

CITY OF OAKLAND

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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: Use of Unapproved Surveillance
Technology Under Exigent
Circumstances – January 28, 2019

DATE: February 25, 2019

City Administrator
Approval

Date

3/6/19

RECOMMENDATION

Receive An Informational Report On The 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). OMC 9.64.035 requires that city departments bring reports to the Privacy Advisory Commission (PAC) for each use of unapproved surveillance technology.

BACKGROUND AND LEGISLATIVE HISTORY

Oakland' Surveillance Technology Ordinance requires that city departments bring employed surveillance technologies to the Privacy Advisory Commission (PAC); the PAC can then choose whether to forward their recommendation to the City Council. The Ordinance creates OMC 9.64.035 "Use of unapproved technology during exigent circumstances or large-scale event." The OMC allows OPD to use unapproved technologies during these types of events. The OMC requires that staff shall:

- a. Use the surveillance technology to solely respond to the exigent circumstances or large-scale event.
- b. Cease using the surveillance technology when the exigent circumstances or large scale event ends.
- c. Only keep and maintain data related to the exigent circumstances and dispose of any data that is not relevant to an ongoing investigation.
- d. Following the end of the exigent circumstances or large-scale event, 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
March 19, 2019

ANALYSIS AND POLICY ALTERNATIVES

On January 18, 2019, at 11:06 am, OPD Officers observed a vehicle containing a murder suspect, who had an active warrant for his arrest in connection to a triple murder which had occurred in West Oakland. The suspect was seated in the right front passenger seat and the driver was unknown to officers. OPD officers attempted to conduct a vehicle enforcement stop to arrest the suspect. The driver fled and OPD officers engaged in a vehicle pursuit. The suspect vehicle crashed when exiting from the freeway. Both suspects fled the scene, in opposing directions. The triple murder suspect ran onto the Mills College campus¹. The school was placed on lockdown and the suspect was apprehended hiding inside a building. The second suspect ran into an area with bushes and trees near the school, and hid from officers. OPD personnel as well as UAS and CHP² helicopters were used to gain an aerial view of the area. The area is heavily populated with trees, bushes and brush. The UAS allowed OPD officers to remain at a safe distance from where the second suspect was believed to be hiding while still obtaining real time information. This situation was deemed an immediate and serious threat to the public (schools and residences) as well as to officer safety. The UAS assisted officers in locating the suspect as well as the clothing the suspect discarded.

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 a search of a heavily wooded area.

Deployment Timeline

The times below are for January 18, 2019:

- 11:11 am: OPD Officers observe a triple murder suspect in the passenger seat of a vehicle;
- 11:12 am: OPD Officers attempt to conduct vehicle enforcement stop and the driver of the vehicle sped off;
- 11:13 am: OPD helicopter advises not available until noon;
- 11:15 am: Suspect vehicle exits freeway and crashes. Suspects exit and runs in opposing directions;
- 11:16 am: Initial perimeter set to contain suspect(s);
- 11:19 am: CHP helicopter advises in-route;
- 11:12 am: Mills College is advised that one suspect jumped over fence and ran into school property. Mills College is locked down and students/teachers advised to shelter in place;
- 11:30 am: Triple murder suspect apprehended inside of Mills College;
- 11:34 am: OPD officers obtain information that the driver of the suspect vehicle is hiding in the wooded area;
- 11:37 am: OPD officers observe suspect hiding in wooded area and lose sight;

¹ Mills College 5000 MacArthur Blvd., Oakland)

² CHP = California Highway Patrol

- 11:37 am: ALCO Sheriff's Department is requested to respond to scene with UAS;
- 11:37 am: CHP helicopter arrives on scene and observes "no movements;"
- 12:01 pm: Unity High School³ is locked down and students and teachers advised to shelter in place;
- 12:17 pm: CHP helicopter advised searched entire area with negative results
- 12:28 pm: CHP helicopter advised still unable to locate the second suspect and CHP helicopter leaves
- 1:24 pm: ALCO UAS goes up and locates subject in area
- 2:26 pm: OPD helicopter arrived on scene
- 2:37 pm: OPD helicopter leaves scene;
- 2:40 pm: Subject located in heavily wooded area
- 2:50 pm: ALCO UAS used search for any firearms

The UASs were used during the wooded area search for approximately one and a half hour. The UASs were used concurrently with a helicopter⁴ because of the heavily wooded area and the UAS's were only allowed to fly at a limited height. The UASs flew lower and into the trees and brush area, 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, which ultimately assisted in locating the suspect. The UAS's were then utilized to search for any discarded firearms. A later search of the vehicle resulted in the recovery of a rifle and a pistol.

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

ALCO successfully utilized the UAS to discover where the suspect was hiding; ALCO directed OPD Officers to where the suspect was hiding because of the UAS-obtained locational information. The UAS as well as the helicopter was useful in providing increased officer safety during the search.

Compliant Use

The following information relating to helicopter and UAS is required by OMC 9.64.035, and shows that each technology was 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.

³ Unity High School (Independent Charter High School, 6038 Brann St, Oakland)

⁴ One helicopter was used at a time.

- 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.

PUBLIC OUTREACH / INTEREST

This report was presented to the City's Privacy Advisory Commission on February 7, 2019.

COORDINATION

The Office of the City Attorney reviewed this report.

SUSTAINABLE OPPORTUNITIES

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

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

Social Equity: This report provides transparency around OPD's use of surveillance technology in conjunction with police services.

Sabrina B. Landreth, City Administrator

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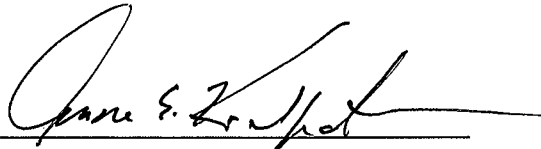
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ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Receive An Informational Report On The Use Of Unapproved Surveillance Technology Under Exigent Circumstances In Accordance With Oakland Municipal Code (OMC) 9.64.035 And Forward To The City Council.

For questions regarding this report, please contact Bruce Stoffmacher, Management Assistant, at (510) 238-6976.

Respectfully submitted,



Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Reviewed by:
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OPD, Research and Planning, Training Division

Prepared by:
Bruce Stoffmacher, Management Assistant
OPD, Research and Planning, Training Division

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Public Safety Committee
March 19, 2019