



# Memorandum

**TO:** Kevin J. Jackson, Village Manager  
Paul Stephanides, Village Attorney

**FROM:** Kira Tchang, Assistant Village Manager/HR Director and Staff Liaison to Citizen Police Oversight Committee

**DATE:** May 7, 2024

**SUBJECT:** Citizen Police Oversight Committee Feedback Regarding Proposed Surveillance Technology Ordinance

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## Purpose

The purpose of this memo is to share the questions and feedback generated by the Citizen Police Oversight Committee in response to the proposed Surveillance Technology Ordinance currently under review in the Village.

## Background

On September 11, 2023 the Village Board reviewed proposed ordinance language regarding Surveillance Technology based on the ACLU Community Control Over Police Surveillance (CCOPS) which originated through the Civic Information Systems Commission (CISC). Based on CPOC's current oversight role related to existing surveillance technology (Flock ALPR cameras), staff believed it would be appropriate to engage with the committee and gather feedback on the draft ordinance. On January 31, 2024, the Citizen Police Oversight Committee reviewed the draft language which incorporated the preliminary feedback provided by the Board of Trustees and provided verbal and written feedback to staff. On April 15, 2024, the Committee reviewed all feedback as a body and brought forward a series of questions and comments for staff and the Board of Trustees to consider.

## Citizen Police Oversight Feedback

1. The Citizen Police Oversight Committee (CPOC) is seeking to clarify if the ordinance is removing CPOC from oversight of the Flock ALPR Cameras. If yes, will there be any oversight over other types of surveillance technology beyond the Oak Park Police Department. If there is an intent for CPOC to continue to play a role in oversight of surveillance technology, whether Flock ALPR or other forms of technology, the specific role or authority should be codified or referenced in the ordinance.
2. There is a reference within the draft ordinance to impact analysis. What is the impact analysis? How is data gathered? How is it analyzed? How is impact determined?
3. In addition, for all forms of surveillance technology adopted by the Village, who determines the safeguards, accountability and oversight referenced with surveillance technology? This should be clearly stated.

4. What is to be provided in the annual summary referenced in the ordinance? The Committee would like to see the impact analysis included in the annual report.
5. Surveillance technology should identify a rationale for implementation, and if the technology doesn't address the intended reason, there should be a mechanism for evaluating the need and/or removing the technology.
6. Part of the analysis should be regarding cost and there should be a cost benefit analysis conducted.
7. How is the Board considering grant application deadlines when setting specific timelines or deadlines for adopting or eliminating surveillance technology programs?

Specific written comments provided by individual members of CPOC are also attached and may include technical questions.

If you have any questions regarding this memo, please contact Kira Tchang, Assistant Village Manager/HR Director at [ktchang@oak-park.us](mailto:ktchang@oak-park.us) or 708-358-5652.

cc: Lisa Shelley, Deputy Village Manager  
Ahmad Zayyad, Deputy Village Manager  
Erin E. Baynes, Assistant to the Village Manager  
Christina M. Waters, Village Clerk  
All Department Directors

**From:** [Sue Humphreys](#)  
**To:** [Tchang, Kira](#); [Kevin Barnhart](#)  
**Subject:** Comments on Draft Surveillance doc  
**Date:** Sunday, February 04, 2024 10:39:11 AM  
**Attachments:** [03B Surveillance Technology Ordinance 01-08-24 track changes\\_SH.docx](#)

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Hi,

Attached are my comments re: the draft surveillance tech ordinance provided at our January meeting. I'm mostly concerned with the elimination of any CPOC (or any non-OPPD) oversight re: use of said technologies and/or community impact resulting from use. It's interesting (alarming?) to me that no CISC members, OPPD leadership, nor VOP board/president who have already reviewed this doc have inserted a single consideration for outside/non-police oversight on any basis other than an annual report produced by OPPD. "Impact" as it were, will be decided by OPPD with no provision for recording actual impact to impacted community members. This is also true of Flock reporting at this time, but at least there's a mechanism for some level of independent Flock use/review/analysis via CPOC. If I'm reading this correctly, even that goes out the window if this ordinance is approved as-is.

Please advise when this ordinance is placed on the Board agenda for approval.

Thanks,  
Sue H.

# DRAFT

## ORDINANCE

### **AN ORDINANCE AMENDING CHAPTER 19 ("POLICE DEPARTMENT") OF THE OAK PARK VILLAGE CODE TO ADD A NEW ARTICLE 6 ("LAW ENFORCEMENT SURVEILLANCE OVERSIGHT") TO PROMOTE TRANSPARENCY AND TO PROTECT CIVIL RIGHTS AND CIVIL LIBERTIES WITH RESPECT TO LAW ENFORCEMENT SURVEILLANCE TECHNOLOGY**

**WHEREAS**, the Village of Oak Park (the "Village") is a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, pursuant to its Constitutional home rule powers, the Village has the authority "to regulate for the protection of the public health, safety, morals, and welfare," Ill. Const art. 7 § 6; and

**WHEREAS**, the "powers and functions of home rule units shall be construed liberally," and written "with the intention that home rule units be given the broadest powers possible," *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

**WHEREAS**, the State of Illinois adopted the Freedom from Location Surveillance Act, 725 ILCS 168/1 *et seq.*, in 2014, which requires a court order before a law enforcement agency, which includes the Village's Police Department, may obtain location information pertaining to a person without a court order except under limited circumstances; and

**WHEREAS**, the Village Board finds it is essential to have an informed public discussion about decisions related to surveillance technology and its potential impact on privacy, civil rights and civil liberties, including those rights guaranteed by the United States Constitution and the Illinois Constitution; and

**WHEREAS**, in order to have such a public discussion, a public hearing is to be required before any surveillance technology is ~~sought~~, acquired, or used by the Village's Police Department; and

**WHEREAS**, the Village Board finds that safeguards, including transparency, oversight, and accountability measures, must be in place to protect civil rights and civil liberties before new surveillance technology is deployed by the Village; and

**WHEREAS**, the Village Board finds that an annual surveillance technology report should be provided by Village staff to the Village Board for the purpose of providing information on the use of such technologies to the public; and

**WHEREAS**, this Ordinance is not intended to discourage the adoption of surveillance technology that will make Oak Park's residents more secure, but is rather intended to: (i)

establish safeguards, including transparency, oversight, approval, and accountability measures to protect civil rights and civil liberties before new surveillance technology is acquired or deployed by the Village's Police Department; (ii) ensure that a public hearing is held before any such new technology is acquired or used by the Police Department; (iii) establish data reporting measures regarding the use and implementation of surveillance technology by the Police Department; (iv) improve public confidence in law enforcement and new technology and equipment that is approved for use; and (v) provide mechanisms for continued oversight and annual evaluation; and

**WHEREAS**, this Ordinance is adopted pursuant to the Village's home rule authority and is supplementary to the Protecting Household Privacy Act, 5 Illinois Compiled Statutes 855/1 *et seq.*, the Freedom from Drone Surveillance Act, 725 Illinois Compiled Statutes 167/1 *et seq.*, and the Freedom from Location Surveillance Act, 725 Illinois Compiled Statutes 168/1 *et seq.*

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

**Section 2. Village Code Amended.** Chapter 19 ("Police Department") of the Oak Park Village Code is amended to add a new Article 6 ("Law Enforcement Surveillance Oversight") as follows:

#### **ARTICLE 6 LAW ENFORCEMENT SURVEILLANCE OVERSIGHT**

**19-6-1: DEFINITIONS**

**19-6-2: VILLAGE BOARD REVIEW**

**19-6-3: USE OF UNAPPROVED TECHNOLOGY DURING EXIGENT CIRCUMSTANCES:**

**19-6-4: OVERSIGHT FOLLOWING BOARD APPROVAL**

**19-6-5: INCORPORATION OF STATE LAW; CONFLICT**

**19-6-6: PROHIBITIONS AND PENALTIES:**

**19-6-1: DEFINITIONS:**

For the purposes of this article, The following words and phrases shall have the meanings, and are hereby defined, as follows:

**ANNUAL SURVEILLANCE REPORT:** An annual written report concerning specific surveillance technology that is used by the Police Department.

**Commented [A1]:** Why "specific"? Should this be "any", "all", or something more inclusive?

A. The annual surveillance report shall include all of the following:

1. A general description of the surveillance technology used, including general locations and neighborhoods where technology or equipment was deployed;
2. A general description of whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the type(s) of data, and general justification for the disclosure(s);
3. A summary of community complaints about the surveillance technology item;
4. The results of any internal audits required by the surveillance use policy and information about violations of the policy;
5. Information that may assist the Village Board to assess whether the surveillance technology has been effective at achieving its identified purposes;
6. An analysis of any discriminatory or other adverse impacts the use of the surveillance technology may have had on the public's civil rights and civil liberties, including but not limited to those guaranteed by the First, Fourth, and Fourteenth Amendments to the United States Constitution and the Illinois Constitution;
7. Total costs, to the extent possible, including maintenance, and other ongoing costs, for the surveillance technology and anticipated funding for the technology as needed;
8. Any requested modifications to the surveillance technology use policy applicable to the item; and
9. Aggregate information concerning technology or tools exempted pursuant to subsection A(16) under the definition of surveillance technology below.

**Commented [A2]:** From CPOC perspective, should this be "exact" or "specific"?

**Commented [A3]:** As we've discovered with Flock, our data can be shared with other entities indirectly through access to the broader Flock Network... we should ensure this type of access is covered if said access could potentially violate other safeguards intended to protect how the data is used

**Commented [A4]:** (1) Should CPOC be involved in these complaints? (2) what is the purpose of the word "item"?

**Commented [A5]:** Who is auditing this?

**Commented [A6]:** CPOC oversight and included in CPOC semi-annual report (like Flock is)

**Commented [A7]:** Analyzed by whom? Does this include adding a formal Impact Statement for folks that interact with police? We cannot analyze adverse impact without the input of those directly impacted...

**EXIGENT CIRCUMSTANCES:** The Police Chief's or the Police Chief's designee's good faith belief that there exists an emergency involving imminent danger of death, serious physical injury to any person, or imminent danger of significant property damage that poses a risk of harm to the safety of the occupants of the property or the public which requires the use of the surveillance technology or the information it provides.

**Commented [A8]:** Curiosity: an example of this, please?

**PERSONAL COMMUNICATION DEVICE:** A cellular telephone that has not been modified beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet, or similar wireless two-way communications and/or portable Internet accessing devices, whether procured or subsidized by the Village or personally owned, that is used in the regular course of conducting Village business.

**SURVEILLANCE IMPACT REPORT:** A written report including at a minimum the following:

- A. Information describing the surveillance technology and how it works;

B. Information on the proposed purpose(s) and use(s) for the surveillance technology, along with any existing independent evaluations demonstrating that the surveillance technology can help achieve that purpose;

C. If applicable, the location(s) where it may be deployed and crime statistics for such location(s);

D. The known fiscal costs for the surveillance technology, including initial purchase, personnel, and other known ongoing costs, and any current or potential sources of funding;

E. A description of any possible adverse impacts the use of the surveillance technology may have on civil rights and liberties, and: (1) the safeguards that will be implemented to prevent the impacts; and (2) the potential uses of the surveillance technology that will be expressly prohibited; and

F. Whether use or maintenance of the surveillance technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis.

**SURVEILLANCE TECHNOLOGY:** Any device or system designed, used, or intended to be used to collect, retain, process, or share audio, electronic, visual, location, thermal, olfactory, or similar information associated with, or capable of being associated with, any specific individual or group of specific individuals by the Police Department for law enforcement purposes. Examples of surveillance technologies include, but are not limited to: cell site simulators (stingrays); automatic license plate readers; gunshot detectors; facial recognition software; gait analysis software; surveillance enabled or capable light bulbs or light fixtures; social media monitoring software; video cameras that record audio or video and can transmit or be remotely accessed; and software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software based on surveillance. The enumeration of surveillance technology examples herein shall not be interpreted as an endorsement or approval of their use by the Police Department.

A. "Surveillance technology" does not include the following devices, hardware, or software:

1. Body-worn cameras as required by the Illinois Law Enforcement-Worn Body Camera Act, 50 ILCS 706/10-1 *et seq.*, as amended;
2. In-vehicle Police Department squad cameras;
3. Office hardware, such as televisions, computers, credit card machines, copy machines, telephones, and printers that are in widespread use by Village departments and used for routine Village business and transactions;
4. Village databases and enterprise systems that contain information kept in the

ordinary course of Village business and do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology, including, but not limited to human resources, permits, parking, business records, payroll, accounting, or other fiscal databases;

5. Information technology security systems, including firewalls and other cybersecurity systems;
6. Physical access control systems, employee identification management systems, and other physical control systems;
7. Infrastructure and mechanical control systems, including those that control or manage street lights, traffic lights, electrical, natural gas, water or sewer functions, and pedestrian and bicycle traffic management;
8. Manually-operated technological devices used primarily for internal Village and departmental communications and are not designed to surreptitiously collect surveillance data, such as radios, Personal Communication Devices, and email systems;
9. Manually-operated, non-wearable, handheld 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;
10. Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision equipment;
11. Computers, software, hardware, or devices used in monitoring the work and work-related activities involving Village buildings, employees, contractors, and volunteers or used in conducting internal investigations involving Village employees, contractors, and volunteers;
12. Medical equipment and systems used to record, diagnose, treat, or prevent disease or injury and are used and/or kept in the ordinary course of providing Village services;
13. Parking enforcement and management devices;
14. Police department interview room, holding cell, and Police Department internal security audio/video recording systems;
15. Police Department computer aided dispatch (CAD), records/case management, live scan, booking, and related dispatch and operation or emergency services systems and state and federal law enforcement databases;



~~16. Technology or tools used to investigate specific criminal incidents where such technology or tools are not readily known to the public and for which the effectiveness of the technology or tool would be compromised by disclosure;~~

16. Camera systems employed for the safety and security of the public at Village-owned facilities and for the security of such facilities;

17. Access control systems, including license plate recognition technology, used at Village-owned parking facilities to administer Village parking permit programs and to administer daily parking fee programs;

18. Smart meter technology employed for water and sewer utility purposes;

19. Any technology that collects information exclusively regarding Village employees or contractors; and

20. Technology or tools used by Village police officers solely while they are working as part of an established federal task force.

**Commented [A9]:** Curiosity: example of this?

**SURVEILLANCE USE POLICY:** A policy adopted by the Police Chief for the use of the surveillance technology. Such policy shall be posted and available to the public on the Village's website for as long as the policy is in effect. The policy must, at a minimum, provide as follows:

A. **Purpose:** The specific purpose(s) that the surveillance technology item is intended to advance.

B. **Authorized Use:** The uses that are authorized, and the rules and processes required prior to and associated with such use.

C. **Data Collection:** The information that can be collected by the surveillance technology, including "open source" data.

D. **Data Access:** The category of individuals who can access or use the collected information, and the rules and processes required prior to access or use of the information.

**Commented [A10]:** And/or entities?

E. **Data Protection:** The general safeguards that protect information from unauthorized access, including encryption and access control mechanisms. Nothing in this subsection shall be construed to require the disclosure of information that could reveal vulnerabilities to, or otherwise increase the potential for an attack on, any information technology system of the Village.

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.

**Commented [A11]:** Is this strong enough? Should this be “purged” or “wiped”? In software, “deleted” data often leaves a trail...

G. Whenever fixed surveillance technology is moved or deployed, the Police Department shall provide notice of the locations of the surveillance technology in accordance with its policy. The Police Department will attempt to provide notice as soon as practicable, but at a minimum will require posting the notice on the Village’s website. Such notice will not be provided if the surveillance technology is being used to investigate specific criminal incidents or if the disclosure would otherwise impair an investigation.

**Commented [A12]:** ... and providing notice to CPOC?

**Commented [A13]:** Should this at least be reported “after the fact”?

H. Public Access: How collected information can be accessed or used by members of the public, including criminal defendants.

I. Third Party Data Sharing: If and how other Village or non-Village entities can access, use, or retain the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information.

J. Training: The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology.

K. Auditing and Oversight: The mechanisms to ensure that the surveillance use policy is followed, including internal personnel assigned to ensure compliance with the surveillance use policy, internal record keeping 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 surveillance use policy. The surveillance use policy will provide for an audit of all technology used by the Police Department, which shall include technology or tools exempt from this article and will restrict the use of information obtained from such exempt technology or tools.

**Commented [A14]:** Consideration for CPOC oversight as with Flock currently? Specifically, “use” reports both internally and externally

#### 19-6-2: VILLAGE BOARD REVIEW:

A. The Police Department must obtain Village Board approval subsequent to a public hearing at which the public is afforded an opportunity to provide written and verbal comments prior to any of the following:

1. Seeking funds for new law enforcement 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;
2. Acquiring or borrowing new law enforcement surveillance technology, whether or not that acquisition is made through the exchange of monies or other consideration;
3. Using new or existing surveillance technology for a purpose or in a manner not

previously approved by the Village Board in accordance with this Ordinance, including the sharing of surveillance data therefrom; or

4. Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share or otherwise use law enforcement surveillance technology or surveillance data.

B. Prior to seeking Village Board approval pursuant to this section, the Police Department shall submit to the Village Board a surveillance impact report and a proposed surveillance use policy at least thirty (30) days prior to the public hearing required by subsection A above. Within twenty-four (24) hours of submission, notice of the public hearing, the surveillance impact report and proposed surveillance use policy shall be posted on the Village's website with a notice that any written public comment must be filed with the Village Clerk prior to the scheduled public hearing. The Village Clerk shall post the timely received public comments on the website. In addition, notice of the public hearing, the surveillance impact report, and the proposed use policy shall be promptly emailed to all individuals that have filled out a request for notice of the Reports with the Division of Public Affairs and shall be posted to the Village's social media channels.

**Commented [A15]:** Consideration in this section for CPOC to review specifically?

**Commented [A16]:** "intended" impact? How will the PD know the impact of said technology prior to its use?

C. Prior to approving or rejecting any action described in subsection (a), the Village Board may request that revisions be made by the Village Manager or Police Department as appropriate.

D. Upon consideration of the surveillance impact report and any public comment, and consideration and reliance upon the proposed use policy, the Village Board may approve any action described in this section by a majority vote.

E. Notwithstanding any other provision in this article, nothing herein shall be construed to prevent, restrict or interfere with any person providing evidence derived from surveillance technology to the Police Department for the purposes of conducting a criminal investigation, nor require the Village to violate any applicable law, including, but not limited to, the Protecting Household Privacy Act, 5 Illinois Compiled Statutes 855/1 et seq., the Freedom from Drone Surveillance Act, 725 Illinois Compiled Statutes 167/1 et seq., and the Freedom from Location Surveillance Act, 725 Illinois Compiled Statutes 168/1 et seq.

#### **19-6-3: USE OF UNAPPROVED TECHNOLOGY DURING EXIGENT CIRCUMSTANCES:**

The Police Chief or the Police Chief's designee may authorize the Police Department's temporary acquisition or temporary use of surveillance technology in exigent circumstances without following the provisions of this article before that acquisition or use. If the Police Department acquires or uses surveillance technology pursuant to this Section, the Police Department shall:

- A. Use the surveillance technology to solely respond to the exigent circumstance;

B. Cease using the surveillance technology ~~within thirty (30) days as soon as practicable~~ or when the exigent circumstance ends, whichever is sooner. All use must end when the exigent circumstances end;

C. Only keep and maintain data related to the exigent circumstance and dispose of any data that is not relevant to an ongoing investigation;

D. Within thirty (30) days ~~after the end of the~~ from when the exigent circumstances began ~~or as soon as practicable, whichever comes first,~~ submit a report to the Village Manager to be provided with the Village Board. The report must explain the exigent circumstances, why the technology or equipment was needed to address the exigent circumstances, how the exigent circumstances prevented the Police Department from following the approval process in this ordinance, and describe how the technology or equipment was used. This report shall be promptly posted on the Village's website.

**Commented [A17]:** Include CPOC?

#### **19-6-4: OVERSIGHT FOLLOWING BOARD APPROVAL:**

A. By the end of each fiscal year, the Police Department must present a written annual surveillance report to the Village Board. If the Police Department is unable to meet the deadline, the Police Chief shall notify the Village Board in writing and request an extension, including the reasons for that request. The Village Board may grant a reasonable extension(s) for the Police Department to comply with this section.

**Commented [A18]:** Shouldn't this be included in CPOC semi-annual reports, comprised of data provided by OPPD to CPOC monthly (ala Flock)?

CPOC has been quite literally removed from oversight of the use of all surveillance tech by OPPD

B. Within five (5) business days of the submission of the annual report, the report shall be made publicly available on the Village's website. At least thirty (30) days after the posting of the report, the Village Board shall have on a Board meeting agenda a presentation of the report. At such meeting, citizens will be given an opportunity to comment on the report, including in writing. The Village Board need not take any action on an annual report but may vote to cease the use of any particular surveillance technology or may propose modifications to the use policy for any of the surveillance technologies in the report.

#### **19-6-5: INCORPORATION OF STATE LAW; CONFLICT:**

The Protecting Household Privacy Act, 5 Illinois Compiled Statutes 855/1 *et seq.*, the Freedom from Drone Surveillance Act, 725 Illinois Compiled Statutes 167/1 *et seq.*, and the Freedom from Location Surveillance Act, 725 Illinois Compiled Statutes 168/1 *et seq.*, are incorporated herein by reference as part of this article. In the case of a conflict between a provision of state law and a provision of this article, the more stringent provision shall control.

#### **19-6-6: PROHIBITIONS AND PENALTIES:**

A. The Village shall not enter into any contract or agreement that conflicts with the provisions of this article.

B. Any Village officer or employee who knowingly violates this article shall be subject to appropriate discipline pursuant to the Village’s disciplinary procedures for officers or employees.

**Section 5. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**Commented [A19]:** Including... CPOC oversight of Flock use...  
Has the Board already approved this informally?

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enyia				
Trustee Parakkat				
Trustee Robinson				
Trustee Straw				
Trustee Wesley				

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Vicki Scaman, Village President

**ATTEST**

\_\_\_\_\_  
Christina M. Waters, Village Clerk

Published in pamphlet form this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Christina M. Waters, Village Clerk

**From:** [Kevin Barnhart](#)  
**To:** [Tchang, Kira](#)  
**Subject:** Comments on Surveillance Ordinance  
**Date:** Monday, February 05, 2024 5:13:05 PM  
**Attachments:** [KB-Surveillance Technology Ordinance 02-05-24 track changes.docx](#)

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Hi Kira,

Attached are my comments on the draft surveillance ordinance. My primary concerns revolve around ensuring transparent oversight for all surveillance networks, including private ones that collaborate with law enforcement, and their inclusion in the annual surveillance report. Furthermore, it is imperative to establish protocols for addressing any instances where surveillance technology is discovered to cause harm or infringe upon the civil rights and liberties of the public, including procedures for the removal of such technology.

Regards,

Kevin

Kevin Barnhart  
CPOC - Chair  
[kevbarnhart@gmail.com](mailto:kevbarnhart@gmail.com)

# DRAFT

## ORDINANCE

### **AN ORDINANCE AMENDING CHAPTER 19 ("POLICE DEPARTMENT") OF THE OAK PARK VILLAGE CODE TO ADD A NEW ARTICLE 6 ("LAW ENFORCEMENT SURVEILLANCE OVERSIGHT") TO PROMOTE TRANSPARENCY AND TO PROTECT CIVIL RIGHTS AND CIVIL LIBERTIES WITH RESPECT TO LAW ENFORCEMENT SURVEILLANCE TECHNOLOGY**

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**WHEREAS**, this Ordinance is not intended to discourage the adoption of surveillance technology that will make Oak Park's residents more secure, but is rather intended to: (i)

**Commented [A1]:** Who defines these characteristics?

**Commented [A2]:** Who authors the annual surveillance report? When is the report provided to the board?

establish safeguards, including transparency, oversight, approval, and accountability measures to protect civil rights and civil liberties before new surveillance technology is acquired or deployed by the Village's Police Department; (ii) ensure that a public hearing is held before any such new technology is acquired or used by the Police Department; (iii) establish data reporting measures regarding the use and implementation of surveillance technology by the Police Department; (iv) improve public confidence in law enforcement and new technology and equipment that is approved for use; and (v) provide mechanisms for continued oversight and annual evaluation; and

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**ARTICLE 6  
LAW ENFORCEMENT SURVEILLANCE OVERSIGHT**

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2. A general description of whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the type(s) of data, and general justification for the disclosure(s);
3. A summary of community complaints about the surveillance technology item;
4. The results of any internal audits required by the surveillance use policy and information about violations of the policy;
5. Information that may assist the Village Board assess whether the surveillance technology has been effective at achieving its identified purposes;
6. An analysis of any discriminatory or other adverse impacts the use of the surveillance technology may have had on the public's civil rights and civil liberties, including but not limited to those guaranteed by the First, Fourth, and Fourteenth Amendments to the United States Constitution and the Illinois Constitution;
7. Total costs, to the extent possible, including maintenance, and other ongoing costs, for the surveillance technology and anticipated funding for the technology as needed;
8. Any requested modifications to the surveillance technology use policy applicable to the item; and
9. Aggregate information concerning technology or tools exempted pursuant to subsection A(16) under the definition of surveillance technology below.

**EXIGENT CIRCUMSTANCES:** The Police Chief's or the Police Chief's designee's good faith belief that there exists an emergency involving imminent danger of death, serious physical injury to any person, or imminent danger of significant property damage that poses a risk of harm to the safety of the occupants of the property or the public which requires the use of the surveillance technology or the information it provides.

**PERSONAL COMMUNICATION DEVICE:** A cellular telephone that has not been modified beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet, or similar wireless two-way communications and/or portable Internet accessing devices, whether procured or subsidized by the Village or personally owned, that is used in the regular course of conducting Village business.

**SURVEILLANCE IMPACT REPORT:** A written report including at a minimum the following:

- A. Information describing the surveillance technology and how it works;

**Commented [A3]:** Does this include the private network of home/business security camera systems that share video information with the police department?

If not, how is the police department's use of private video network monitored?

**Commented [A4]:** Provide provisions for removing said technology if identified purposes are not met. No technology should last in perpetuity without achieving desired goals. Nor should the technology remain in place that creates harm in the community.

**Commented [A5]:** The analysis of the adverse impacts of using surveillance technology must be included in the annual surveillance technology report, discussed with the Village Board, and presented to the public.

Add a section to this ordinance that establishes a criteria for the removal of any surveillance technology shown to have discriminatory or adverse impacts on the public.

**Commented [A6]:** Let's establish a threshold of costs that are acceptable. For example, the cost to own and operate the system should not exceed a pre-defined percentage of the total deployment costs (or some other measure) that assures costs are kept in line with budgetary guidelines and that also serves the communities concern.

For example, the Village should not pay \$20K/year to pursue/investigate minor offenses such as package thefts from porches.

B. Information on the proposed purpose(s) and use(s) for the surveillance technology, along with any existing independent evaluations demonstrating that the surveillance technology can help achieve that purpose;

C. If applicable, the location(s) where it may be deployed and crime statistics for such location(s);

D. The known fiscal costs for the surveillance technology, including initial purchase, personnel, and other known ongoing costs, and any current or potential sources of funding;

E. A description of any possible adverse impacts the use of the surveillance technology may have on civil rights and liberties, and: (1) the safeguards that will be implemented to prevent the impacts; and (2) the potential uses of the surveillance technology that will be expressly prohibited; and

F. Whether use or maintenance of the surveillance technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis.

**SURVEILLANCE TECHNOLOGY:** Any device or system designed, used, or intended to be used to collect, retain, process, or share audio, electronic, visual, location, thermal, olfactory, or similar information associated with, or capable of being associated with, any specific individual or group of specific individuals by the Police Department for law enforcement purposes. Examples of surveillance technologies include, but are not limited to: cell site simulators (stingrays); automatic license plate readers; gunshot detectors; facial recognition software; gait analysis software; surveillance enabled or capable light bulbs or light fixtures; social media monitoring software; video cameras that record audio or video and can transmit or be remotely accessed; and software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software based on surveillance. The enumeration of surveillance technology examples herein shall not be interpreted as an endorsement or approval of their use by the Police Department.

A. "Surveillance technology" does not include the following devices, hardware, or software:

1. Body-worn cameras as required by the Illinois Law Enforcement-Worn Body Camera Act, 50 ILCS 706/10-1 *et seq.*, as amended;
2. In-vehicle Police Department squad cameras;
3. Office hardware, such as televisions, computers, credit card machines, copy machines, telephones, and printers that are in widespread use by Village departments and used for routine Village business and transactions;
4. Village databases and enterprise systems that contain information kept in the

ordinary course of Village business and do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology, including, but not limited to human resources, permits, parking, business records, payroll, accounting, or other fiscal databases;

5. Information technology security systems, including firewalls and other cybersecurity systems;
6. Physical access control systems, employee identification management systems, and other physical control systems;
7. Infrastructure and mechanical control systems, including those that control or manage street lights, traffic lights, electrical, natural gas, water or sewer functions, and pedestrian and bicycle traffic management;
8. Manually-operated technological devices used primarily for internal Village and departmental communications and are not designed to surreptitiously collect surveillance data, such as radios, Personal Communication Devices, and email systems;
9. Manually-operated, non-wearable, handheld 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;
10. Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision equipment;
11. Computers, software, hardware, or devices used in monitoring the work and work-related activities involving Village buildings, employees, contractors, and volunteers or used in conducting internal investigations involving Village employees, contractors, and volunteers;
12. Medical equipment and systems used to record, diagnose, treat, or prevent disease or injury and are used and/or kept in the ordinary course of providing Village services;
13. Parking enforcement and management devices;
14. Police department interview room, holding cell, and Police Department internal security audio/video recording systems;
15. Police Department computer aided dispatch (CAD), records/case management, live scan, booking, and related dispatch and operation or emergency services systems and state and federal law enforcement databases;

~~16. Technology or tools used to investigate specific criminal incidents where such technology or tools are not readily known to the public and for which the effectiveness of the technology or tool would be compromised by disclosure;~~

16. Camera systems employed for the safety and security of the public at Village-owned facilities and for the security of such facilities;

17. Access control systems, including license plate recognition technology, used at Village-owned parking facilities to administer Village parking permit programs and to administer daily parking fee programs;

18. Smart meter technology employed for water and sewer utility purposes;

19. Any technology that collects information exclusively regarding Village employees or contractors; and

20. Technology or tools used by Village police officers solely while they are working as part of an established federal task force.

SURVEILLANCE USE POLICY: A policy adopted by the Police Chief for the use of the surveillance technology. Such policy shall be posted and available to the public on the Village's website for as long as the policy is in effect. The policy must, at a minimum, provide as follows:

A. Purpose: The specific purpose(s) that the surveillance technology item is intended to advance.

B. Authorized Use: The uses that are authorized, and the rules and processes required prior to and associated with such use.

C. Data Collection: The information that can be collected by the surveillance technology, including "open source" data.

D. Data Access: The category of 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 general safeguards that protect information from unauthorized access, including encryption and access control mechanisms. Nothing in this subsection shall be construed to require the disclosure of information that could reveal vulnerabilities to, or otherwise increase the potential for an attack on, any information technology system of the Village.

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. Whenever fixed surveillance technology is moved or deployed, the Police Department shall provide notice of the locations of the surveillance technology in accordance with its policy. The Police Department will attempt to provide notice as soon as practicable, but at a minimum will require posting the notice on the Village's website. Such notice will not be provided if the surveillance technology is being used to investigate specific criminal incidents or if the disclosure would otherwise impair an investigation.

H. Public Access: How collected information can be accessed or used by members of the public, including criminal defendants.

I. Third Party Data Sharing: If and how other Village or non-Village entities can access, use, or retain the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information.

J. Training: The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology.

K. Auditing and Oversight: The mechanisms to ensure that the surveillance use policy is followed, including internal personnel assigned to ensure compliance with the surveillance use policy, internal record keeping 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 surveillance use policy. The surveillance use policy will provide for an audit of all technology used by the Police Department, which shall include technology or tools exempt from this article and will restrict the use of information obtained from such exempt technology or tools.

#### **19-6-2: VILLAGE BOARD REVIEW:**

A. The Police Department must obtain Village Board approval subsequent to a public hearing at which the public is afforded an opportunity to provide written and verbal comments prior to any of the following:

1. Seeking funds for new law enforcement 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;
2. Acquiring or borrowing new law enforcement surveillance technology, whether or not that acquisition is made through the exchange of monies or other consideration;
3. Using new or existing surveillance technology for a purpose or in a manner not

previously approved by the Village Board in accordance with this Ordinance, including the sharing of surveillance data therefrom; or

4. Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share or otherwise use law enforcement surveillance technology or surveillance data.

B. Prior to seeking Village Board approval pursuant to this section, the Police Department shall submit to the Village Board a surveillance impact report and a proposed surveillance use policy at least thirty (30) days prior to the public hearing required by subsection A above. Within twenty-four (24) hours of submission, notice of the public hearing, the surveillance impact report and proposed surveillance use policy shall be posted on the Village's website with a notice that any written public comment must be filed with the Village Clerk prior to the scheduled public hearing. The Village Clerk shall post the timely received public comments on the website. In addition, notice of the public hearing, the surveillance impact report, and the proposed use policy shall be promptly emailed to all individuals that have filled out a request for notice of the Reports with the Division of Public Affairs and shall be posted to the Village's social media channels.

C. Prior to approving or rejecting any action described in subsection (a), the Village Board may request that revisions be made by the Village Manager or Police Department as appropriate.

D. Upon consideration of the surveillance impact report and any public comment, and consideration and reliance upon the proposed use policy, the Village Board may approve any action described in this section by a majority vote.

E. Notwithstanding any other provision in this article, nothing herein shall be construed to prevent, restrict or interfere with any person providing evidence derived from surveillance technology to the Police Department for the purposes of conducting a criminal investigation, nor require the Village to violate any applicable law, including, but not limited to, the Protecting Household Privacy Act, 5 Illinois Compiled Statutes 855/1 *et seq.*, the Freedom from Drone Surveillance Act, 725 Illinois Compiled Statutes 167/1 *et seq.*, and the Freedom from Location Surveillance Act, 725 Illinois Compiled Statutes 168/1 *et seq.*

#### **19-6-3: USE OF UNAPPROVED TECHNOLOGY DURING EXIGENT CIRCUMSTANCES:**

The Police Chief or the Police Chief's designee may authorize the Police Department's temporary acquisition or temporary use of surveillance technology in exigent circumstances without following the provisions of this article before that acquisition or use. If the Police Department acquires or uses surveillance technology pursuant to this Section, the Police Department shall:

- A. Use the surveillance technology to solely respond to the exigent circumstance;

B. Cease using the surveillance technology ~~within thirty (30) days~~ as soon as practicable or when the exigent circumstance ends, whichever is sooner. All use must end when the exigent circumstances end;

C. Only keep and maintain data related to the exigent circumstance and dispose of any data that is not relevant to an ongoing investigation;

D. Within thirty (30) days ~~after the end of the~~ from when the exigent circumstances began or as soon as practicable, whichever comes first, submit a report to the Village Manager to be provided with the Village Board. The report must explain the exigent circumstances, why the technology or equipment was needed to address the exigent circumstances, how the exigent circumstances prevented the Police Department from following the approval process in this ordinance, and describe how the technology or equipment was used. This report shall be promptly posted on the Village's website.

#### **19-6-4: OVERSIGHT FOLLOWING BOARD APPROVAL:**

A. By the end of each fiscal year, the Police Department must present a written annual surveillance report to the Village Board. If the Police Department is unable to meet the deadline, the Police Chief shall notify the Village Board in writing and request an extension, including the reasons for that request. The Village Board may grant a reasonable extension(s) for the Police Department comply with this section.

B. Within five (5) business days of the submission of the annual report, the report shall be made publicly available on the Village's website. At least thirty (30) days after the posting of the report, the Village Board shall have on a Board meeting agenda a presentation of the report. At such meeting, citizens will be given an opportunity to comment on the report, including in writing. The Village Board need not take any action on an annual report but may vote to cease the use of any particular surveillance technology or may propose modifications to the use policy for any of the surveillance technologies in the report.

#### **19-6-5: INCORPORATION OF STATE LAW; CONFLICT:**

The Protecting Household Privacy Act, 5 Illinois Compiled Statutes 855/1 set seq., the Freedom from Drone Surveillance Act, 725 Illinois Compiled Statutes 167/1 *et seq.*, and the Freedom from Location Surveillance Act, 725 Illinois Compiled Statutes 168/1 *et seq.*, are incorporated herein by reference as part of this article. In the case of a conflict between a provision of state law and a provision of this article, the more stringent provision shall control.

#### **19-6-6: PROHIBITIONS AND PENALTIES:**

A. The Village shall not enter into any contract or agreement that conflicts with the provisions of this article.

B. Any Village officer or employee who knowingly violates this article shall be subject to appropriate discipline pursuant to the Village’s disciplinary procedures for officers or employees.

**Section 5. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enyia				
Trustee Parakkat				
Trustee Robinson				
Trustee Straw				
Trustee Wesley				

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Vicki Scaman, Village President

**ATTEST**

\_\_\_\_\_  
Christina M. Waters, Village Clerk

Published in pamphlet form this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Christina M. Waters, Village Clerk



- Page 6: Recommend changing #17 to read: Access control systems used at Village-owned parking facilities to administer Village parking permit programs and to administer daily parking fee programs , including license plate recognition technology solely used in this capacity and for this purpose;

- Page 9: Discuss intent behind “B”: Cease using the surveillance technology as soon as practicable or when the exigent circumstance ends, whichever is sooner. All use must end when the exigent circumstances end — isn’t the use of the surveillance technology in these cases solely due to the exigent circumstances, so if the exigent circumstances requiring the use of the surveillance technology remains, what would be the justification for as soon as practicably ceasing their use? Is this intended to govern the use of surveillance technology following the conclusion of the exigent circumstances so that they do not remain in place indefinitely?

- Page 9: Recommend changing “C” to read: As soon as practicable, but no later than within thirty (30) days from when the exigent circumstances began, submit a report to the Village Manager to be provided with the Village Board.

- General Questions: What law/ordinance gave CPOC the authority to review this draft? What is our intended purview? Should CPOC’s role/authority be codified in this ordinance?