

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION APPROVING THE OAKLAND POLICE DEPARTMENT'S (OPD) RECENTLY UPDATED SURVEILLANCE USE POLICY (SUP) AND SURVEILLANCE IMPACT REPORT (SIR) IN ORDER FOR OPD TO ACQUIRE AND CONTINUE USE OF AN AIRCRAFT MOUNTED CAMERA

WHEREAS, the Surveillance Technology Ordinance (codified in relevant part at Oakland Municipal Code Section 9.64.030.1.C) requires City Council approval for new and existing surveillance technology; additionally, OMC Section 9.64.020.1 requires that, "Prior to seeking City Council approval for existing city surveillance technology under Section 9.64.030, City staff shall submit a Surveillance Impact Report (SIR) and Surveillance Use Policy (SUP) to the Privacy Advisory Commission (PAC) for its review at a regularly noticed meeting. The SIR and SUP must address the specific subject matter specified for such reports as defined under 9.64.010"; and

WHEREAS, OPD is prohibited from acquiring any new Surveillance Technology, based on the requirements of OMC 9.64, until a SUP and SIR are reviewed by the PAC and approved by the City Council; and

WHEREAS, the Oakland Police Department (OPD) has drafted Departmental General Order I-29: Aircraft Mounted Camera Use Policy (a SUP) and an accompanying SIR, and presented these items to the PAC for feedback at regularly scheduled PAC meetings on July 6, 2023 and September 7, 2023; and

WHEREAS, on September 7, 2023, the PAC voted unanimously to recommend that the City Council adopt OPD's draft Departmental General Order I-29 and the accompanying SIR for the proposed Aircraft Mounted Camera (AMC); and

WHEREAS, on December 5, 2023, the Oakland City Council, via Resolution 89995 C.M.S., voted unanimously to adopt OPD's Departmental General Order I-29 (AMC use policy) and the accompanying SIR for the proposed Aircraft Mounted Camera (AMC); and

WHEREAS, in in March 2024, the City Council authorized a settlement (Settlement Agreement) of the lawsuit *Secure Justice/Hofer v. City of Oakland*, which requires among other things that the AMC Use Policy to be amended to address permissible use of the Forward Looking Infrared Thermal Imaging Camera System (FLIR) in either OPD helicopters or airplanes; and

WHEREAS, pursuant to the Settlement Agreement and Oakland Municipal Code Chapter 9.64, OPD has revised the AMC use policy and presented it to the PAC for their feedback; and

WHEREAS, on April 4, 2024, the PAC voted unanimously to recommend that the City Council adopt OPD's amended AMC use policy (Departmental General Order I-29) and the accompanying SIR; and

WHEREAS, the SIR for the AMC **Attachment B**) covers the following areas as required by the Surveillance Ordinance: • Information describing the system and how it works; • Purpose of the technology; • Locations where, and Situations in which the technology may be used; • Privacy Impact of the technology; • Mitigations to prevent privacy impacts; • Data Types and Sources; • Data Security; • Costs; • Third Party Dependence; • Alternatives Considered; and • Track Record of Other Entities; and

WHEREAS, the amended DGO I-29: Aircraft Mounted Camera (**Attachment A**) covers relevant areas required of a Surveillance Use Policy as required by OMC 9.64.030, including the following areas: • Technology Description; • Authorized Use; • Use Restrictions; • Data Access, Data Collection and Retention, and Security; • Monitoring and Reporting; • System Training; and • the FLIR camera system; now, therefore, be it

RESOLVED: That City Council hereby adopts and approves OPD's amended Departmental General Order I-29: Aircraft Mounted Camera (AMC) Use Policy, as a Surveillance Use Policy (**Attachment A**, as noted above) and also approves and adopts the accompanying Surveillance Impact Report (**Attachment B**, as noted above); and be it

FURTHER RESOLVED: That pursuant to OMC Section 9.64.020.2, for the reasons referenced above and in the agenda report and in the Surveillance Impact Report accompanying this resolution, the City Council hereby finds that the benefits to the community of the surveillance technology outweigh the costs (cost-benefit determination); that the proposal will safeguard civil liberties and civil rights, and that no alternative with a lesser economic cost or impact on civil rights or civil liberties would be as effective; and so authorizes the City Administrator or designee to acquire and use an Aircraft Mounted Camera.

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____

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