



**Privacy Advisory Commission**  
**January 4, 2024 5:00 PM**  
**Oakland City Hall**  
**Hearing Room 1**  
**1 Frank H. Ogawa Plaza, 1<sup>st</sup> Floor**  
***Meeting Agenda***

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**Commission Members:** *District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, District 5 Representative: Vacant, District 6 Representative: Gina Tomlinson, District 7 Representative: Robert Oliver, Council At-Large Representative: Henry Gage III, Vice Chair, Mayoral Representative: Jessica Leavitt*

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*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. Call to Order, determination of quorum
2. Review and approval of the draft December 7 meeting minutes
3. Open Forum/Public Comment for non-agenda items
4. Federal Task Force Ordinance – OPD – Memorandum of Understanding (MOU) with the US Drug Enforcement Agency (DEA)
  - a. Review draft MOU and take possible action

*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.*

Members of the public can view the meeting live on KTOP or on the City's website at <https://www.oaklandca.gov/topics/ktop-tv-10>.

Comment in advance. To send your comment directly to the Privacy Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to Felicia Verdin at [fverdin@oaklandca.gov](mailto:fverdin@oaklandca.gov). Please note that eComment submissions close one (1) hour before posted meeting time. All submitted public comment will be provided to the Privacy Commission prior to the meeting.

*Each person wishing to speak on items must fill out and submit a speaker's card to staff prior to the meeting. Members of the public can address the Privacy Advisory Commission in-person only and shall state their names and the organization they are representing, if any.*

To observe the meeting via Zoom, go to: <https://us02web.zoom.us/j/85817209915>

Or One tap mobile: +1 669 900 9128



**Privacy Advisory Commission**  
**December 7, 2023; 5:00 PM**  
**Oakland City Hall**  
**Hearing Room 1**  
**1 Frank H. Ogawa Plaza, 1<sup>st</sup> Floor**  
***DRAFT Meeting Minutes***

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***Commission Members: District 1 Representative: Reem Suleiman, District 2 Representative: Chloe Brown, District 3 Representative: Brian Hofer, Chair, District 4 Representative: Lou Katz, District 5 Representative: Vacant, District 6 Representative: Gina Tomlinson, District 7 Representative: Sean Everhart, Council At-Large Representative: Henry Gage III, Vice Chair, Mayoral Representative: Jessica Leavitt***

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*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. Call to Order, determination of quorum

All Commissioners were in attendance.

2. Review and approval of the draft November 2 meeting minutes

The minutes were approved pending a correction and completion of third to the last paragraph, a sentence needs to be completed.

Minutes were approved unanimously.

3. Open Forum/Public Comment for non-agenda items

No public comment.

4. Recognition of Commissioner Robert Oliver for his years of service – Council Member Reid's office Chief of Staff to District 7 Haley Hester provided sincere thanks to former Commissioner Oliver for his service on the Privacy Commission.

5. Welcome new Commissioner Sean Everhart – Council Member Reid's office

Haley Hester also welcomed Sean Everhart to the PAC. Commissioner Everhart is a member of the Sheffield Village community. He has 10 years of experience in the area of privacy.

Commissioner Everhart reported that he's been in the data protection space, including ransomware and backup recovery.

6. Surveillance Technology Ordinance – OPD – Cellebrite Cellphone Data Extraction Technology
  - a. Review impact report and take possible action on a proposed use policy

An ad-hoc was set up at the previous meeting to address questions that were raised by the full body. The ad-hoc was pleased with the draft overall. The ad-hoc worked with Oakland Police Department, Sgt. Yun Zhou on the draft Cellebrite policy. Sgt. Zhou reported that changes were made to the policy for probation and parole searches in regard to Cellebrite. OPD will not use the Cellebrite to download phone data based on being on probation and parole only. OPD also added documentation regarding consent by an individual to request specific information to be downloaded. The consent will take place on a form or via video recording.

In addition, provisions were added regarding data protection and third party file sharing. All data needs to be stored safely and password protected. Third party file sharing with different agencies is allowed under specific circumstances in the context of discovery requirements for criminal prosecution and if OPD has a California Electronic Communication Privacy Act compliant search warrant or a compliant sharing order.

Finally, the storage and handling of the device was clarified. The device will not go out into the field. It will be stored in a secure office at OPD that a limited number of people will have access. It is not going out in the community barring exigent circumstances that will be documented under OMC requirements. As a standard normal use, the Cellebrite will remain in an OPD office.

A further change is reflected on page 3 of the policy under number 4, the device cannot be used at a Ceasefire call-in.

Commissioners raised a variety of questions regarding data collection for the annual report. The plan is to track individual usage. Commissioners recommended that all data is tracked, including when the device is used and the legal authority. They will also track the race of the device owner and suspect in the criminal case. The type of case will also be included, such as robbery, homicide, etc. A status of the case will be tracked in an excel spreadsheet, for example if an individual is charged or not.

Chair Hofer raised a question about the estimated number of cases and phones being searched. Sgt. Zhou estimated that 50-70 phones to start. He estimated a total of 700 devices per year. Chair Hofer also requested to track the amount of staff time it takes to collect the information.

The item passed unanimously.

## FISCAL YEAR 2024

### PROGRAM - FUNDED STATE AND LOCAL TASK FORCE AGREEMENT BETWEEN OAKLAND POLICE DEPARTMENT (CA0010900) AND DEA TASK FORCE GROUP (OAKLAND)

This agreement is made this 1<sup>st</sup> day of October, 2023, between the United States Department of Justice, Drug Enforcement Administration (hereinafter "DEA"), and the Oakland Police Department - ORI# CA0010900 (hereinafter "OPD"). The DEA is authorized to enter into this cooperative agreement concerning the use and abuse of controlled substances under the provisions of 21 USC § 873.

WHEREAS there is evidence that trafficking in narcotics and dangerous drugs exists in the Greater East Bay Area of California and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the people of Alameda, Contra Costa, and Solano Counties, the parties hereto agree to the following:

- 1 The Task Force Group (Oakland) Task Force will perform the activities and duties described below:
  - a. disrupt the illicit drug traffic in the Oakland area by immobilizing targeted violators and trafficking organizations;
  - b. gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
  - c. conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the State of California.
- 2 To accomplish the objectives of the Task Force Group (Oakland) Task Force, the Oakland Police Department agrees to detail one (1) experienced officer to the Task Force Group (Oakland) for a period of not less than two years. During this period of assignment, the Oakland Police Department officer will be under the direct supervision and control of DEA supervisory personnel assigned to the Task Force Group (Oakland).
- 3 The one (1) Oakland Police Department officer assigned to the Task Force Group (Oakland) shall adhere to DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force Group (Oakland).
- 4 The one (1) Oakland Police Department officer assigned to the Task Force Group (Oakland) shall be deputized as Task Force Officer of DEA pursuant to 21 USC § 878.
- 5 To accomplish the objectives of the Task Force Group (Oakland), DEA will assign eight (8) Special Agents to the Task Force Group (Oakland). DEA will, subject to the availability of annually appropriated funds or any continuing resolution thereof, provide

necessary funds and equipment to support the activities of the DEA Special Agents and Oakland Police Department officer assigned to the Task Force. This support will include: office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training, and other support items.

- 6 During the period of assignment to the Task Force Group (Oakland), the Oakland Police Department will remain responsible for establishing the salary and benefits, including overtime, of the officer assigned to the Task Force, and for making all payments due them. DEA will, subject to availability of funds, reimburse the Oakland Police Department for overtime payments. Annual overtime for each state and local law enforcement officer is capped at the equivalent to 25% of the salary of a GS-12, step 1, of the general pay scale for the rest of the United States. Reimbursement for all types of qualified expenses shall be contingent upon availability of funds and submission of a proper request for reimbursement which shall be submitted monthly or quarterly on a fiscal year basis, and which provides the names of investigators who incurred overtime for DEA during invoiced period, the number of overtime hours incurred, the hourly regular and overtime rates in effect for each investigator, and the total cost for the invoiced period. The Oakland Police Department will bill overtime as it is performed and no later than 60 days after the end of each quarter in which the overtime is performed. . ***Note: Task Force Officer's overtime "shall not include any costs for benefits, such as retirement, FICA, and other expenses."***
- 7 In no event will the Oakland Police Department charge any indirect cost rate to DEA for the administration or implementation of this agreement.
- 8 The Oakland Police Department shall maintain on a current basis complete and accurate records and accounts of all obligations and expenditures of funds under this agreement in accordance with generally accepted accounting principles and instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.
- 9 The Oakland Police Department shall permit and have readily available for examination and auditing by DEA, the United States Department of Justice, the Comptroller General of the United States, and any of their duly authorized agents and representatives, any and all records, documents, accounts, invoices, receipts or expenditures relating to this agreement. The Oakland Police Department shall maintain all such reports and records until all audits and examinations are completed and resolved, or for a period of six (6) years after termination of this agreement, whichever is later.
- 10 The Oakland Police Department shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the United States Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H and I.
- 11 The Oakland Police Department agrees that an authorized officer or employee will execute and return to DEA the attached OJP Form 4061/6, Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free

Workplace Requirements. The Oakland Police Department acknowledges that this agreement will not take effect and no Federal funds will be awarded to the Oakland Police Department by DEA until the completed certification is received.

- 12 When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, the Oakland Police Department shall clearly state: (1) the percentage of the total cost of the program or project which will be financed with Federal money and (2) the dollar amount of Federal funds for the project or program.
- 13 The term of this agreement shall be effective from the date in paragraph number one until September 30, 2026. This agreement may be terminated by either party on thirty days' advance written notice. DEA's support to the Task force, including reimbursement of overtime, is subject to the availability of funds on a fiscal year basis (October 1 through September 30 of the next year). Billing for all outstanding obligations must be received by DEA within 60 days of the end of the fiscal year or within 60 days of the date of termination of this agreement. DEA will be responsible only for obligations incurred by Oakland Police Department during the term of this agreement on a fiscal year basis, subject to the availability of funds.

For the Drug Enforcement Administration:

Brian M. Clark  
Name

\_\_\_\_\_  
Date

Special Agent in Charge (SAC)  
Title

For the Oakland Police Department  
(CA0010900)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



## OAKLAND POLICE DEPARTMENT Drug Enforcement Agency (DEA) Task Force 2022 Annual Report

### OPD DEA Task Force

The DEA State and Local Task Force combines federal leverage and the specialists available to the DEA with state and local officers' investigative talents and detailed knowledge of their jurisdiction to lead drug law enforcement investigations. The DEA shares resources with state and local officers, thereby increasing the investigative possibilities available to all. Participation in DEA Task Forces also allows the DEA to pay for the overtime and investigative expenses of participating police agencies.

### Staffing

1. **Number of full and part time Oakland Police Department (OPD officers assigned to DEA Task Force:** One full-time officer
2. **Number of hours worked as DEA Task Force Officer:** Regular 40 hours per week.
3. **Funding source for DEA Task Force Officer salary:** OPD Budget

### Other Resources Provided

1. **Communication equipment:** OPD handheld radio, cellular phone
2. **Surveillance equipment:** None.
3. **Clerical/administrative staff hours:** None
4. **Funding sources for all the above:** OPD Budget

### Cases

1. **Number of cases DEA Task Force Officer was assigned to:** – case detail breakdown:

The goal of the Taskforce is to conduct targeted investigations into specific drug trafficking organizations (DTO) and the individuals within the DTOs who are engaged in high level narcotics distribution and trafficking. By conducting these longer federal investigations, the Taskforce is able to ensure entire DTO's are dismantled. Confronting and weakening DTOs closes off specific avenues in which drugs flow into the community. The Taskforce focuses primarily on heroin, methamphetamine, fentanyl, and cocaine trafficking; the Taskforce does not conduct any marijuana investigations.

Below is a summary of the cases worked on in 2022:

### Oakland RO TFG Airport Interdiction

Oakland RO TFG have been working in conjunction with the Alameda County Sheriff's Office, Oakland International Airport Insider Threat Task Force. Oakland International Airport is a transit point for drug trafficking and bulk cash smuggling. To date, Oakland RO TFG have seized approximately \$220,000 in bulk currency suspected to be drug proceeds or utilized to facilitate drug trafficking.

It should be noted that the TFO position was vacant for most of the year. The current TFO joined the task force in January 2023, and is currently undergoing DEA training.

2. **Number of "duty to warn" cases:** None
3. **General types of cases:** Narcotics investigations and money laundering investigations
4. **Number of times the DEA asked OPD to perform/OPD declined to perform:** None
  - a. **Reason for OPD declination (e.g. insufficient resources, local/state law):** N/A

#### Operations

1. **Number of times OPD officers were involved in undercover investigations:** OPD personnel were assigned in plain clothes or undercover capacity to approximately six investigations.
2. **Number of instances where OPD Task Force officer managed informants:** OPD TFO has three active informants
3. **Number of informant-involved cases in which the OPD DEA Task Force Officer actively participated:** All
4. **Number of requests from outside agencies (e.g. ICE) for records or data of OPD:** None
  - a. **Number of such requests that were denied:** N/A
  - b. **Reason for denial:** N/A
5. **Whether DEA Task Force Officer was involved in any cases where USPER (U.S. person status) information was collected:** No

#### Training and Compliance

1. **Description of training given to DEA Task Force Officer by OPD to ensure compliance with Oakland and California law:** The OPD officer assigned to the DEA Task Force follows all OPD policies and has received several police trainings, including but not limited to: continual professional training, Procedural Justice Training and annual firearms training. The officer has also reviewed all provisions of the DEA Task Force MOU.
2. **Date of last training update:** Continuous professional training (CPT) ( yearly).
3. **Frequency with which DEA Task Force Officer briefs OPD supervisor on cases:** Weekly

#### Actual and Potential Violations of Local/State Law

1. **Number of actual violations:** OPD will provide information on law and/or policy violations that are in connection with an officer's task force work, and subject to release under California's Public Records Act, Government Code section 6254 (the "PRA") and/or Cal. Penal Code 832.7. Disclosure of violations not connected to task force work is outside the scope of OMC 9.72. Disclosure of violations beyond those mandated or permitted by statute to be disclosed would violate the prohibition on disclosing personnel

or other confidential records set forth in Cal. PC 832.7 & 832.8. OPD will provide information on violations that are subject to release under California's Public Records Act (the "PRA"), Government Code section 6254. Release of any of violations not covered by the PRA, however, would violate California law (832.7), as there is only one officer assigned to this task force.

2. **Actions taken to address actual or potential violations:** The officer follows OPD policies, except where DEA policies are more restrictive. OPD leadership consults with the Office of the City Attorney to ensure that all policies conform with State and Federal laws. Going forward, OPD will consult with Office of the City Attorney on a biannual basis.
3. **Recommendations by OPD to address prevention of future violations:** OPD will continue to consult with the Office of the City Attorney to ensure that personnel continue to follow federal, state, and local laws and policies. OPD will also consult with the Privacy Advisory Commission about any proposed changes.

Commented [JT1]: Added

#### **Suspicious Activity Reports (SARs) and Northern California Regional Intelligence Center (NCRIC)**

1. **Whether OPD Task Force Officer submits SARs to NCRIC:** No.
2. **Whether OPD officer receives SAR information:** No.

#### **Command Structure for OPD Task Force Officer**

1. **Reports to whom at DEA?** HIDTA Task Force Group Supervisor Justin Zapanta.
2. **Reports to whom at OPD?** Act. Lieutenant Steve Valle.



City Attorney

2023 JUL -6 AM 11:22

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

89819

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) THROUGH DECEMBER 31, 2023 WITH THE UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION (DEA) AND THE OAKLAND POLICE DEPARTMENT (OPD) DEA TASK FORCE GROUP (TASK FORCE) TO COLLABORATE ON INFORMATION SHARING AND FOCUSED OPERATIONS TO DISRUPT ILLEGAL DRUG ACTIVITY OCCURRING IN THE CITY OF OAKLAND.**

**WHEREAS**, there are many types of drugs and narcotics listed as illegal to possess, use, manufacture, or sell anywhere in the United States (US) under the 1970 US Controlled Substances Act (CSA); and

**WHEREAS**, there is an established nexus between the use, manufacture, and sale of illegal narcotics and violent crime in Oakland; and

**WHEREAS**, the mission of the DEA is to “enforce the controlled substances laws and regulations of the United States and bring to the criminal and civil justice system of the United States, or any other competent jurisdiction, those organizations and principal members of organizations, involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the United States; and to recommend and support non-enforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets;” and

**WHEREAS**, OPD officers assigned to the DEA Task Force shall adhere to Taskforce policies and procedures, as well as OPD policies and procedures; and

**WHEREAS**, Article V, Section 504(l) of the City Charter requires that the City Council authorize the City Administrator or designee to enter into an agreement between the City and other agency or organization; and

**WHEREAS**, Ordinance 13457 C.M.S. passed June 29, 2017, created Oakland Municipal Code No. 9.72.010, “City Participation in Federal Law Enforcement Activities,” which requires that OPD submit a “proposed MOU and any orders, policies, and procedures relevant to the subject matter of the MOU for discussion and public comment at an open meeting of the Privacy Advisory Commission” before execution of said agreement. Therefore be it,

**RESOLVED:** That the City Administrator or designee is authorized to execute the MOU attached to the accompanying report without returning to the City Council; and be it

**FURTHER RESOLVED:** that the duration period of the MOU between OPD and the DEA shall be through December 31, 2023; and be it

**FURTHER RESOLVED:** funds paid by the DEA to OPD will be deposited into Fund to be determined, Org 102310, Account 46319, Project to be determined, and Program PS03; and be it

**FURTHER RESOLVED:** that the City Administrator is authorized to accept and appropriate any reimbursements for overtime expenses without returning to the City Council; and be it

**FURTHER RESOLVED:** that City of Oakland shall comply with all relevant federal laws, such as Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and rules related to lobbying, debarment, suspension, and a drug-free workspace; and be it

**FURTHER RESOLVED:** That in accordance with Article IV, Section 401(6) of the City Charter, the MOU authorized by this resolution shall be approved by as to form and legality before execution, and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

JUL 18 2023

AYES - FIFE, GALLO, ~~WILSON~~, KALB, KAPLAN, RAMACHANDRAN, REID,  
AND PRESIDENT FORTUNATO BAS - 7

NOES -  
ABSENT -  
ABSTENTION -

1 Excused - Jenkins

ATTEST:

ASHA REED  
City Clerk and Clerk of the  
Council of the City of Oakland,  
California