



Privacy Advisory Commission
October 4, 2018 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Meeting Agenda

Commission Members: District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Vacant, District 7 Representative: Robert Oliver, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Heather Patterson

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 September meeting minutes
3. 5:10pm: Open Forum
4. 5:15pm: Election of vice-chair
5. 5:20pm: Surveillance Equipment Ordinance – discussion with Director Darlene Flynn – Dept. of Race & Equity about measuring and mitigating disparate impact; take action on Surveillance Technology Acquisition Questionnaire (STAQ)
6. 5:50pm: Surveillance Equipment Ordinance – discussion with staff and take action to adopt sequence of impact analysis and use policy writing for existing equipment
7. 6:00pm: Special presentation and Q&A with UC Berkeley Law Professor Catherine Crump: *Carpenter v. United States* (2018)
8. 7:00pm: Adjournment



Privacy Advisory Commission
September 6, 2018 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 3rd Floor
Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian M. Hofer, District 4 Representative: Lou Katz, District 5 Representative: Raymundo Jacquez III, District 6 Representative: Vacant, District 7 Representative: Robert Oliver, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Heather Patterson*

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1. 5:00pm: Call to Order, determination of quorum

The meeting was called to order with the announcement of the passing of Member Clint Johnson, representative for District 6. Chairperson Hofer announced the meeting would be closed in his honor.

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

The July Minutes were approved unanimously. The June minutes will be included in the October packet for approval.

3. 5:10pm: Open Forum

Michael Katz-Lacabe noted that in the description of Automated License Plate Readers (ALPR) it states that a camera photographs license plates but the systems have cameras that also photograph the vehicle and surrounding area.

4. 5:15pm: Surveillance Equipment Ordinance – staff status update regarding department outreach for survey of existing equipment

The Commission reviewed the lists submitted by staff and discussed what items could be removed and whether to have a separate policy for certain items such as OPDs underwater robot versus land robot or the FLIR cameras that are affixed to a boat versus a helicopter. The PAC decided a separate policy for each would be safest.

Staff will reconfigure the list in order of suggested priority and bring it back in October.

5. 5:20pm: Sanctuary Contracting Ordinance – staff status update regarding review and introduction to Council

Joe DeVries reported that he will be going to the City Council Rules Committee to have this item scheduled when the City Council reconvenes.

6. 5:25pm: Sanctuary “non-cooperation” Ordinance – staff status update on introduction of ordinance to Council.

Joe DeVries reported that he will be going to the City Council Rules Committee to have this item scheduled when the City Council reconvenes.

7. 5: 40pm: Surveillance Equipment Ordinance – Department of Transportation – UAV/Drones. Review Anticipated Impact Report and take possible action on proposed Use Policy.

Staff were not present to discuss the item so it was postponed.

8. Adjournment

The meeting adjourned at 6:50 with a moment of silence in honor of Clint Johnson.



Privacy Advisory Commission
June 7, 2018 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 3rd Floor
Meeting Minutes

Commission Members: *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, 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: Robert Oliver, Council At-Large Representative: Saied R. Karamooz, Mayoral Representative: Heather Patterson*

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: Brown, Hofer, Katz, Jacquez, Oliver, Karamooz, and Patterson.

Members Absent: Suleiman and Johnson.

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

The May Minutes were approved unanimously.

3. 5:10pm: Open Forum

There were no Open Forum Speakers.

4. 5:15pm: Surveillance Equipment Ordinance - Oakland Department of Transportation/Vendor use of UAV/Drones. Review and take possible action on use policy and anticipated impact report.

The PAC reviewed the draft Impact Report as presented by Nicole Farrera from the Department of Transportation. Questions were raised by Member Brown about Thermal Imaging capabilities, the use of mapping software, and high powered surveillance and the potential for voyeurism with high resolution cameras. One note was that the anticipated policy will require two persons to be present during operation to avoid voyeurism. Member Katz noted there are two distinct uses for the proposed drones: DOT Project

management and Disaster Mitigation. He also asked about rights and access to the data by the vendor. Ms. Farrera noted that the vendor would not have rights to the data but would need to be granted some access since they would be operating the drones. Member Oliver had questions about the level of accuracy of pinpointing locations and Ms. Farrera noted that some data tracking would be required to ensure the ability to return to the same spot. The PAC agreed to assign an ad hoc committee to work directly with DOT staff on further revisions and bring back the policy at a future meeting.

5. 5:25pm: Illegal Dumping Project – a) staff update on project and District Attorney direct monitoring of video; b) discuss Surveillance Equipment Ordinance compliance next steps.

Greg Minor from the City Administrator's office spoke about the status of the program and clarified that the District Attorney does not have access to a live feed from the cameras. This was a misstatement that had been captured in the media and caused some concern. In fact, a fellow City Administrator staff member checks the feed daily for new cases of illegal dumping and only forwards evidence when one occurs. Chairperson Hofer noted that as per the new ordinance, a draft Impact Statement would need to be brought back to the PAC and that the use would need to also abide by the rules set forth on SB34.

6. 5:30pm: Surveillance Equipment Ordinance – status update regarding department outreach for survey of existing equipment.

Joe DeVries stated that he had briefed all of the City's Department Directors at their most recent staff meeting and was able to give them a sense of what to expect by sharing what other jurisdictions had encountered. He will be drafting an Administrative Instruction for the implementation of the ordinance which is a way to ensure there is an internal guideline regardless of changes in the administration or staffing. Some department heads raised concerns about what technology would need to be captured and asked for a timeline. He suggested they look at the technologies considered by other jurisdictions and think about what is already in use in their departments. He expects to ask for a full list within 45-60 days and that they should add anything that might fall under the ordinance to allow the PAC to make the determination as to whether the technology needs review. One Director asked about surveillance cameras inside their building and it was clarified that there would be an overarching policy that would cover all security cameras—not an individual policy by site or department. The Director of Race and Equity voiced concern that Equity be considered and noted the current language in the ordinance under reporting requirements speaks to this issue. She is looking forward to working with the PAC to see that the reporting metrics capture this.

7. 5:45pm: Drug Enforcement Administration Memorandum Of Understanding - review and take possible action on staff proposed MOU.

Chairperson Hofer reviewed the background that led to the PAC review of these MOUs and Captain Roland Holmgren and Tim Birch from OPD presented the MOU received feedback. Mr. Birch articulated that it is important to the department that the public understand that they do require their officers to abide by OPD policy when part of a task force (as opposed to a public misperception that they do not). Member Karamooz asked if section 3 that requires OPD members to abide by OPD policy could also be included in section 5, requiring DEA members to also abide by OPD Policy. Member Oliver noted the purpose of these agreements is because OPD knows the local landscape and this can lead to more effective policing. Member Jacquez asked about cannabis policy and whether state or federal law would be followed since there is an inherent conflict between the two. Mr. Birch noted that there may be challenges in aligning

these two organizational policies but that he would certainly ask the DEA about these items and return in July with the DEA responses.

8. 5:55pm: Surveillance Equipment Ordinance - "Large Scale Event" - discuss potential monitoring of Warriors championship parade.

Captain Holmgren presented two components of the plan that OPD is developing in preparation for a (potential) Warriors Parade. First, OPD intends to have a contractor use a device that detects drones so that OPD can intervene with the drone operator to avoid the potential for a drone attack or drones being used in a way that jeopardizes public safety. Second, OPD intends to place pole cameras along the parade route that have pan/tilt/zoom capabilities. The cameras are being provided by the Northern California Regional Intelligence Center (NCRIC). OPD understand that the Surveillance Technology Ordinance requires an after-the-fact report which they will provide in July but felt it would be helpful to present ahead of time.

9. 6:25pm: Surveillance Equipment Ordinance – Oakland Department of Transportation/Automated license plate reader proposal. Review and take possible action on use policy and anticipated impact report.

Michael Ford with the Department of Transportation presented the draft Impact Report and noted that the work done by Member Brown to provide meaningful edits was very helpful. Member Brown noted a need to site what the City currently collects in regard at ALPRs to track the size of increase in data collection upon using these new devices. Acknowledging more work to be done, the item will be brought back in either July or September.

10. 7:00pm: Adjournment

**OPD Surveillance Technologies with Priority List for Review
by Oakland Privacy Advisory Commission (PAC)**

Item	Description	OPD Policy?	Impact Use Stmt to PAC?	Priority for bringing to PAC	Estimated Date - Impact Stmt and Policy to PAC
Automated License Plate Recognition (ALPR)	Cameras photograph all seen license plates and use optical recognition software to structure text of license, and populate into license database for tracking.	no	no	2	Dec-18
Body Worn Camera (BWC)	Officer BWC manually used to record videos. Officers use docking system to upload to city-maintained server system, w/ plans to upgrade to cloud-storage system.	no	no	3	Jan-19
Cell Site Simulator	Machine to mimic cell phone tower signals and determine location of cell phones with predetermined identifiers for specific cell phones or in rescue mode to locate cell phones with unknown identifiers.	pre-Surveillance Technology ordinance	no	1	Nov-18
Cellphone Data Extraction Equipment	Technology is used to manually download data from seized cell phones.	no	no	10	Aug-19
FLIR Camera / Boat	Thermal and video camera in boat	no	no	5	Mar-19
FLIR Camera / Helicopter	Thermal and video camera in helicopter.	no	no	5	Mar-19
FLIR Camera / Portable Observation Tower	Thermal and video camera in portable manned observation tower.	no	no	5	Mar-19
GPS Tracker	Technology is used to track vehicles in relation to an investigation.	no	no	6	Apr-19

Gunshot Locater Technology	OPD uses gunshot locater technology (ShotSpotter) to determine time and place as well as other data concerning gunshots.	no	no	4	Feb-19
Hostage Negotiation Throw Phone	The phone that OPD uses to throw into structures with hostage takers include communication capabilities.	no	no	12	Oct-19
IP Addresses of live-streamed privately-owned video cameras voluntarily provided by business owners	Business owners voluntarily provide IP addresses of private video cameras to OPD personnel.	no	no	9	Jul-19
Pole-mounted Video Camera	Video camera on a pole that can be moved to different locations and powered by utility. Reviewed remotely.	no	no	8	Jun-19
Remote Audio Telecommunications Monitoring	Technology is used to monitor private phone calls.	no	no	11	Sep-19
Robot (Land)	The OPD (land) robot for critical incident use includes remote access video capability, to the operator.	no	no	13	Nov-19
Robot (Water)	The OPD aquatic robot includes remote access video capability to the operator via cabled connection.	no	no	13	Nov-19
Thermal Imaging /VIDEO ATTIC Camera	Thermal and Infrared camera on mobile pole	no	no	12	Oct-19
Unmanned Aerial Devices (UAV)*	Remote operated aerial device to which video cameras can be mounted	no	no	7	May-19
* = recently added to list					

**City of Oakland (Non-OPD) Existing Surveillance Technologies for Review
by Oakland Privacy Advisory Commission (PAC)**

Item	Description	Department	Impact Use Stmt to PAC?	Priority for bringing to PAC	Estimated Date - Impact Stmt and Policy to PAC
Vehicle-Mounted License Plate Recognition (ALPR)	ALPR will be used by Parking Enforcement for (1) enforcing time- and meter or permit violations and (2) parking management. The former use is subject to existing evidence requirements for citations; the latter aims to produce occupancy and turn-over data that does not require identifiable information. Staff have drafted Use Policy and Impact Analysis and is working with the PAC to secure its support.	DOT	Draft submitted	1	November, 2018
CCTV at City of Oakland Building Facilities	Cameras are used to monitor public spaces by security guards and recordings are kept for at least 30 days after which recording is overwritten. In case of incident event (criminal activity, accident/misc. incident) recordings are kept for longer period of time. In some instances copy of the recording is given to police as part of their investigation.	Public Works and DOT	no	2	
Illegal Dumping Surveillance Cameras and ALPR	Pilot program of 4 surveillance systems placed in illegal dumping hot spots	CAO	no	3	
Smart Parking Network	Sensor-based smart parking system designed to deliver mobile phone app parking availability to consumers and parking management reports to DOT. In February 2017, DOT secured support of PAC before going to Council and passing Resolution 86581 CMS in support of this project	DOT	no	4	

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

Document Overview

The primary purpose of this document is to create a framework for collecting the information necessary to make an informed recommendation regarding contemplated surveillance technology equipment and their use. In addition, this document is intended to instill consistency, objectivity, and transparency in the assessment process. It is expected that this framework will be augmented and improved with each evaluation of surveillance technology by the Privacy Advisory Commission (PAC).

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 (SIR) pertaining to the acquisition or use. All categories may not be applicable to every technology. The table below provides a cross reference between the SIR and STAQ to facilitate completion of the SIR by the City entities.

SIR Section	STAQ Section
a. Description	1. Technology Solution Overview
b. Purpose	1. Technology Solution Overview
c. Location	4. Location(s) of Deployment and Data Storage
d. Impact	5. Protecting Civil Rights and Liberties
e. Data Sources	2. Surveillance Technology Detail
f. Data Security	3. Authorized Users
g. Fiscal Cost	6. Initial and On-going Costs of Technology
h. Third Party Dependence	2. Surveillance Technology Detail
i. Alternatives	1. Technology Solution Overview
j. Track Record	1. Technology Solution Overview

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

Initial Information

Name of Respondent:
Agency:
Role / Position:

Name of Technology:
Vendor:
Model:

Experience:

1. How many previous surveillance questionnaires have you completed?

2. What prior training have you attended for completing this questionnaire or similar surveillance impact assessments?

3. Who did you consult in order to complete this questionnaire? Please list their name, stated field of expertise, and professional affiliation.

4. What prior expertise or knowledge of this technology did you have before completing this questionnaire?

4.5. What data have you reviewed about the racial equity of impacts of deployment in other jurisdictions? What were the key findings in that data?

5-6. What are other names, acronyms, nicknames, or brand names for this technology

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Please attach a brief diagram of the system showing its major components that collect, process, and store, and share information and how information would be transmitted between those components.

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Surveillance Technology Assessment Questionnaire (STAQ)**

Questionnaire

Question	Response [Instructions]	Supporting Documentation
1	Why: Technology Solution Overview	
1.1	What is the function of the technology as described by the manufacturer? [Consult vendor materials or other reputable sources. Be specific about the type of surveillance functions (e.g., collection, processing, dissemination) and the type of data collected (e.g., biometric).]	
1.2	What is the specific problem this equipment or use will resolve? [Explain the agency's argument for procuring the technology. Indicators of success should be SMART: Specific, Measurable, Attainable, Relevant, and Time-based. Example: "Success seen as X% reduction in shootings per month."]	
1.3	How will success be measured?	
1.4	What other communities have achieved success, as defined in 1.3, using this technology? If none, describe why this technology could achieve success.	

Commented [FD1]: Add: Who will be better off? How will you know? Will there be unintended harm? Who will be harmed?

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Surveillance Technology Assessment Questionnaire (STAQ)**

Question		Response	Supporting Documentation
1.5	What non-surveillance alternatives were considered? If no alternatives were considered, how might success be achieved by non-surveillance measures?		
1.6	Why were the non-surveillance alternatives not pursued?		
1.7	What are other names, acronyms, nicknames, or brand names for this technology?		
2 What: Surveillance Technology Detail			
2.1	What equipment capabilities do you intend to use?	Capabilities	
		Data Collection	
		Data Processing	
		Data Storage	
		Data Sharing	
		Other	
2.2	What other equipment capabilities are possible? If unknown, please indicate as such.	Capabilities	
		Data Collection	
		Data Processing	
		Data Storage	
		Data Sharing	
		Other	
2.3	What safeguards will be implemented to ensure that unauthorized capabilities or uses will not be implemented?		

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2.4	What information can the technology capture and/or use?				
			Individual	Group	Other
		Biographic or Identifying Data (Name, DOB, Address, Phone number)			
		Sensory (Audio, Visual, Olfactory, Thermal, Biometric)			
		Other electronic signatures (ex. Cellphone signal)			
		Location			
2.5	What information can the technology store or could be stored as result of the technology's use?				
			Individual	Group	Other
		Biographic or Identifying Data (Name, DOB, Address, Phone number)			
		Sensory (Audio, Visual, Olfactory, Thermal, Biometric)			
		Other electronic signatures (ex. Cellphone signal)			
		Location			
2.6	How long will information be retained? Provide a concrete number for each information type.				

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2.7	Will data be gathered by, stored by, or shared with a third party? If so, why? Will this be on an ongoing basis?		Reference city, state, and/or federal policy if applicable.
2.8	How will YOU, the requesting agency or city, ensure that data is not retained for longer than allowed?		
3	Who: Authorized Users		
3.1	Who is authorized to access the technology? How many users would be authorized? What criteria must users meet to be authorized?	Type of Authorized User	Criteria to Receive Authorization
		(ex. PD Patrol Officers)	(ex. Sworn Officer, Annual Training on System)
3.2	How do you ensure only authorized users can use the technology?		
3.3	How does the system authenticate users, i.e. Which security protocols are implemented such as multi-factor authentication?		
3.4	How will compliance with access		

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Surveillance Technology Assessment Questionnaire (STAQ)**

Question		Response	Supporting Documentation												
	policies be monitored? How often will audits be conducted?														
4	Where: Location(s) of deployment and data storage														
4.1	Where will the technology be deployed within the community? For information processing systems, which locations within the community will be included in the used information?	<table border="1"> <tr> <td>Location to be Monitored</td> <td></td> </tr> <tr> <td>City-wide</td> <td></td> </tr> <tr> <td>Specific Areas of Concern (name)</td> <td></td> </tr> <tr> <td>Installation Type</td> <td></td> </tr> <tr> <td>Static</td> <td></td> </tr> <tr> <td>Mobile</td> <td></td> </tr> </table>	Location to be Monitored		City-wide		Specific Areas of Concern (name)		Installation Type		Static		Mobile		
Location to be Monitored															
City-wide															
Specific Areas of Concern (name)															
Installation Type															
Static															
Mobile															
4.2	What is the process or criteria used to select the locations in 4.1 above?														
4.3	Please provide data or statistical evidence showing that the problem addressed by this technology exists at these specific locations identified in 4.3.														
4.4	Where will the information be stored (on-site, remote, cloud)? If remote or cloud, please indicate the provider and administrator of the remote storage.														

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Surveillance Technology Assessment Questionnaire (STAQ)

4.5	What are the safeguards to ensure security of stored information? How will those controls be monitored to ensure effectiveness? How often will audits be conducted?				
4.6	What are the safeguards to ensure security of information during transmission? How will those controls be monitored to ensure effectiveness? How often will audits be conducted?				
5	How: Protecting Civil Rights and Liberties				
5.1	<p>Could the technology collect, process, or store information related to race, citizenship status, gender, age, socioeconomic level, reproductive choices, or sexual orientation?</p> <p>If so, what safeguards are in place to limit such collection?</p>	Risk:			
			Collect	Process	Storage
		Race			
		Citizenship Status			
		Gender			
		Age			
		Socio-Economic Level			
		Sexual Orientation			
		Safeguards (as applicable):			
			Collect	Process	Storage
		Race			
		Citizenship Status			
		Gender			
		Age			
Socio-Economic Level					
Sexual Orientation					

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Surveillance Technology Assessment Questionnaire (STAQ)

5.2	Will use of the technology increase the likelihood that any person or group, including <u>minority-people of color</u> residents, non-citizens, low-income residents, <u>people living with disabilities</u> , or any group historically vulnerable to disproportionate civil liberties violations, will suffer the following potential problems:	Potential Problem			
			Reason Why or Why Not or Unknown	Safeguard to Prevent Negative Impact	
		<u>Loss of autonomy:</u> Loss of autonomy includes self-imposed restrictions on freedom of expression or assembly (avoiding protest participation, for example).			
		<u>Exclusion:</u> Exclusion is the lack of knowledge about or access to personal information. This diminishes accountability for treatment in a fair or equitable manner.			
		<u>Loss of liberty:</u> Improper <u>Disproportionate</u> exposure to arrest or detainment. Incomplete, inaccurate, improper use of information can lead to arrest.			
		<u>Physical harm:</u> Actual physical harm to a person.			
		<u>Stigmatization:</u> Personal information is linked to an actual identity in such a way as to create a stigma that can cause embarrassment, emotional distress or discrimination.			
	9	9/24/2018			

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 Surveillance Technology Assessment Questionnaire (STAQ)**

		Potential Problem	Reason Why or Why Not or Unknown	Safeguard to Prevent Negative Impact
		<u>Power Imbalance:</u> Acquisition of personal information that creates an inappropriate power imbalance, or takes unfair advantage of or abuses a power imbalance between acquirer and the individual.		
5.3	Could the technology be used to collect, store, or process information regarding 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?			

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Surveillance Technology Assessment Questionnaire (STAQ)**

Question		Response		Supporting Documentation	
5.4	Does the technology collect, use, or retain information about individuals in the following stages of criminal justice system:	Criminal Justice Interaction Category			
			Reason		
		Individuals not suspected of wrongdoing (note: might want to define wrongdoing)			
		Individuals suspected but not charged with an offense			
		Individuals charged with but not convicted of any offense			
		Individuals convicted of previous offenses but not currently incarcerated			
	Individuals convicted of previous offenses and currently incarcerated				
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?	Initial Requirements			
			Quantity Needed		Cost (Actual or Estimate)
		Devices or Software Licenses			
		Infrastructure Upgrades			
		Additional Personnel to be Hired			
	Personnel to be trained				

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Surveillance Technology Assessment Questionnaire (STAQ)

6.2	What are the ongoing costs, including measures to secure data and data storage?	Initial Requirements	Frequency Needed	Cost (Actual or Estimate)	
		Devices			
		Maintenance & Service			
		Technical Support			
		Software Upgrades			
		Data Storage Fees			
		Data Access Fees			
		Recurring Training			
		Other (list type)			
6.3	What are the actual or potential funding sources 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)?				
6.5	To achieve success, what other tools would be considered for future procurement in addition to this technology?				