CITY OF OAKLAND

AGENDA REPORT

TO:	Jestin D. Johnson City Administrator	**FROM:**	Floyd Mitchell Chief of Police
SUBJECT:	Remote Controlled Ground System (Robots) and Pole Cameras Privacy Policy	**DATE:**	June 24, 2024

City Administrator Approval Jestin Johnson (Jun 25, 2024 10:27 PDT) Date: Jun 25, 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 Continue Use Of Robots And Pole Cameras

EXECUTIVE SUMMARY

Due to California Assembly Bill (AB) 481 which requires California law enforcement agencies to obtain approval of a Military Equipment Use Policy by their applicable governing body prior to taking certain actions related to the funding, acquisition, or use of military equipment as defined by the legislature, the OPD and the Police Commission created an ad hoc committee in 2023. One of the many policies created was DGO I-26: Remote Controlled Ground System (Robots) and Pole Cameras. The policy would later be approved by the Police Commission on January 17, 2023, and then City Council on March 21, 2023 CMS 13731, and then published on September 9, 2023. This report addresses the modification of DGO I-26 per the settlement agreement of Secure Justice/Hofer v. City of Oakland.

BACKGROUND / LEGISLATIVE HISTORY

Robots and Pole Cameras have been used to save lives and protect property and can detect possible dangers that cannot otherwise be seen. Robots and Pole Cameras can support first responders in hazardous incidents that would benefit from a ground and or aquatic level perspective. In addition to hazardous situations, Robots and Pole Cameras have applications in locating and apprehending subjects, missing persons, search and rescue operations, and task(s) that can best be used in crawl spaces or confined isolated areas, or bodies of water. This immensely assists in searches for suspects, victims, or evidence in an efficient and effective manner. Any use of a robots or pole camera will be in strict accordance with constitutional and privacy rights and OPD Policy. OPD currently has a Unmanned Aerial System (UAS) Program since 2022 and has been utilizing robots and pole cameras prior to 2010. The continued utilization of the robots and pole camera program would continue to provide greater value for various conditions officers regularly face.

OPD was advised of the settlement agreement of Secure/Hofer V. City of Oakland. The details were as follows:

- I-26 was adopted by the City Council as required by the City's military equipment ord. (OMC Chapter 9.65) and state law (Gov't Code 7070 et. Seq.)
- I-26 has most of the elements required by the Surveillance Technology Ordinance (OMC Chapter 9.64) to be included in a Surveillance Use Policy (SUP).
- Those requirements are that a SUP must address the following elements: (1) Purpose; (2) Authorized Use; (3) Data Collection, (4) Data Access, (5) Data Protection, (6) Data Retention, and (7) Public Access (see 9.64.20.16:
- I-26 appears to address all these, even though there may not be a specific heading for each one, except for Data Retention, which is not covered.
- OPD could present to the PAC a modification draft of I-26 that adds a heading for Data Retention and say in that section that the department does not record data/info obtained from the cameras covered by the policy.

I modified DGO I-26 Remote Controlled Ground System (Robots) and Pole Cameras and added the following:

I. *ROBOT DATA*

A. Data Collection

There is no video recording function of the Robot and Pole Cameras as Robots and pole cameras only send data to the ground operator's controller via encrypted radio signals. There is no Secure Digital (SD) Cards to collect any data on Robot and Pole Cameras.

B. Data Retention

Robot and Pole Cameras do not video record or collect any data thus there is no data retention.

C. Data Access

OPD's Electronic Services Unit (ESU) shall be responsible for the maintenance and storage of Robots and Pole Camera equipment. There will be no members or outside agency requests for OPD Data as Robots and Pole Cameras do not store any data.

D. Data storage, access, and security

This does not apply to Robots and Pole Cameras as there is no data storage, access or security concerns.

E. Data Sharing

Robots and Pole Cameras do not have the capability to share any data with any external organizations via integrated technology. Robots and Pole Cameras only sends data to the operator controller via encrypted radio signals – there is no internet connection for external data sharing.

E. Public Access

Since Robots and Pole cameras do not have data storage or other means of collecting data, there are no recordings to disclose pursuant to a Public Records Act request or other.

G. Data Protection and Security

There is no data, thus no SD cards, or such, will be submitted to the OPD Evidence Unit for safe storage.

Acting Captain Hamann Nguyen, city attorney Amadis Sotelo, and Interim Chief of Police Darren Allison approved the additions to DGO I-26 and to present to the PAC.

Oakland's Surveillance Technology Policy, established in Oakland Municipal Code (OMC) 9.64, requires City Council approval for new and existing surveillance technology. OMC 9.64 also requires that city staff shall submit a surveillance impact report (SIR) and SUP to the PAC for its review. OPD presented its draft versions of the SIR and SUP to the PAC at the March 7, 2024, meeting. The PAC commissioners discussed all documents and requested the following changes:

- On Page 4, Section 5, Subsection a of DGO I-26, the PAC requested I add the words '*may only*' in the last sentence.
    - *5. Detachable Tools*
    - *a) Several ground robots have detachable tools. These detachable tools offer additional options to safely resolve a conflict consistent with OPD's Mission and Values. These detachable tools can be deployed when command believes the usage is in accordance with OPD policy, procedure, and the law, and such usage places officers in a tactical advantage. The detachable tools **may only** include the following:*

- Lieutenant O. Daza-Quiroz and OCA A. Sotelo agreed with the changes. OPD staff and the PAC were able to address this issue and revise the SUP accordingly; the PAC voted unanimously to recommend OPD's SUP version 2 (***Attachment A***) to the Council for adoption at the March 7, 2024 Meeting of the PAC. Staff recommends that the City Council adopt the proposed resolution accompanying this report, which would accept the OPD's Updated DGO I-26 Remote Controlled Ground System (Robots) and Pole Cameras (SUP).

Robots and Pole Cameras, like UAS technology, has already proven to enhance both situational awareness as well as officer safety for law enforcement (LE) agencies. Technology, such as Robots and Pole Cameras, have already been adopted by many LE agencies to assist in the safe capture of dangerous criminal suspects. The OPD has utilized the Robot and Pole Camera Program prior to 2010. Robots and Pole Cameras can support first responders in incidents involving barricaded armed suspects or residence/structure searches when interior doors are closed. The Robots can be manipulated to open the doors to provide officers a view, and also Pole Cameras can be utilized to provide a view of basement crawl spaces or attic searches as opposed to an officer having to place their head in to take a visual look. Responding to violent crime in Oakland often requires officers to face risks to their safety – in addition to the clear risks faced by members of the public when violent crime occurs.

In 2023 Oakland saw 120 homicides, 3,531 aggravated assaults (1,021 with firearms), 179 rapes, and 3,690 robberies. OPD relies on policies and procedures to mitigate the possibility of injury to bystanders or officers when the pursuits of criminal suspects occur. Technology such as UAS can play a vital role in further mitigating these omnipresent dangers by providing a greater view into the immediate surroundings of crime scenes and active pursuits. However, UAS has its limitations – they cannot open doors, remove or manipulate drapes or curtains, and at this time, have not practiced in delivering requested items (e.g., water bottles or cigarettes or a cell phone) when a subject is requesting one. Robots can open doors and manipulate environmental obstacles for UAS flights and can access items such as those requested above.

Searches for armed and dangerous suspects are more effective and controlled with UAS and with the assistance of Robots and Pole Cameras; an armed suspect can be hiding in a crawl space or attic or behind a closed door. LE can respond accordingly and more safely when provided with this critical information. More informed responses also lead to less injury and less uses of force.

LE agencies have successfully used Robots and Pole Cameras to locate potentially armed suspects during barricaded incidents and/or the service of search warrants. Robots and Pole Cameras are also being used during incidents where subjects are asleep in their vehicles and armed with firearms. The Robots have been utilized to open the vehicle door and safely remove the firearm from the subject's lap. OPD Electronic Services Unit (ESU) has trained this at a minimal level, and not all scenarios can be practiced or anticipated as environments are not controlled and ever changing. It is the ultimate discretion of the Robot operator to determine if they are capable of safely removing the firearm. The Robot is also capable of communication. They are equipped with a speaker to communicate (e.g., hostage situations/providing verbal commands and directions to the subject).

ANALYSIS AND POLICY ALTERNATIVES

This policy advances the Citywide priority of holistic community safety. 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.

OPD has an established UAS Program since 2022 and has been utilizing Robots and Pole Cameras since 2010. Outside agencies also have established UAS Programs and Robot programs. There are currently some agencies that have such outdated technology with regard to robots and pole cameras so their programs are near to obsolete. The UAS Program does not eliminate the need for Robots and Pole Cameras. UAS cannot open doors and manipulate items and thus require the assistance of a robot to open doors or move an item, such as a window blind or curtain, for the drone to operate. Pole Cameras, as such, are beneficial because they can easily search attic or crawl spaces where UAS may have a difficult time maneuvering. Without Robots or Pole Cameras, we place officers in greater danger, and OPD must make a formal request to an outside agency for each use. This approval process can take several hours when situations require immediate action. Circumstances may proceed without any time for advance-planning and conditions may involve individuals believed to be armed and dangerous. With an OPD dedicated Robot and Pole Cameras Program, OPD can better respond to such dangerous situations while mitigating officer danger and allowing for quicker deployment options – by having a separate Robot and Pole Camera Program; a standalone OPD Robot and Pole Program will allow for these much quicker deployment options.

Alternatives To Robots And Pole Cameras

The Robots and Pole Cameras SIR (***Attachment B)***, "Alternatives Considered," explains that OPD continues the status quo of utilizing their ongoing Robot and Pole Camera Program. Thus, OPD will be able to more efficiently deploy Robots and Pole Cameras when needed in priority situations by having its own program instead of relying on an outside agency.

The Alternatives Section also considers UAS usage. UAS can never replace the Robots and Pole Cameras for missions such as subjects hiding in crawl spaces or attics where drones are not wide enough for entry.

Robots And Pole Cameras And Oakland's Surveillance Ordinance

Oakland's Surveillance Ordinance No.13489 C.M.S., adopted by the City Council on May 15, 2018, adds Chapter 9.64 to the Oakland Municipal Code (OMC) covering policy areas related to surveillance technology. OMC 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 SIR and SUP to the 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."

OPD staff first presented a draft of the Robot and Pole Camera Use Policy "Department General Order (DGO) I-26: Remote Controlled Ground System (Robots) and Pole Cameras" and the SIR to the Police Commission in 2022 and 2023. As mentioned earlier, an ad hoc committee was created with OPD and the Police Commission to work on California Assembly Bill (AB) 481, which requires California law enforcement agencies to obtain approval of a Military Equipment Use Policy. The Remote Controlled Ground System (Robots) and Pole Cameras SUP was approved by the Police Commission on January 17, 2023. Then City Council on March 21, 2023 CMS 13731, and then published on September 9, 2023, On March 7, 2024, the SUP was

brought before the PAC. The DGO I-26 SUP covers several relevant areas required by OPD as well as the Surveillance Ordinance, including:

- Value Statement;
- Description of the Technology;
- Purpose:
- Authorized Use;
- Deployment Authorization and Logs;
- Detachable Tools;
- Privacy Considerations;
- Prohibited Use;
- Robot Data (Collection, Retention, Access, Storage/Access/Security, Sharing, Public Access, Protection and Security; and
- Robot Administration (System Coordinator, Program Improvements, Maintenance, Cost Analysis, Training, Auditing and Oversight, Reporting, Inquiry and Complaint Process
- Maintenance

The SIR 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 (along with area crime data);
- Privacy Impact of the Technology;
- Mitigations to Prevent Privacy Impacts;
- Data Types and Sources;
- Data Security;
- Costs;
- Complaint Procedures and Community Outreach
- Third Party Dependence;
- Alternatives Considered; and
- Track Record of Other Entities

The PAC Commissioners shared questions regarding the technology listed below:

How Does Robots Assist With Missing And Or Lost Person Searches:
The OPD UAS Program, when requested, has assisted with the searching of missing and or lost person searches. Robots can also be valuable and deployable in heavy brush or wooded areas where drones cannot easily search. Steep embankments and heavy brush areas may not allow a drone to search the area fully. The usage of Robots in collaboration with drones can benefit during the search for lost and or missing persons.

How Does Robots Assist With Sideshows:
The OPD UAS Program has assisted with sideshow enforcement and intelligence. Drones have provided officers on the ground with real-time intelligence and officer safety information. Drone operators have also relayed information on vehicles involved in sideshow or persons involved in sideshow handing off backpacks to one other and retrieving items from trunks. When vehicles are towed from sideshow there are at times

vehicles unoccupied and vehicles left abandoned. There have also been instances where people involved in sideshow are arrested with firearms while still in the perimeter as OPD Officers are walking around. The usage of robots can assist with searching beneath vehicles for subjects hiding or for discarded firearms. It was also discussed that the usage of robots during sideshows would be rare, but having the option would be beneficial as an option.

FISCAL IMPACT

The SIR (***Attachment B***) provides detailed information about the previously spent costs for OPD purchases of Robots and Pole Cameras. OPD has already purchased all equipment for a total approximate cost of $508,500. Equipment ranges from 5 years to over 15 years old. OPD ESU has gained knowledge in repairing broken robots, which has proven cost-effective and mitigated repair costs. However, with consistent deployments, wear and tear are noticeable. Other fiscal costs examined are estimated or anticipated costs for each proposed use.

PUBLIC OUTREACH / INTEREST

In 2023, the OPD ESU invited members of the ad hoc committee (Police Commission and community members) to view and operate robots and pole cameras.

COORDINATION

The Office of the City Attorney 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.

Race and 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 Robot and Pole Camera Use Policy and Surveillance Impact Report with the goal of utilizing the technology to provide 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 Continue Use Of Robots And Pole Cameras

For questions regarding this report, please contact Omar Daza-Quiroz, Lieutenant, at 510-238-3455.

Respectfully submitted,

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Attachments (**2**):
A: DGO I-25 "Remote Controlled Ground System (Robots) and Pole Cameras" version 2 approved by PAC
B: Remote Controlled Ground System (Robots) and Pole Cameras Surveillance Impact Report