



City of Davis
Police Accountability Commission Meeting Minutes
Monday, March 4, 2024

1. Call to Order & Roll Call

Chair Horton called the meeting to order at 6:42pm.

Members Present: Mary C. Bliss, Robert Canning, Cecilia Escamilla-Greenwald (arr: 6:50), Elizabeth Griswold (arrive 6:45), Dillan Horton (Chair), Don Sherman, John Myers

Also Present: Kelly Stachowicz

2. Approval of Agenda

Canning moved, with a second by Myers, approval of the agenda. Motion passed by the following vote:

AYES: Bliss, Canning, Horton, Sherman, Myers

NOES: None

ABSENT: Griswold, Escamilla-Greenwald

3. Brief Announcements from Staff, Commissioners, and Council Liaisons

Canning: Shared the two-page surveillance tech memo (discussed at Feb meeting) with Council and has had positive feedback. The item should come forward to the Council soon.

Horton: Acknowledged Judith MacBrine as first chair of the PAC, as well as other females, during Women's History Month.

4. Public Comment

No public comment. Written emails related to facial recognition acknowledged.

5. Consent Calendar

A. Commission Minutes February 5, 2024

Canning moved, with a second by Myers, approval of the minutes. Motion passed by the following vote:

AYES: Bliss, Canning, Griswold, Horton, Sherman, Myers

NOES: None

ABSENT: Escamilla-Greenwald

6. Police Auditor Update

Independent Police Auditor representative Michael Gennaco provided an update on Auditor activities to the PAC.

- Hiring Audit report is not ready but hoping it will be complete in the next month. Received feedback from Police Chief which needs to be reviewed/incorporated before report can be circulated and finalized.*

- *Shared information about a Georgia initiative related to use of deadly force, where one police chief (Dekmar) is training officers to shoot in an extremity, rather than conventional training to shoot for center of mass. Gennaco will follow this to see where it goes.*
- *Portions of San Quentin prison are proposed to be converted to a Scandinavian model, to look more like apartments than cells/traditional prison. Will watch to see how it plays out.*
- *Noted a bill that would provide Miranda-like rights to the family members of a person killed by law enforcement officers. This would prohibit officers from trying to get information from family members first before telling the family about the death.*

Discussion/Questions:

- *Does police union support proposed bill?*
- *How does POST currently train regarding prone position? (If using wrap, must watch individual, move to side position if possible to minimize respiratory distress.)*
- *Hiring Audit: Can Chief's questions be included in the report? (Comments are really more about the change in circumstances, with challenges to hiring.)*

Public Comment:

None

7. Regular Items

A. Continuation of Facial Recognition Discussion – Presentation by Brian Hofer, Executive Director of Secure Justice

Commission began a discussion of facial recognition technology last month. This month, Brian Hofer, Executive Director of Secure Justice and Chair of Oakland's Privacy Commission, provided a presentation to the PAC. Mr. Hofer previously provided input on Davis' surveillance technology ordinance, as well as similar ordinances in other locations. He also consults with cities on issues related to privacy and technology.

Hofer: Currently, there are not federal or state regulations on facial recognition technology. There is a bill now to renew an expired regulation. Another bill was attempted but it was defeated. The bill was to say that facial recognition technology cannot be probable cause for arrest, search, or warrant. Two states, and twenty cities have banned the use of facial recognition technology, including Oakland, San Francisco, Berkeley, Alameda. Portland Oregon banned across public and private uses. There is now wide access to databases, which some entities may be interested in using for a match.

Hofer continued: Facial recognition technology is less accurate for people with darker skin tones. Photos that are used often aren't ideal. Vendors recommend a confidence rate (85-90%), but law enforcement usually can't meet that. Many agencies that use it will say that they have a human in the loop (to review the

process), but data doesn't seem to show that this prevents false arrests. Automation bias is the idea that a machine can recognize better than a human. Some police will put the facial recognition technology pick into an actual lineup for a human eyewitness. Hofer asked what kind of society do we want to live in? For facial recognition technology to do anything, we would need to have annual photos of every person, all the time.

Hofer disagrees with the argument that facial recognition technology can be life-saving. Believes it has produced some successes, but not in comparison to its failures and abuse of civil liberties. Hofer stated that people have right to be anonymous in public. Concerned about identity theft and implications if someone's faceprint or other biometric information gets hacked.

Hofer concluded by encouraging an ordinance to ban as resolutions are not meaningful. If it's too narrow, then could still outsource to a third party. Reiterated that his concern is about use on the public, not for user identification (for your own phone, for example).

Questions:

Canning: Do police use the technology to get into a suspect's phone? (Hofer: Courts split about what 4th Amendment protects.)

Horton: Why did Oregon choose to ban both public and private? (Hofer: Legal reasoning is to prohibit because of ADA because use is discriminatory.)

Griswold: What is the process to pass a ban? Could Davis use one of other ordinances as a model? (Hofer: Find a champion to support).

Public Comment:

- Dean Johannsen: As an attorney, there is a problem with facial recognition technology. Even fingerprint evidence may be problematic as some people have same fingerprints.
- Grey Crawford: Echoes concerns about facial recognition technologies: field factors, less than perfect photos, many opportunities for false identification.
- Luanna Villanueva: Her phone doesn't work well with fingerprints or facial recognition. Concerns about lack of privacy and technology.
- Francesca Wright: The technology causes more harm than good and is a racist tool. Supports a ban.
- No name given: Curious how legal theory for Portland law rested on ADA. Make sure ordinance is airtight so future Councils cannot change.
- Evan Wallace: Has a template for a ban from Alameda: City prohibited from obtaining or using any facial recognition technology or any information obtained from such technology from other sources.

Discussion:

Brian Hofer: ADA memo (Portland) was legally privileged so hasn't seen it. Believes the discriminatory part was the problem with the technology and darker

skin tone. It was noted that the Davis Police Department does not use this technology currently.

The commission appointed a subcommittee of Myers, Escamilla-Greenwald and Horton.

8. Subcommittee and Liaison Assignment Updates

A. Subcommittee on May 2023 Stabbing Questions (Horton)

Horton provided overview and draft document with questions in three areas:

- *What were general lessons learned?*
- *Civilian reports: Did mutual aid from other local police departments expand DPD's ability to process civilian reports? How did DPD decide which reports needed to be followed up on? Did DPD set up a specialized system to receive and process civilian video surveillance material?*
- *Unhoused population: Was DPD involved in the city's outreach effort to unhoused residents? Did DPD detain/arrest unhoused residents as the city was trying to get folks out of unsheltered setting?*

Discussion:

- *Concerns from some commissioners that description of medium skin toned male with curly hair was too broad and possibly discriminatory.*
- *Some commissioners were concerned that communication around ongoing updates and second stabbing wasn't timely. Why didn't communication go out more quickly? Have any policies changed since then?*
- *Escamilla Greenwald noted that since the case is active, it is not likely that Police Department will be able to share information.*

B. Outreach Subcommittee Update (Canning, Horton, Sherman)

C. Subcommittee on Challenges in Police Hiring Audit – (Escamilla-Greenwald, Horton, Myers)

D. Subcommittee on Surveillance Technology (Canning, Griswold, Horton)

E. Subcommittee on Local Voices Outreach (Escamilla-Greenwald, Horton)

No further subcommittee reports. D and E will conclude and be removed from future agendas.

Public Comment:

None

9. Long Range Calendar: Upcoming Meeting Dates and/or Potential Agenda Items

No comments

10. Adjournment

Escamilla Greenwald moved, with a second by Canning, to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 7:50pm