

Public Safety Commission Meeting (June 5, 2017) - Public Comment
Gregory Foster, City of Austin Community Advocate Appointee
Austin Regional Intelligence Center Privacy Policy Advisory Committee

Introduction

Before I begin, I'd like to thank the Commissioners for their service to the City; public servants are rarely thanked enough. I would also like to thank you for continuing to honor the Commission's obligation to hear and negotiate representation of the diverse interests of the people of the City of Austin through this public forum.

My name is Gregory Foster and I'm here to announce my resignation from my appointed role as the City of Austin's representative on the Austin Regional Intelligence Center's Privacy Policy Advisory Committee. In the time I have, I will briefly describe that role, my work, and the Commission's opportunity to help find a new appointee.

ARIC

The Austin Regional Intelligence Center is the local law enforcement fusion center for the tri-county area. It has been in operation since December 15, 2010. The Center is primarily operated by the Austin Police Department and is legally indistinguishable from APD. It is funded and staffed by an expanding roster of county, city, and school law enforcement agencies.

ARIC Privacy Policy Advisory Committee

The Privacy Policy Advisory Committee and its responsibilities are statutorily described in section IV.F of the ARIC Privacy Policy. The Committee consists of five appointed representatives tasked with tracking and encouraging the increased integrity of the fusion center's privacy policy and practices. The role of the City of Austin's appointee is to be a "community advocate" although there is no statutory definition of what that role or any of the other roles are responsible for in practice. The primary products of the Committee are an annual report with recommendations for any privacy policy changes to the Executive Board of ARIC, and a secondary report to the partner agencies incorporating feedback from the Board.

Community Advocate Role

I was appointed to the community advocate role on the Privacy Policy Advisory Committee in late 2013. The Committee has convened five times throughout my service and has not recommended any changes to ARIC's privacy policy. My primary contribution has been to ensure the Committee abides by and embraces Texas Open Meetings law by collecting voice recordings of all meetings. ARIC generously hosts those recordings and meeting agendas on its public website, a resource that will be helpful for bringing future appointees up-to-speed.

Resignation and Commission's Opportunity to Help Appoint

I am resigning from my role primarily because my family is moving out of the Austin area. There are other reasons and observations I can share with the Commission publicly during a dedicated block of time at your July meeting and/or as a document included in the public record of the Commission's proceedings. I have identified one potential candidate for the role whom I can privately recommend.

The Commission played an important role in vetting my appointment to the community advocate role. Former Council Member Laura Morrison recommended my appointment to her colleagues and sought further vetting from the Public Safety Commission and the Austin Police Department. With the Commission's approval, the appointment was passed on the consent calendar at a City Council meeting. There is no statutory definition of how this process must work, so it is at the Council and Commission's discretion as to how you would like to carry out the next appointment.

It has been an honor to serve the City of Austin in this small way. Thank you for your support, time, and service. I would be happy to answer any questions you may have.

ARIC Privacy Policy (September 2013)

IV. Governance and Oversight

F. Privacy Policy Advisory Committee.

- a. The Privacy Policy Advisory Committee (Committee) shall review the Privacy Policy annually to ensure safeguards, and sanctions are in place to protect personal information, and shall advise the Executive Board of ARIC of its recommendations based upon the purpose and mission statements of ARIC.
- b. The Committee shall annually select from its membership a chair and any additional officers that the board finds appropriate. A person may not serve as the chair for more than two consecutive years. Upon selection of the chair and additional officers, the Committee shall agree upon the meeting schedule and other operational procedures.
- c. The Committee shall include the following, as selected by the governing bodies or their designees:
 1. a community advocate, as selected by the City of Austin;
 2. a licensed attorney, as selected by Hays County;
 3. an information privacy advocate, as selected by the City of Round Rock;
 4. a criminal justice expert, as selected by Travis County; and
 5. a law enforcement expert, as selected by Williamson County.
- d. The Committee shall provide a report to the Partner Agencies no less than once each calendar year that details all proposed or executed changes to the Privacy Policy. The report will include the results of any discussion, review and decision by the Executive Board regarding such changes

FW: Public Safety Commission agenda item on ARIC

Gay, Troy

Mon 3/12/2018 1:07 PM

To: Webber, Rebecca - BC <bc-Rebecca.Webber@austintexas.gov>;

Cc: Jackson, Janet <Janet.Jackson@ausps.org>; Gay, Troy <Troy.Gay@ausps.org>;

Rebecca here are the answers to your questions.

1. Who are the current members of the ARIC Privacy Policy Advisory Committee? What are their terms? Who were their nominating entities (ie Hays County, CoA, etc)?

Members are:

Kristy Orr, Former CHAIR (selected chair on February 25, 2016), Hays County appointee

Mark Kennedy as of Feb. 2018, Hays County appointee

Roger Jefferies, Travis County appointee

Mike Robinson, City of Round Rock appointee

New appointee by Sherriff Chody, WilCo appointee—Deputy Chief Tim Ryle

Place for City of Austin (community advocate) appointee is vacant since Gregory Foster resigned on June 19, 2017

The interlocal agreement that creates the ARIC and ARIC privacy policy both include provisions that govern the composition and duties of the PPAC. Terms (length of service) are not addressed or established in the ILA or the privacy policy. Thus, members may serve for an indefinite term (until they step down). However, the privacy policy DOES establish a term of two years for the Chair. Currently, the chair has been recently replaced and the committee will be meeting soon (TBD) to appoint a chair.

2. What dates did the ARIC Privacy Policy Advisory Committee meet in 2016 and 2017? What is the Committee's meeting schedule for 2018?

The last meeting of the PPAC was on February 25, 2016, and that was the only meeting it held in 2016. No meetings were held in 2017. No meeting schedule has been established for 2018.

3. What dates did the ARIC Privacy Policy Advisory Committee meet with the ARIC Executive Board in 2016 and 2017?

A meeting with the executive board was tentatively planned for August 11, 2016, but that meeting did not take place. There were no meetings with the executive board in 2017.

4. What actions did APD and/or the City Manager take from June 2017 to the present to notify Council of the open seat on the ARIC Privacy Policy Advisory Committee? Please provide all relevant emails, briefings, presentations, agenda items, etc.

The City Clerk's Office was notified in October 2017 and advised APD management they will coordinate with Council and the Public Safety Commission should wait until the Clerk's Office has had the time to discuss this appoint with council and determine who council would like to proceed with appointment.



Troy Gay

Assistant Chief of Police

Support Bureau

Austin Police Department

512.974.5030 | troy.gay@austintexas.gov

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From: McIlvain, Chris

Sent: Friday, February 2, 2018 10:12 AM

To: Gay, Troy <Troy.Gay@austintexas.gov>

Subject: FW: Public Safety Commission agenda item on ARIC

From: Greer, Matthew

Sent: Friday, February 02, 2018 9:33 AM

To: McIlvain, Chris <Chris.McIlvain@austintexas.gov>; Dupre, Brent <Brent.Dupre@austintexas.gov>

Subject: Public Safety Commission agenda item on ARIC

Chief and Commander, please see below info from Cary Grace. I tried to get a hold of Kristy Orr several times last year to suggest she hold a PPAC meeting, but I never got any response from her. Based on Cary's email, it looks like Ms. Orr's term is up anyway and she should be replaced. I'm not sure how the Chair is selected or who is in charge of contacting Hays county to request a new appointee. However, I would be glad to help facilitate in any way possible. Also, we provided a tour of the ARIC last week to an attorney for the Texas Civil Rights Project. He expressed interest in the community advocate position mentioned by Ms. Weber and, in my opinion, would be an excellent addition to the committee. His contact information is below.

Peter Steffensen

Justice Catalyst Fellow / Attorney

Texas Civil Rights Project

O: 512.474.5073 ext. 101

F: 512.474.0726

www.texascivilrightsproject.org

From: Grace, Cary

Sent: Thursday, February 1, 2018 5:51 PM

To: Greer, Matthew <Matthew.Greer@austintexas.gov>

Subject: RE: Public Safety Commission agenda item on ARIC

Lt., I called Roger Jefferies and he will check his records and let us know what he finds. I don't think he'll have any additions to what I'm providing here.

Here is what I know. Members are:

Kristy Orr, CHAIR (selected chair on February 25, 2016), Hays County appointee
Roger Jefferies, Travis County appointee
Mike Robinson, City of Round Rock appointee
New appointee by Sherriff Chody, WilCo appointee—Deputy Chief Tim Ryle
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The last meeting of the PPAC was on February 25, 2016, and that was the only meeting it held in 2016. No meetings were held in 2017. No meeting schedule has been established for 2018. It did not meet with the executive board in 2016 or 2017. A meeting with the executive board was tentatively planned for August 11, 2016, but that meeting did not take place.

The PPAC did not produce annual reports in 2016 or 2017.

Cary

From: Greer, Matthew
Sent: Thursday, February 01, 2018 2:27 PM
To: Grace, Cary <Cary.Grace@austintexas.gov>
Subject: FW: Public Safety Commission agenda item on ARIC
Importance: High

From: McIlvain, Chris
Sent: Thursday, February 1, 2018 1:55 PM
To: Dupre, Brent <Brent.Dupre@austintexas.gov>
Cc: Greer, Matthew <Matthew.Greer@austintexas.gov>
Subject: Fwd: Public Safety Commission agenda item on ARIC
Importance: High

Brent,

Please send me the answers to the questions in the below email string from Rebecca Webber, the Chair of the Austin Public Safety Commission.

Thank you.

Sent from my T-Mobile 4G LTE Device

----- Original message -----
From: "Gay, Troy" <Troy.Gay@austintexas.gov>
Date: 1/31/18 4:56 PM (GMT-06:00)
To: "McIlvain, Chris" <Chris.McIlvain@austintexas.gov>

Subject: FW: Public Safety Commission agenda item on ARIC

Chris can you get ARIC to answer the below and send to me.

Thanks Troy



Troy Gay

Assistant Chief of Police

Support Bureau

Austin Police Department

512.974.5030 | troy.gay@austintexas.gov

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From: Webber, Rebecca - BC

Sent: Wednesday, January 31, 2018 4:19 PM

To: Gay, Troy <Troy.Gay@austintexas.gov>

Cc: Jackson, Janet <Janet.Jackson@austintexas.gov>; Nunez, Daniela - BC <bc-Daniela.Nunez@austintexas.gov>

Subject: Public Safety Commission agenda item on ARIC

Chief Gay, you'll remember that last June or July the PSC intended to recommend an ARIC Privacy Policy Advisory Committee Community Advocate Appointee to Council and we were instructed not to so but rather await instruction from Council.

Since we have heard nothing from Council, I propose to sponsor a PSC resolution in March recommending that Council appoint the Community Advocate.

I would also appreciate copies of the ARIC Privacy Policy Advisory Committee 2016 and 2017 annual reports.

Thanks very much,
Rebecca

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Rebecca Webber
Public Safety Commission
mobile 512-669-9506

Rebecca Webber
Boards and Commissions

Scheduled Meeting Disclosure Information: Written disclosure is required by visitors when attending a scheduled meeting with a City Official regarding a municipal question for compensation on behalf of another person. Anyone scheduling or accepting a meeting invitation with a City Official must either acknowledge that the disclosure requirement does not apply or respond to the following survey: <https://www.surveymonkey.com/r/BCVisitorLog>



TEXAS CIVIL RIGHTS PROJECT

March 15, 2018

Michael Tigar Human Rights Center
1405 Montopolis Drive
Austin, TX 78741
512.474.5073
texascivilrightsproject.org

Austin City Council
Honorable Members
301 W 2nd St.
Austin, TX 78701

RE: Letter of Interest for the Community Advocate Seat on the ARIC Privacy Policy Advisory Committee

Dear Council Members,

It is my pleasure to write to you to declare my interest in being appointed to the community advocate seat on the Austin Regional Intelligence Center's (ARIC) Privacy Policy Advisory Committee. As a legal advocate passionate about bolstering our fundamental rights and liberties against the rapid pace of technological change, I would be honored to represent the citizens of Austin by serving on this committee.

The Texas Civil Rights Project (TCRP) is a non-profit legal advocacy organization that strives to give voice in and out of the courts to the Texas communities that too often find themselves the subject of unjust and inequitable laws. As a Staff Attorney with TCRP's Criminal Justice Reform program, I use state and federal law to work towards a Texas where dignity, equality, and respect are afforded to every person who becomes involved with the criminal justice system.

It is in my capacity as an advocate for the communities we serve that I hope you will appoint me as a member of ARIC's Privacy Policy Committee. ARIC is a domestic surveillance organization that is entrusted with an immense responsibility: using modern technology to protect the public, without encroaching on the rights and liberties of the people it is charged with serving. Given the speed of technological development and, by contrast, the glacial pace with which courts respond to these changes, I cannot emphasize enough how vital it is to have a voice on the Committee who will advocate for the local communities that will inevitably be the targets of ARIC's surveillance and information-gathering activity.

If appointed, I will serve as a knowledgeable and passionate advocate for the citizens of Austin and all others under ARIC's area of responsibility. Accordingly, I respectfully request your consideration and your vote. Thank you for your attention to this important issue.

Sincerely,



Peter Steffensen

PETER B. STEFFENSEN

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

J.D., May 2017

Honors: N.Y.U. Review of Law & Social Change, Staff Editor

Activities: Information Law Institute - Privacy Research Group, Member

Advanced Technology Law & Policy Clinic, Member

International Refugee Assistance Project, Case Manager/Student Advocate

RICE UNIVERSITY, Houston, TX

B.A. in Political Science, June 2010

EXPERIENCE

TEXAS CIVIL RIGHTS PROJECT, Austin, TX

Staff Attorney, Criminal Justice Reform Program, September 2017–present

Investigate and litigate civil rights claims on behalf of individuals and organizations. Areas of focus: debtors' prisons; law enforcement technology; conditions of confinement; bail reform.

JUSTICE CATALYST, Cambridge, MA

Legal Fellow, September 2017–present

Evaluate algorithmic and actuarial decision-making tools deployed throughout Texas' law enforcement and criminal justice entities, focusing on the transparency, due process, and equality concerns of these technologies.

AMERICAN CIVIL LIBERTIES UNION, New York, NY

Legal Intern, Speech, Privacy & Technology Project, May 2016–July 2016

Researched and drafted legal documents for SPT's active First Amendment docket. Areas of focus: speech-based regulations at political conventions; the public's right of access to court records; defamation lawsuits in states lacking anti-SLAPP legislation.

BAKER & HOSTETLER LLP, Houston, TX

Law Clerk, Privacy & Data Protection/Litigation Practices, July 2016–August 2016

Responded to healthcare data breach incidents by conducting breach notification and risk analyses pursuant to HIPAA's Privacy and Security Rules. Replied to inquiries from the U.S. Department of Health and Human Services' Office for Civil Rights.

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY

Research Assistant, Professor Catherine Sharkey, January 2016–July 2016

Researched and wrote comprehensive memoranda on the economic loss rule and its application to tort claims in data breach lawsuits.

ADMISSIONS

State Bar of Texas, 2017

United States District Court, Western District of Texas, 2018