



February 15<sup>th</sup>, 2019

**To: Dee Williams-Ridley, Berkeley City Manager (manager@CityofBerkeley.info)**

**To: Mark Numainville, Berkeley City Clerk (clerk@CityofBerkeley.info)**

CC: Farimah Brown, Berkeley City Attorney (attorney@CityofBerkeley.info)

CC: the Honorable Jesse Arreguin, Mayor of the City of Berkeley (mayor@CityofBerkeley.info)

CC: Rashi Kesarwani, Cheryl Davila, Ben Bartlett, Kate Harrison, Sophie Hahn, Susan Wengraf, Rigel Robinson, Members of the Berkeley City Council (Council@CityofBerkeley.info)

CC: George Lippman, Chair, Berkeley Peace and Justice Commission (george@igc.org)

CC: Shallon Allen, Berkeley Peace and Justice Commission Secretary (SAllen@CityofBerkeley.info)

CC: Sahana Matthews, Chair, Berkeley Police Review Commission

CC: Katherine Lee, Berkeley Police Review Commission Secretary (prc@CityofBerkeley.info)

CC: Berkeleyside (editors@Berkeleyside.com, emilie@berkeleyside.com), Berkeley Daily Planet (news@BerkeleyDailyPlanet.com), Darwin Bond-Graham (darwinbondgraham@gmail.com)

CC: Matt Cagle, Technology and Civil Liberties Attorney, ACLU of Northern California (mcagle@aclunc.org)

CC: David Maas, Senior Investigative Researcher, Electronic Frontier Foundation (dm@eff.org)

CC: JP Massar, Tracy Rosenberg, Christopher Jasinski, Christina Rosalita, Mike Katz-Lacabe, Lou Katz, Susan Harman - Members, Oakland Privacy.

**Subject: Berkeley Ordinance No. 7,592–N.S., Acquisition and Use Of Surveillance Technology. Alleged Violation Notice.**

On March 27<sup>th</sup>, 2018, Berkeley City Council enacted into law Berkeley Ordinance No. 7,592–N.S.,<sup>i</sup> a Surveillance Equipment regulation ordinance.

Oakland Privacy, a citizen’s coalition that works regionally to defend the right to privacy and enhance public transparency and oversight regarding the use of surveillance techniques and equipment, was an active participant in the creation of this ordinance, which was vetted in draft forms by Berkeley’s Peace and Justice Commission, Berkeley’s Police Review Commission, the Berkeley City Attorney and various members of the City Council.

Section 2.99.050 of that ordinance states (bolding added):

*The City Manager shall submit to the Action Calendar for the first City Council meeting in November of 2018, a Surveillance Acquisition Report and a proposed Surveillance Use Policy for each Surveillance Technology possessed or used prior to the effective date of this ordinance.*

The City Manager did not do this, in violation of the ordinance, consequently the City of Berkeley has been in violation of its own ordinance for more than three months.

Section 2.99.090 of the ordinance states:

*The Chapter does not provide a private right of action upon any person or entity to seek injunctive relief against the City or any employee unless that person or entity has first provided written notice to the City Manager by serving the City Clerk, regarding the specific alleged violations of this Chapter. If a specific alleged violation is not remedied within 90 days of that written notice, a person or entity may seek injunctive relief in a court of competent jurisdiction.*

Please consider this letter written notice of the aforementioned violation by Oakland Privacy and the signatory individuals. The City Clerk will have been served per 2.99.090 as of the date of this letter.

This is a formal request to cure and correct. We look forward to an acknowledgement that the alleged violation has been substantiated, per 2.99.090 (“*If the alleged violation is substantiated...*”), and subsequently cured by having an Acquisition Report and a proposed Use Policy for each surveillance item possessed by the City of Berkeley be placed on the City Council’s agenda forthwith for their consideration.

Thank you.

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Susan Harman ([susanharman1@gmail.com](mailto:susanharman1@gmail.com))

Members of, and on behalf of, Oakland Privacy.

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<sup>i</sup> <https://www.berkeleyside.com/wp-content/uploads/2018/03/2018-03-27-Item-02-Ordinance-7592.pdf>