



DEPARTMENTAL GENERAL ORDER

I-29: Fixed-Wing Aircraft Mounted Camera Surveillance Use Policy

Effective Date: DD MMM YY

Coordinator: Special Operations Division

COMMAND INTENT

The Oakland Police Department believes in protecting and serving its diverse community and city through fair, equitable, and constitutional policing. OPD believes in the usage of technology to aid in this mission and in the investment into progressive forms of surveillance technology which both protects the unassailable rights of members of the community, while also ensuring and enhancing the safety of community members, officers, and engaged persons. This includes a multipronged approach related to tactics, methodology, and technology that allows for de-escalation in often rapidly evolving and tumultuous environments.

At the direction of the Oakland City Council, Oakland Public Safety Committee, Reimagining Public Safety Task Force, and the Oakland Police Department, the Air Support Unit has explored numerous alternatives to the current methods and equipment utilized by the Air Unit. After careful consideration, product testing/evaluation, fiscal analysis, stakeholder input, and industry standards, the Department requested that a fixed-wing aircraft be purchased for use by the Air Support Unit. The use of a fixed-wing aircraft necessitates the utilization of an Aircraft Mounted Camera (AMC) which allows a Flight Observer (FO) to observe, document, and relay the events occurring on the ground, to responding officers, partnering first responders, supervisory and command members, and other relevant stakeholders, with the purpose of providing enhanced public safety while also ensuring overall accountability related to department members and engaged persons.

A. Description and Purpose of the Technology**A - 1. Aircraft Mounted Camera Systems (AMC)**

- 1 The fixed-wing aircraft operates at a significantly higher altitude than the rotary-wing aircraft (helicopter) utilized by the department (fixed-wing aircraft operates at 3000+ ft above ground level (AGL); helicopter operates at 500-700 ft. AGL). The fixed-wing aircraft aims to reduce noise/light pollution as well as work to limit potential trauma incurred by the community members of Oakland who may have a negative association with or reaction to the sound of the department rotary wing aircraft (helicopter).

- 2 A byproduct of the higher altitude of the fixed-wing aircraft is that a FO can no longer rely on observing, with the unaided eye, through the window of the aircraft to make accurate and beneficial observations as to what is occurring on the ground. The FO must instead rely on a high-definition pan-tilt-zoom camera, specially designed for use at altitude, and mounted onto the body of the aircraft.
- 3 An aircraft mounted camera system (AMC) will need to be utilized throughout the entirety of the flight (but shall only record as described in Sec. B below) while responding to assist with dispatched calls, critical incidents, search and rescue operations, mitigating vehicle pursuits (allowing ground units to disengage), and a variety of other roles previously conducted by the department's rotary wing aircraft.

A - 2. Downlink System Component

The Downlink component of the system allows the video and pictures captured by the AMC to be streamed via a secure wireless connection to those devices authorized by this policy. Downlink is functional whether the AMC is operating in the passive or active recording modes. Utilizing Downlink offers the opportunity to provide department members, city leaders, and other emergency responders with a greater overall picture of what is occurring during critical incidents. This has the potential to provide valuable information allowing for more informed decisions that enhance the safety of the community and first responders. Downlink has the capability of being utilized during natural disasters (e.g., earthquakes, fires, flooding etc.) to allow emergency personnel to assess evacuation routes, direct responders, and coordinate emergency efforts.

The Downlink component can also be used to ensure more effective command and control and enhanced accountability during critical incidents and crowd control events as defined in Training Bulletin III-G¹. This technology is authorized to be used during First Amendment activity as defined in the above policy at the direction of the Chief of Police or their designee. The AMC will be under the same restrictions regarding recording in a manner that minimizes interference with people lawfully participating in First Amendment activities. Utilization during crowd control events would aim to reduce the need for officers to be in direct contact with large crowds in the event there are a small number of violent agitators who conceal themselves within a group of peaceful demonstrators, as has been observed during previous crowd control events. Downlink allows commanders a comprehensive overview with which

¹ Any recordings captured during crowd control events shall be taken and managed in accordance with Training Bulletin III – G.

to plan field operations that focus on safely facilitating members of the community being able to demonstrate and exercise their constitutional rights in public spaces. The live feed will allow commanders to coordinate appropriate traffic control to safely facilitate marches, respond to medical emergencies within the crowd, and when necessary, safely plan the apprehension of specific agitators who pose a danger to the community or significant property, while at the same time, limiting the potential impact on the overall group.

Downlink will also play a critical role in responding to unlawful, dangerous, and often violent sideshow activity throughout the City of Oakland. The use of Downlink in these circumstances will facilitate the documentation of dangerous unlawful activities conducted by participants in sideshow events, as well as provide critical information to commanders which will be used in planning the Department's measured response.

A - 3. Aircraft Mounted Camera Modes

The Aircraft Mounted Camera (AMC) has several modes in which it can be operated. These modes can be separated into two major categories:

- Color Camera: Used during daytime operations and provides High-Definition Color video and still images to the Flight Observer (FO) monitoring the images within the aircraft.
- Infrared (IR) Camera: Used to search for heat signatures during low light/visibility conditions. Infrared is an energy similar to visible light, but with a longer wavelength. Infrared energy is invisible to the human eye, however, while visible light energy is emitted by objects only at a very high temperature, infrared energy is emitted by all objects at ordinary temperatures. Since thermal imagers sense infrared energy, which varies with the temperature of objects in a scene, the image generated provides a thermal signature of the scene. This image can be displayed on a standard video monitor.

Infrared energy from objects on a scene are focused by optics onto an infrared detector. The infrared information is then passed to sensor electronics for image processing. The signal processing circuitry translates the infrared detector data into an image that can be viewed on a standard video monitor.

Thermal imaging systems not only make it possible for FO's to make observations in the dark but also enhance the ability of the FO to detect critical objects not visible otherwise. Warmer objects such as people and

animals stand out from typically cooler backgrounds. This allows a FO to provide critical information to ground units, which may prevent surprise chance encounters between officers and an engaged person or an aggressive animal, both of which may be avoided by creating time and distance by way of the Air Unit's observations. Thermal imaging systems are significantly more effective than the unaided eye in daylight, night, and most poor weather conditions. IR cameras *cannot* see through walls, rooftops, or glass. However, IR cameras are capable of seeing through smoke which can be critical in a firefighting or rescue environment.

Either of these modes (Color Camera/IR) can be recorded and stored digitally on a hard drive for later upload and can also be transmitted via Downlink as approved within this policy.

B. Use of the Aircraft Mounted Camera (AMC)

B - 1. AMC Recording Modes (Active/Passive)

Active recording is defined as initiating the visual recording capabilities of the AMC. When the AMC is not actively recording, it is passively recording video in a 30-second continuous moving loop, often referred to as a 30-second rollback. When the AMC recording is activated by the operator, it saves this video-only (no audio) clip of the 30-second period prior to activation and continues recording until stopped by the operator. This technology is functionally similar to the Department's Body Worn Camera (BWC) policy DGO I-15.

Due to the time required for the AMC to initialize and become ready for use the AMC will be turned on while on the ground and can be utilized during the entirety of the flight. This will enable the FO to monitor activity on the ground for the duration of the flight. Unlike the rotary wing helicopter, the FO in an airplane does not have the ability to look out the window and effectively observe actions on the ground due to the low wing design of the airplane as well as the altitude that the aircraft will typically be operating at: 2500-4500 feet above ground level (AGL). FO's frequently observe crimes and other incidents such as reckless driving, vehicles fleeing the scene of a violent felony, vehicle collisions, fires, etc., in public areas throughout the city. In many instances, the Air Unit is capable of responding to an incident prior to the arrival of ground units. This allows the Air Unit to provide critical information to units on the ground such as the location and condition of a victim of a shooting, a person injured from a significant collision, or even incidents of a missing person. In other incidents, the Air Unit may be able to advise of the location of a potential suspect related to a violent crime and

information which may allow officers to respond with special consideration for creating time and distance from a potentially armed subject, key elements of de-escalation and preventing violent confrontations between an armed engaged person and officers. Without the ability to effectively observe these incidents, officers cannot relay critical information to dispatch, thereby delaying emergency response.

Once the AMC is placed in the active recording mode, the observations made by the AMC will be recorded continuously until the FO deactivates the recording or the data storage device is full. It should be noted that, unlike the BWC, the AMC does not capture live audio in conjunction with the video recording. The AMC is capable of capturing radio traffic which is synced with the video at the time of the recording.

Each time the camera is turned off or placed in a storage condition the device will experience a delay, up to several minutes, in order to realign itself with the aircraft and recalibrate the onboard sensors. These delays could cause significant information/data to be uncaptured during a critical incident which could adversely influence the outcome of the investigation and those involved. For this reason, while operating the aircraft the AMC shall be maintained in the passive mode or active recording mode while the aircraft is in flight and operating in a potential enforcement capacity.

B - 2. Required Activation of the AMC

Members operating the AMC shall only activate the recording function on the AMC camera in the following circumstances:

1. Members are actively involved in a detention and/or arrest and this information is known to the operator of the AMC;
2. Members are actively conducting a search of a yard, building, area, or vehicle, where a suspect is anticipated to be located or to rule out the presence of a suspect.²
3. While members are conducting an assessment or evaluation for a psychiatric detention pursuant to Welfare and Institutions Code § 5150, and where the engaged subject has been observed as actively violent towards community members or officers;

² This does not include situations where officers are conducting a perimeter for a prolonged period, where a search is not actively being conducted, and the actions of the suspect are not able to be observed by the Flight Operator.

4. Members on the ground are engaged in a pursuit, as defined in DGO J-04, *Pursuit Driving*;
5. The Air Unit is actively engaged in following a vehicle following the termination of a pursuit or other criminal activity, where enforcement action by ground units is pre-planned or imminent;
6. While members are actively serving a search or arrest warrant and the location has not yet been determined to be secured;
7. When members are observed taking any enforcement action or when the AMC operator is directed to activate the recording feature by a supervisor or commander during a crowd control situation in the City of Oakland (*Training Bulletin III-G*). Activation of the recording function of the AMC during Crowd Control or First Amendment related activities shall only be for the purpose of documenting crimes that are actively occurring, documentation of items that may be of evidentiary value during a subsequent investigation, or any time when an unlawful assembly has been declared in accordance with the California Penal Code Section 407.

B - 3. Deactivation of the AMC

Once activated pursuant to B-2, Members shall not deactivate the AMC recording until one of the following occurs:

1. It is determined by ground units or the AMC operator that there is no person related to criminal activity present at the scene of the incident and anticipation of contact with such persons is unlikely;
2. The Air Unit's involvement in the contact, detention, search, or arrest has concluded;
3. Members have concluded a search of a yard, building, area, or vehicle, and are no longer actively searching for a suspect, or in situations where the Air Unit is no longer involved in a search;
4. The Air Unit terminates its involvement in following a vehicle that was involved in a pursuit or other criminal activity;
5. They receive an order from a higher-ranking member. That higher ranking member shall note the reasoning for deactivation via Computer Aided Dispatch (CAD), their BWC, or report;

If circumstances arise requiring re-activation members shall re-activate pursuant to B-2, above.

A - 2. Prohibited Use

1. AMC shall not be equipped with analytics capable of identifying groups or individuals, including but not limited to Artificial Intelligence, facial recognition, gait analysis, predictive analytics, or Automated License Plate Reader (ALPR).
2. AMC shall not be used for the following activities:
 - a. Conducting surveillance of anyone not subject to an active investigation.
 - b. Targeting a person or group of people based on their characteristics, such as but not limited to race, ethnicity, national origin, religion, disability, gender, clothing, tattoos, sexual orientation and/or perceived affiliation when not connected to actual information about specific individuals related to criminal investigations.
 - c. For the purpose of harassing, intimidating, or discriminating against any individual or group.
 - d. To conduct personal business of any type.

A - 3. Discretionary Activation

When not required to activate or prohibited from activation as described above (see B - 2- and B - 3), members may use their discretion when deciding to activate or de-activate the AMC recording functionality if it is in furtherance of an active investigation and serves a legitimate law enforcement purpose. Examples include activations of the recording function to document instances of reckless driving that may not later be documented in a crime report, or documentation of a fire scene that may later be determined to be Arson. At the time of the recording the Flight Observer may not be able to immediately determine if it meets one or more of the above criteria.

A - 4. Privacy Considerations

AMC Operators shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure) without a search warrant unless exigent circumstances exist.

When OPD Aircraft are being flown and the AMC is being utilized, operators should take steps to ensure the camera is focused on the areas that are necessary to the task and to minimize the inadvertent collection of data about uninvolved persons or places. Operators and observers shall take reasonable precautions, such as being conscious and deliberate with the positioning of an imaging device, to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

A - 5. AMC Use Documentation

Members are required to document all activations of the AMC recording function, except for tests or accidental recordings. Documentation shall be made in the Aircraft Flight Log (TF-488A). Delayed or non-activations of the AMC, when activation was required by policy, shall be documented in the appropriate report, and reported to the member's supervisor. Such use documentation shall be included in the annual report required by O.M.C. Ch. 9.64, and periodically audited to ensure compliance with this policy.

A - 6. Data Upload

Members shall upload AMC data files (videos) at the conclusion of their shift, or if directed by a supervisor, during their shift, to ensure local storage capacity is not exceeded.

A - 7. Annotation and Categorization of AMC Files

All members shall annotate AMC data files (videos) daily, or, if not feasible, by the end of the member's next regularly scheduled workday. The following information shall be annotated on every AMC data file:

- The report number associated with the incident recorded (in the ID field);
- or the incident number (in the ID field if there is no report number associated with the incident being recorded).
- The category of the video using the appropriate retention category (on Evidence.com).

If neither the report number nor the incident number exists, members may use the letters "NA" or leave the ID field blank. Members are authorized to view their video in order to identify the file for annotation unless otherwise prohibited by policy. During incidents that require exceptional resources or large-scale activation of Department members (e.g. natural disaster), the incident commander may approve delayed annotation of AMC files except in cases that require an investigative call-out. The incident commander shall document any such orders in the appropriate after-action report.

B. AMC Data Management

B - 1. Data Collection

The activation and deactivation of the recording capabilities and subsequent data collection shall be in accordance with sections B - 2 through B - 5 of this policy. The AMC operator will maintain the integrity of a dedicated AMC data storage device and shall not overwrite or delete the video files contained within, until which time the data is uploaded onto the Evidence.com servers.

B - 2. Court and Judicial Proceeding AMC File Copies

- 1 Personnel requiring a copy of AMC audio/video file(s) for court (e.g., for Traffic court, or a proceeding in a different county) shall contact their first line supervisor or their designated System Administrator (for non-patrol assignments). If the first line supervisor is unavailable, personnel shall contact any System Administrator. Any AMC copies not entered into evidence shall be returned to the first line supervisor or a System Administrator for destruction.
- 2 CID and other investigative personnel taking a case to the District Attorney (DA) for charging are responsible for obtaining copies of, and/or using the evidence.com secure sharing capability to share, all applicable AMC files for presentation to the DA.
- 3 Prior to copying the AMC video file, members authorized to make copies shall document the reason for making the copy and the name of the person receiving the copy in the "Notes" field of each video file copied. If applicable, the name entry shall also include the person's rank and serial number.
- 4 The person receiving the copy shall maintain the copy in a secure location until it is needed for court or custody is transferred to another person.
- 5 Additionally, they shall document, as soon as practical, the name and/or position of the person receiving the copy in the "Notes" field of each video file.
- 6 The documentation of the chain of custody and responsibility to secure the copy shall transfer to the person receiving the copy until:
 - 7
 - The copy is received by non-Department personnel (e.g. District Attorney, City Attorney, Court Clerk, etc.);
 - The copy is admitted into evidence; or
 - The copy is returned to a system administrator for destruction.

B - 3. Use of AMC Files for Training

Training staff is authorized to view AMC files regarding incidents which may serve as a learning or teaching tool. An AMC file may be utilized as a training tool for individuals, specific units, or the Department as a whole. A recommendation to utilize an AMC file for such a purpose may come from any source.

A person recommending utilizing an AMC file for training purposes shall submit the recommendation through the chain of command to the Training Section Commander.

The Training Section Commander shall review the recommendation and determine how best to utilize the AMC file considering the identity of the person(s) involved, sensitivity of the incident, and the benefit of utilizing the file versus other means.

Any persons or identifying information observable within the video not relevant to the training shall be redacted or obscured in such a manner as to not identify the uninvolved person.

B - 4. Additional Data Access

Outside of the provisions described in C – 2, AMC image and video data that is recorded and stored within the removable drive or on AXON may be shared only with other law enforcement or prosecutorial agencies only as permitted by law, and subject to the following procedures:

1. The agency makes a written request for the OPD data that includes:
 - a. The name of the requesting agency.
 - b. The name of the individual making the request.
 - c. The basis of their need for and right to the information.
 - i. A right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law. A need to know is a compelling reason to request information such as direct involvement in an investigation.
2. The request is reviewed by the Chief of Police, Assistant Chief of Police, Deputy Chief/ Deputy Director, Criminal Investigations Division Commander or designee and approved before the request is fulfilled.
3. The approved request is retained on file, and incorporated into the annual report pursuant to Oakland Municipal Code Section 9.64.010 1.B.

B - 5. Data Protection and security

All AMC data storage devices (SD Card, Flash Drive, Portable Hard Drive) will be secured in a manner (e.g. lockbox) only accessible to Air Support Unit (ASU) personnel. All evidence from ASU data devices shall be uploaded to the Evidence.com server and then immediately removed from the drive.

B - 6. Data Retention

In line with the existing DGO I-15- Body Worn Camera (BWC) Policy, which utilizes the same cloud storage platform (Evidence.com) AMC files shall be retained for a period of six months unless it is required for:

1. A criminal investigation;
2. An administrative investigation; (Internal Affairs)
3. Research; (to be approved by the Chief of Police or their designee)
4. Civil litigation;
5. Training; and/or
6. No recordings shall be deleted while any request for the recordings is pending, including but not limited to a public records request or litigation hold request

AMC files that are not flagged for retention for any of the above reasons will be automatically deleted by the File Management System's data retention processes, which are set and maintained by the Project Administrator or designee. This retention process is already in place and utilized for BWC data.

B - 7. Public Access

AMC data which is collected and retained under section C - 6 of this document is considered a "law enforcement investigatory file" pursuant to Government Code § 6254, and shall be exempt from public disclosure. The Department will disclose recordings as appropriate pursuant to statute or court order. AMC data which is retained pursuant to section C - 6 shall be available via public records request pursuant to applicable law regarding Public Records Requests as soon as the criminal or administrative investigations have concluded and/or adjudicated.

C. ADMINISTRATIVE INFORMATION

C - 1. Training

The ASU Unit Supervisor, or other designated OPD personnel, shall ensure that all authorized operators and required observers have completed all department-approved training in the operation, applicable laws, policies and procedures regarding the use of the AMC and downlink. This annual training will be documented utilizing a policy compliance attestation form to be created upon implementation of this policy.

C - 2. Auditing and Oversight

The ASU unit supervisor, or other designated OPD personnel, shall develop a protocol for documenting all AMC uses in accordance with this policy with specific regard to safeguarding the privacy rights of the community and include this in the AMC procedure manual and the annual AMC report. The ASU supervisor will develop an electronic record of deployments and recordings created. The operator of the AMC will document the deployments in the appropriate flight logs. This protocol will allow the ASU supervisor to have a continuous log of all deployments and assist with completing the annual report.

C - 3. Maintenance

The ASU unit supervisor, or other designated OPD personnel, shall develop an AMC inspection, maintenance, and record keeping protocol to ensure the continuing functionality of the AMC, and include this protocol in the AMC procedure manual. Maintenance and record-keeping should also include expenditures such as purchase of new equipment, required updates and mechanical repairs.

C - 4. Description of the Technology AMC File Management System

The AMC system employed by OPD features upload computer stations and an internet web interface for controlling how files are uploaded and archived. The interface allows for Internet Protocol restriction features to control the locations where the system can be accessed. These restrictions limit AMC video file access to only authorized OPD personnel. Videos that are tagged for any reason as part of an investigation are moved to separate folders where they cannot be deleted. The cloud-based archive system has built-in redundancy with multiple servers to ensure data integrity and CJIS compliance.

1

By order of

Darren Allison
Interim Chief of Police

Date Signed: _____