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OAKLAND

2019 JAN 17 PM 1:21

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: Unapproved Surveillance Technology
Usage Report – December 2018

DATE: January 7, 2019

City Administrator Approval

Date:

1/14/19

RECOMMENDATION

Staff Recommends That City Council Receive An Informational Report From The Oakland Police Department With Information Regarding Usage of Unapproved Surveillance Technology on December 15 and 16, 2018.

EXECUTIVE SUMMARY

This report provides information concerning use of unapproved surveillance technology by the Oakland Police Department (OPD) as required by Oakland Municipal Code (OMC) 9.64.035. The report has already been provided to and accepted by the Oakland Privacy Advisory Commission (PAC).

BACKGROUND / LEGISLATIVE HISTORY

On May 15, 2018, City Council adopted the Surveillance and Community Safety Ordinance (No. 13489 C.M.S.). In accordance with this ordinance, OPD presented information on the use of unapproved surveillance technology at the January 3, 2019 regular PAC meeting. The type of unapproved surveillance technology was Unmanned Aerial Surveillance (UAS or drone).

ANALYSIS AND POLICY ALTERNATIVES

OMC 9.64.035 Section 1 states that "City staff may temporarily acquire or use surveillance technology and the data derived from that use in a manner not expressly allowed by a Surveillance Use Policy in two types of circumstances without following the provisions of Section 9.64.030: (A) Exigent circumstances, and (B) a Large-scale event.

OMC 9.64.035 Section 2, D, states that "Following the end of the Exigent circumstances or Large-scale event, [City staff] report that acquisition or use to the PAC at their next respective meetings for discussion and/or possible recommendation to the City Council in accordance with the Sunshine Ordinance, the Brown Act, and City Administrator deadlines."

Item: _____
Public Safety Committee
January 29, 2019

In accordance with the above OMC sections, OPD use of unapproved surveillance technology (UAS) was reported to the January 3, 2019 PAC regular meeting. That report is provided as **Attachment A**.

FISCAL IMPACT

There is no immediate fiscal impact associated with this informational report. There was no cost to OPD or the City of Oakland for the unapproved surveillance technology equipment used on December 15-16, 2018.

PUBLIC OUTREACH / INTEREST

OPD staff presented **Attachment A** to the PAC at their January 3, 2019 public meeting. No additional outreach was necessary.

COORDINATION

OPD Research and Planning worked with the OPD Intelligence Unit in the creation of this report.

SUSTAINABLE OPPORTUNITIES

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

Environmental: There are no environmental opportunities associated with this report.

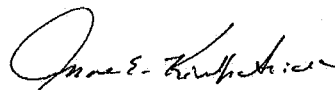
Social Equity: All members of the Oakland community benefit from a police department that is more transparent, more accountable, better trained, and governed by effective policy.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That City Council Receive An Informational Report From The Oakland Police Department With Information Regarding Usage of Unapproved Surveillance Technology on December 15 and 16, 2018.

For questions regarding this report, please contact Timothy Birch, Police Services Manager, Office of the Chief of Police, Research and Planning at (510) 238-6443.

Respectfully submitted,

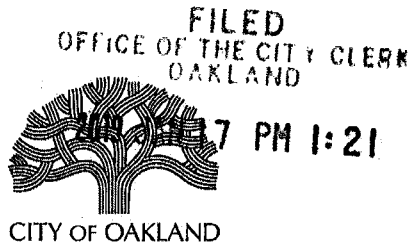


Anne E. Kirkpatrick
Chief of Police, Oakland Police Department

Prepared by:
Timothy Birch, Police Services Manager
OPD, Training Division, Research and Planning

Attachments (1):

A – Report to Privacy Advisory Commission on Use of Unapproved Surveillance Technology under Exigent Circumstances



MEMORANDUM

TO: Privacy Advisory Commission **FROM:** Anne E. Kirkpatrick
SUBJECT: Use of Unapproved Surveillance Technology Under Exigent Circumstances **DATE:** December 26, 2018

RECOMMENDATION

Receive information use of unapproved surveillance technology under exigent circumstances in accordance with Oakland Municipal Code (OMC) 9.64.035 and forward to the City Council.

EXECUTIVE SUMMARY

In accordance with OMC 9.64.035, the Oakland Police Department (OPD) used surveillance technology under exigent circumstances (home invasion robbery). The technology is Unmanned Aerial Surveillance (UAS or drone).

BASIS FOR EXIGENCY

On December 15, 2018, at 12:15 pm, OPD Officers were dispatched to 1815 13th Avenue to investigate the report of a residential (home invasion) robbery in progress. One of the suspects was reported to be armed with a rifle. OPD Officers arrived and met with one of the victims, who said a suspect had broken into the residence and was armed with a long rifle similar to an AK-47. A suspect exited the residence and was detained. Through further investigation it was discovered additional suspect(s) and victim(s) might be in the residence, creating a potential hostage situation. Although the suspect(s) was inside of the residence, the UAS and helicopters (CHP¹ and EBRPD² PD) were still utilized for two reasons; first, to gain an aerial view of the residence/property/area and, second, in anticipation that additional suspects might flee from the residence. The usage also allowed OPD officers to remain a safe distance from the residence and still obtain real time information. This situation was deemed an immediate and serious threat to public and officer safety.

DEVICE USE INFORMATION

The UAS detection equipment was provided by and operated by the Alameda County Sheriff's Office (ACSO). The UAS was used to assist uniformed officers during the course of several yard searches for the wanted subject.

¹ CHP = California Highway Patrol

² EBRPD PD = East Bay Regional Park District Police Department

Deployment Timeline

The below times are for December 15 to 16, 2018.

December 15, 2018

- 12:15 pm: OPD Officers were dispatched to 1815 13th Avenue on the report of home invasion robbery.
- 12:16 pm: OPD Officers arrived on scene
- 12:19 pm: Initial perimeter set to contain suspect(s) inside of residence
- 12:33 pm: First suspect exited residence and was detained
- 12:45 pm: ACSO deployed UAS overhead
- 12:51 pm: CHP helicopter arrived and used Forward Looking InfraRed (FLIR) technology³ to attempt to locate additional suspect(s). No heat sources were located in the backyard or adjacent backyard.
- 2:08 pm: CHP advised that their helicopter was running low on fuel and they left.
- 3:40 pm: EBRPD PD (helicopter arrived and used FLIR technology to attempt to locate additional suspect(s). They found and then lost heat sources.
- 3:45 pm: SWAT (Special Weapons and Tactics) Team callout initiated to locate additional suspect(s).
- 4:29 pm: ACSO used drones to see through windows and was unable to locate anything.
- 5:00 pm: ACSO sent a drone inside the residence. They were unable to locate anything on the first floor of the two-story residence.
- 7:11 pm: The first suspect (who had been detained) stated there were three additional suspects hiding in the residence.
- 11:08 pm: The second suspect surrendered and exited through a window.

December 16, 2018

- 12:28 am: The residence was searched and no additional suspects located.

The UASs were used during the yard search/aerial building views for approximately eight to nine hours. The UASs were used concurrently with a helicopter⁴ because of the layout of the residence/property/land. The UASs flew lower and into blind spots which were considered danger spots for officers. The helicopters flew overhead and much higher to gain the overview of the area. The use of the UASs proved successful for real time information to officers.

Video Recorded

The UAS recorded video of the area where it was deployed.

Retention of Recordings

Per ACSO policy, the video recording will be maintained by ACSO for three years.

Usefulness in Arresting Suspect

³ FLIR technology governed by FLIR Privacy and Data Retention Policy (Resolution No. 85807 C.M.S., passed October 6, 2015).

⁴ One helicopter was used at a time.

The suspect was apprehended when he surrendered and exited from the residence. The UAS and helicopters FLIR were useful in providing increased officer safety during the search for an individual who had committed a home invasion robbery and was suspected of being armed with a rifle.

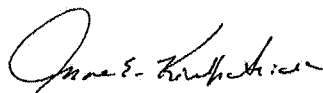
COMPLIANT USE

The following information on both technologies is required by OMC 9.64.035 and shows that they were used in accordance with the OMC.

- A. The UAS detection equipment was used solely to respond to the exigency.
- B. Use of the UAS detection equipment ceased when the exigency ended.
- C. Only data related to the exigency was kept.
- D. This report is being provided to the Privacy Advisory Commission at its next meeting with a recommendation that it be forwarded to City Council.

OPD never had possession of the UAS detection equipment; the Alameda County Sheriff's Office maintained possession of the equipment during the entire equipment usage period.

Respectfully submitted,



Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
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Training Division
OPD

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