CITY OF OAKLAND

AGENDA REPORT

TO:	Jestin D. Johnson City Administrator	**FROM:**	Floyd Mitchell Chief of Police
SUBJECT:	Aircraft Mounted Camera (AMC) Use Policy	**DATE:**	May 29, 2024

City Administrator Approval Jestin Johnson (May 29, 2024 21:15 PDT) Date: May 29, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A 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

EXECUTIVE SUMMARY

The Oakland Police Department believes in protecting and serving its diverse community and city through fair, equitable, and constitutional policing. OPD believes in using technology to aid in this mission and in investing 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 engaging 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, to provide enhanced public safety while also ensuring overall accountability related to department members and engaged persons.

Aircraft Mounted Camera Systems (AMC)

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 and 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).

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 aircraft window 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.

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 of the AMC SUP) 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.

The department's helicopters are currently equipped with Forward Looking Infrared (FLIR) 8500 cameras (FLIR cameras), which are over 15 years old. These cameras are utilized in rare instances where it is not practical to make observations without the assistance of a color or infrared camera.

OPD's FLIR cameras are a form of Surveillance Technology as that term is defined in Oakland Municipal Code Chapter 9.64 and are subject to the Privacy Advisory Commission (PAC) vetting and City Council approval process set forth by such ordinance. OPD has a longstanding Surveillance Use Policy governing (Oakland Ordinance #85807 C.M.S.) the use of FLIR cameras.

In anticipation of procuring a police aircraft that will have a new camera mounted to it (a form of surveillance technology), the Oakland Police Department has followed the requirements set forth by Oakland Municipal Code Chapter 9.64 (the Surveillance Technology ordinance). Accordingly, the Oakland Police Department developed Departmental General Order I-29: Aircraft Mounted Camera Use Policy and a Surveillance Impact Report (Attachment *) and presented these items to the Privacy Commission. On September 7, 2023, the Privacy Commission voted unanimously to adopt Department General Order I-29 and recommended that the City Council adopt the Departmental General Order I-29 and the accompanying impact report. On December 5, 2023 the Oakland City Council voted unanimously to approve the Surveillance Use Policy/Departmental General Order I-29 and the City's use and acquisition of such technology.

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 recently adopted AMC Use Policy be amended to address permissible use of the Forward Looking Infrared Thermal Imaging Camera System (FLIR) in either OPD helicopters or airplanes. As required by the Settlement Agreement, the resolution accompanying this report will adopt an updated Surveillance Use Policy for cameras (with FLIR capability) that OPD uses in either its helicopters or in the future, a fixed wing aircraft.

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 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, and provide critical information to commanders, which will be used in planning the Department's measured response.

BACKGROUND / LEGISLATIVE HISTORY

OPD has developed Departmental General Order I-29: Aircraft Mounted Camera Use Policy and accompanying impact report and presented them to the Privacy Commission at the regularly scheduled Privacy Commission meetings on September 7, 2023; and July 6, 2023.

On September 7, 2023, the Privacy Commission voted unanimously to adopt Department General Order I-29 and recommended that the City Council also adopt the Departmental General Order I-29 and the accompanying impact report. On December 5, 2023, the Oakland City Council voted unanimously to adopt Department General Order I-29.

Due to a lawsuit, *Secure Justice/Hofer v. City of Oakland*, a Settlement Agreement was reached and approved by City Council in March 2024 in which I-29 would be updated to include the cameras (with FLIR capability) installed on the OPD helicopters. The Department updated the policy to comply with the settlement agreement, and on April 4, 2024, the Department presented Departmental General Order I-29: Aircraft Mounted Camera Use Policy and accompanying impact report to the Privacy Commission. The Privacy Commission voted unanimously to adopt the recently updated Department General Order I-29 and recommended that the City Council also adopt the Departmental General Order I-29 and the accompanying impact report.

For the separate but related effort to acquire fixed wing aircraft for OPD, at the direction of City Council, the Air Support Unit has completed a Request for Quote through the City's website to acquire a new fixed wing aircraft. The RFQ process was completed in May of 2023. Prior to requesting funds for the purchase of the Airplane and associated equipment, the department was required by the City Charter to obtain an authorized use policy by the Oakland Privacy Advisory Committee.

Since the original approval of the departments fixed wing camera use policy, the department has been working with the City Attorney's Office, City Budget Bureau, and numerous city partners to prepare and schedule legislation for the acquisition of the aircraft. The department has two resolutions that are currently under city staff review to acquire the airplanes (patrol and trainer). One is for an outright purchase and one to finance the purchase. Regardless of what option is chosen the delivery of the patrol airplane is approximately 1 year from the date that the contract is signed and a down payment is made.

City staff has advised that once approval is given by council it will likely be 2-4 months for the contracts to be completed. That time in addition to the procurement/delivery time will require the helicopters to continue to be the sole air support tool for the city. Once the airplane is delivered it will take several months to ensure that there are no issues that may arise upon delivery of the aircraft and to complete final transition training for the departmental pilots.

ANALYSIS AND POLICY ALTERNATIVES

The Aircraft Mounted Camera SUP (**Attachment A**), Section 1, "Alternatives Considered", explains that "OPD could continue the status quo of utilizing the OPD Helicopter with the FLIR 8500 Series camera as well as gyro stabilized binoculars to monitor activities occurring on the ground. Continuing in this manner will require the air asset to fly at an altitude considerably lower causing increased sound/light pollution and trauma associated with the helicopter to the citizens of Oakland.

The Alternatives section also considers drone usage. While drones play an integral part in the protection of Oakland residents and visitors, they are limited in their capabilities. The current flight time for drones is approximately 25-30 minutes, and speeds of 25 mph. Drones are limited to line of sight and cannot operate in an area greater than 2-3 blocks. Drones are currently not capable of assisting during vehicle pursuits that exceed these speeds or distances, as stated above. Due to the busy airspace surrounding the Oakland International Airport, UAV's are extremely limited to the locations, altitudes, and ranges that they can fly. UAV's are also limited in their deployment availability. Drones require approval prior to each deployment. Once

approval is obtained, the operator must acquire the equipment, respond to the scene, wait for approval from the FAA, and then launch the drone. By this time, an incident has likely evolved greatly and may have already concluded prior to the utilization of the drone. OPD aircraft typically fly for 1-2 hours, and with the purchase of a fixed wing aircraft will have greater flight capabilities with response times frequently of under 1 minute from dispatch to scene arrival.

OPD does have access to outside agency air assets equipped with cameras, such as CHP and ACSO. However, OPD must request those agencies to respond to each incident. This creates a significant delay in response times as each of those agencies are located outside of the city of Oakland (CHP operates from the Napa County Airport 30 NM away and ACSO 19 NM). This process can take a significant amount of time which could negatively impact the outcome of a critical incident. Additionally, these neighboring agencies are responsible for large areas of land outside of Oakland (CHP Golden Gate Division covers nearly 7,000 sq miles and ACSO 739 sq. miles). Due to the unique weather patterns experienced by the City of Oakland, weather frequently prohibits neighboring agencies from responding to the City of Oakland for assistance. OPD can better respond to dangerous situations by equipping our own aircraft with cameras capable of the same level of service provided by neighboring agency aircraft and responding in a timely manner.

Track Record:

During previous critical incidents, the Oakland Police Department has relied on outside agencies to include the California Highway Patrol, Alameda County Sheriff's Office, and Contra Costa Sheriff's office to provide recordings of critical incidents that have involved officers of the Oakland Police Department.

During the George Floyd Demonstrations in 2020, CHP was again requested to provide assistance to the City of Oakland. CHP, in addition to the Oakland Air Support Unit, provided updates to command and city leaders on the ground. CHP, however, was able to provide real-time video from overhead to the Emergency Operations Center with City officials such as the Mayor, the City Administrator, Police, and Fire and Emergency Services Personnel. This Downlink technology was specifically requested by city leaders for events such as this and has been used successfully on many occasions.

In 2020, The Contra Costa Sheriff's Office (CCCSO) captured an Officer-involved shooting involving Richmond and Oakland Police Officers. CCCSO was overhead and recording when an armed murder suspect intentionally rammed several Oakland police vehicles in the city of Richmond. The entire shooting was captured by the Sheriff's helicopter, and the video was used by the respective investigative bodies after the incident.

In November 2021, Oakland officers were fired upon by a carjacking suspect. The vehicle was tracked for an extended time by ground and air resources. While attempting to detain the subject, CHP air was overhead recording with their aircraft-mounted camera. Video showed the subject ramming multiple patrol cars and later engaging several officers. This incident led to an officer-involved shooting that was captured by both Body Worn Camera (BWC) and the aircraft's camera. This video was critical to the subsequent investigations by the Criminal Investigations Division, Internal Affairs, as well as the Community Police Review Agency.

This policy advances the Citywide priorities of **holistic community safety and responsive**, **trustworthy government**. This technology provides opportunities for less immediate police-public encounters where police use of force may occur, and where the lives of officers and the

public may be in danger. All Oakland residents and visitors benefit from these efforts to support public safety and policing while mitigating encounters that endanger lives. Also, the eventual purchase of a fixed-wing aircraft will 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).

FISCAL IMPACT

The SIR (Attachment B) provides detailed information about the costs for a potential OPD purchase of AMC. OPD anticipates an initial purchase of approximately $725,000 for one Webcam MX-15 camera and $265,000 for the Vislink Downlink System.

The FLIR 8500 Cameras were purchased outright and have no upfront costs. Because they are no longer being serviced by FLIR their ongoing maintenance costs are minimal and are funded by the Air Support Units maintenance budget.

PUBLIC OUTREACH / INTEREST

No public outreach was conducted other than the required posting on the City's website.

COORDINATION

The Office of the City Attorney and Budget Bureau reviewed this report for legality.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental*:* There are no environmental opportunities associated with this report. The camera itself provides no environmental impact, but the plane it could be mounted on in the future would use significantly less fuel than the helicopters.

Race & Equity*:* All Oakland residents and visitors have a right and an expectation of privacy. Additionally, OPD strives to ensure the public safety of all Oakland residents and visitors. OPD has developed its AMC Use Policy and Surveillance Impact Report with the goal of utilizing the technology to provide aerial information so that officers can better respond to a variety of potentially dangerous situations. This technology provides opportunities for less immediate police-public encounters where police use of force may occur, and where the lives of officers and the public may be in danger. All Oakland residents and visitors benefit from these efforts to support public safety and policing while mitigating encounters that endanger lives.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A 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

For questions regarding this report, please contact Brandon Mart, Officer, at 510-882-8107.

Respectfully submitted,

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Attachments (2):
A: AMC Use Policy
B: AMC Impact report