOU) with any outside agencies for information sharing which must be approved by the Oakland City Council pursuant to Oakland City Charter section **504(I)** .

X. Locations of City Cameras

City of Oakland Traffic Cameras are shown in the attached city map and on the City's website.

Before any future Cameras are added to the DAC system, staff will return to Council. If integration of additional cameras is approved by Council, the DAC Privacy and Data Retention Policy will be updated prior to implementation.

XI. Audits

a. Program Manager

Quarterly audits of the surveillance monitoring will be conducted by the program manager to ensure compliance with this policy. Periodic audits of any and all surveillance monitoring will be conducted by the program manager to ensure compliance with this policy.

b. City Auditor

Annual performance audits will be conducted by the City Auditor's Office or an outside auditor to ensure compliance with this policy. These audits shall be provided to the Mayor, City Administrator, and City Council annually.

XII. Records Management

If this policy is approved by the City Council, the DAC Staff will be the custodian of records; responsible for retention (as noted in Section IX, DAC System Data Storage), access to to information, and responding to requests for information under California's Public Records Act. DAC staff must follow all relevant and applicable policies, procedures, Regulations and laws.

XIII. Redress and Public Information Requests

a. DAC staff shall assign a public records request liaison, alternate liaison and supervisor with access to DAC material for public records requests in the processing, proper response (which may include review and subsequent redaction of information) and tracking in RecordTrac (or any other public records tracking system adopted by City of Oakland).

b. The Public's Access to Video Recordings:

For recorded images fed into the DAC, individuals may request a copy of such records by contacting the DAC staff (see Public Records Liaison List) and submitting a Public Records Act request. Such requests are subject to be entered into RecordTrac, and viewed by the public.

- c. Individuals who request a copy of recorded images of themselves must provide details to allow the City to identify them as the subjects recorded in the images. Such a request should include the location, time, and date of recorded images.

XIV. Sanctions and Enforcement Remedies

See Administrative Instruction 140 (AI140) attached defining the City of Oakland's Electronic Media Policy

XV. Ad hoc Advisory Committee

An Ad hoc Advisory Committee appointed by the Mayor, City Administrator and City Council that includes community members, privacy experts, legal experts and staff to ensure transparency and inclusiveness relative to the Privacy and Data Policy will be created. This committee will review any development as the DAC Center evolves and/or expands to include additional enhancements or functionality. This committee will also oversee the DAC program development and implementation. The Committee will report its findings to the City Administrator and City Council Public safety Committee on an ongoing basis.