



Office of the City Manager

ACTION CALENDAR

May 23, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jennifer Louis, Interim Chief of Police
Subject: Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS)

RECOMMENDATION

Adopt a Resolution approving the Surveillance Ordinance items related to Fixed Surveillance Cameras and Unmanned Aerial Systems (UAS).

FISCAL IMPACTS OF RECOMMENDATION

There are no additional fiscal impacts associated with the acquisition of this equipment. There may be minimal fiscal impacts associated with training staff on the use of Fixed Surveillance Cameras.

INTRODUCTION

The City of Berkeley enacted the Surveillance Ordinance in 2018 with the stated purpose to establish a thoughtful process regarding the procurement and use of Surveillance Technology that carefully balances the City's interest in protecting public safety with its interest in protecting the privacy and civil rights of its community members. To ensure that our general policies maintained consistent format with other policies the Department decided to develop parallel equipment 'use' policies where appropriate so that the Surveillance Use Policy could directly follow all the requirements explicitly set forth in BMC 2.99.020(4). Both policies are equally important, and all members are required to abide by the legal parameters of both policies. Recognizing the important of the Surveillance Use Policies, the Department has a chapter in our Departmental Policies specifically dedicated to the Surveillance Use Policies.

CURRENT SITUATION AND ITS EFFECTS

There are two surveillance technologies that are undergoing the process of the Surveillance Ordinance in order to obtain City Council approval. These technologies are External Fixed Video Surveillance Cameras and Unmanned Aerial System (UAS).

As part of the Surveillance Ordinance process the Department completed acquisition and use policies which underwent review by the Police Accountability Board and Public Safety Policy Committee.

City owned fixed surveillance cameras are already in place in several locations in the City of Berkeley and Council has approved installation of fixed cameras at ten specific intersections in the City. Acquisition and Use Policies are being submitted through the Surveillance Ordinance process to ensure clear guidelines regarding the approved technologies and the manner in which they will be used.

The Berkeley Police Department has made several exigent uses of Unmanned Aerial System (UAS) technology and believes circumstances may arise in the future necessitating further use. The Surveillance Ordinance provides guidance to Temporary Acquisition and Use of Surveillance Equipment (BMC 2.99.040) which requires the following: notifications, and presumes that if the uses will continue beyond exigent circumstances that the Department bring forward an acquisition report and use policy.

Crime trends regionally and in the City of Berkeley indicate there has been a steady increase in shootings in the City the last five years and Part 1 Crimes reached their highest level in ten years in 2022. The Department has developed and submitted acquisition and use policies for these surveillance technologies as we believe that they support our mission to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect. These law enforcement tools enhance policing practices and create greater safeguards toward fair and impartial policing and safer outcomes during law enforcement interactions.

The External Fixed Video Surveillance Camera Policies are covered by three policies:

1. Policy 351 – The policy that will establish guidelines for the Police Department on the use of External Fixed Video Surveillance Cameras
2. Policy 1304 - The Surveillance Use Policy related to Fixed Video Surveillance Cameras
3. Surveillance Acquisition Report – Citywide Report regarding Cameras

Each of the above External Fixed Video Surveillance Camera Policies received City Attorney Office review with Public Works staff being the primary author of the Acquisition Report and Berkeley Police Department staff being the primary author of Policies 351 and 1304.

The Unmanned Aerial System (UAS) policies are covered by the following policies:

1. Policy 611 – The policy that will establish guidelines for the Police Department on the use of an Unmanned Aerial System (UAS – commonly referred to as drones)
2. Policy 1303 - The Surveillance Use Policy related to UAS

3. An Acquisition Report related to UAS. The Department is not seeking to acquire UAS technology at this time but per the City Attorney's Office, the Surveillance Ordinance requires completion of an Acquisition Report as well.

Each of the above policies received City Attorney office review. Attached to this report are the revised versions of all the aforementioned policies considering feedback from the Police Accountability Board and Public Safety Policy Committee meetings. Track changes are included to show the revisions the Department made.

Pursuant to the Surveillance Ordinance, BMC Section 2.99.030.2, upon receipt of acquisition and use policies from the Police Department, the Police Accountability Board (PAB) has a 30-day deadline "to recommend approval of the policy, object to the proposal, recommend modifications, or take no action." The Department provided the PAB the acquisition and use policies for UnManned Aerial Systems on January 24, 2023 and Fixed Cameras on February 8, 2023. The PAB provided written recommendations to the Department and the PSPC. The Department provided information and solicited feedback on these policies from the Public Safety Policy Committee at the Committees March 20, 2023 and April 24, 2023 meetings.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

CONTACT PERSON

Captain Mike Durbin, Police, Professional Standards Division (510) 981-5760

ATTACHMENTS:

1. REVISED: Policy 351- External Fixed Video Surveillance Cameras
2. REVISED: 1304- Surveillance Use Policy External Fixed Video Surveillance Cameras
3. REVISED: Acquisition Report- External Fixed Video Surveillance Camera
4. REVISED: 611- Unmanned Aerial System (UAS)
5. REVISED: 1303-Surveillance Use Policy Unmanned Aerial System (UAS)
6. REVISED: Acquisition Report- Unmanned Aerial System (UAS)
7. RESOLUTION

External Fixed Video Surveillance Cameras

351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. ~~This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Surveillance Use Policy – 1304.~~

351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

REVISED-351 External Fixed Video Surveillance Cameras (Final).docx

- 6th Street at University Avenue
- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7th Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62nd Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for ~~a variety of purposes, including~~ criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~(f) To augment resources in a cost effective manner.~~
- ~~(g)~~(f) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~(h)~~(g) To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

351.4.2 PROHIBITED ACTIVITY

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

351.5 STORAGE AND RETENTION OF MEDIA

The cameras should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or

civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

351.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

351.6 RELEASE OF VIDEO IMAGES

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

351.7 VIDEO SURVEILLANCE AUDIT

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

351.8 TRAINING

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

351.9 MAINTENANCE

-It shall be the responsibilityies of the Public Works Department to facilitate and coordinate any updates and required maintenance.

Surveillance Use Policy-External Fixed Video Surveillance Cameras

1304.1 PURPOSE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department (BPD). This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. Department Personnel shall adhere to requirements for External Fixed Video Surveillance Cameras covered in this policy as well as the corresponding Use Policy – 351.

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

1304.2 AUTHORIZED USE

Only BPD members who receive training on this policy, who are then granted access by an administrator may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate law enforcement purpose. Members must follow the necessary logging mechanisms, such as case number and case type when querying the database.

Recorded images may be used for ~~a variety of purposes, including~~ criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~(f) To augment resources in a cost effective manner.~~
- ~~(g)~~(f) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~(h)~~(g) To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct

The following are prohibited uses of the video surveillance system:

- (a) Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.
- (b) Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.
- (c) Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

- (d) Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
- (e) Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

1304.3 DATA COLLECTION

The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

1304.4 DATA ACCESS

Access to video surveillance cameras data shall be limited to Berkeley Police Department personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 1304.9 below. Members seeking access to the video surveillance system shall seek the approval from the Investigations Division Captain, or their designee.

1304.5 DATA PROTECTION

All data transferred from the cameras and the servers shall be encrypted. Access to the data must be obtained through the Public Works Department. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

1304.6 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1304.4 Data Access, 1304.5 Data Protection, 1304.7 Data Retention, 1304.8 Public Access and 1304.9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

1304.7 DATA RETENTION

The video surveillance camera system should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

Surveillance Use Policy-External Fixed Video Surveillance Cameras

1304.8 PUBLIC ACCESS

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

1304.9 THIRD-PARTY DATA-SHARING

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with specific and legitimate law enforcement purposes.

Data collected from the video surveillance system may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process

1304.10 TRAINING

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

1304.11 AUDITING AND OVERSIGHT

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

1304.12 MAINTENANCE

It shall be the responsibility of the Public Works Department to facilitate and coordinate any updates and required maintenance.

PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT

SURVEILLANCE CAMERAS**A. DESCRIPTION**

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. The cameras are affixed to City of Berkeley-owned infrastructure including utility poles on City streets and parks. The cameras provide protection to indoor and outdoor spaces with high-resolution images of up to 5 MP, a wide field of view, and efficient bandwidth management in a compact design without compromising building aesthetics. Although license plate and facial recognition hardware is available, neither was purchased or installed. Without the hardware, these features cannot be activated. Audio is a standard feature of the camera, but will remain deactivated by the authorized administrators of the system.



The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application. ¹.

¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839

PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT



The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female or male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

B. PURPOSE

Surveillance cameras will be utilized for the following business purposes:

- i. To prevent, deter and identify criminal activity.
- ii. To address identified areas of criminal activity.
- iii. To respond to critical incidents.
- iv. To assist in identifying, apprehending and prosecuting offenders.
- v. To document officer ~~and offender~~ conduct during interactions to safeguard the rights of the public and officers.
- ~~vi. To augment resources in a cost-effective manner.~~
- ~~vii-vi.~~ vii-vi. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- ~~viii-vii.~~ viii-vii. To document City of Berkeley employee, employer, and/or customer conduct during interactions to safeguard the City of Berkeley employee, employer, and customer from misconduct

C. LOCATION

Surveillance cameras encompassed by this report, are located at, or will be installed at, the following locations.

Future Projects:

- 6th Street at University Avenue

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- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7th Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62nd Street at King Street

Completed Projects:

- San Pablo Park
- City of Berkeley Marina
- Transfer Station

D. IMPACT

The primary intent of these cameras is to deter and address crime in the City of Berkeley. The Public Works Department will work to ensure that the video recordings are secured and only accessible to authorized personnel. The right to maintain someone's anonymity versus the need to collect information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

The Public Works Department will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.

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E. MITIGATION

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, the Department will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

Employees are prohibited from retaining, duplicating, or distributing video recordings except for departmental business purposes in accordance with the use policy.

F. DATA TYPES AND SOURCES

The surveillance camera system's use is limited to capturing non-audio, video recordings on affixed City buildings, including utility poles on streets and within park boundaries. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

G. DATA SECURITY

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from system management. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.
2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.

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5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

H. FISCAL COST

Costs for future projects listed in Section C of this report are unknown at this time. Future costs will depend on additional maintenance, equipment, and parts. Ongoing costs include associated staff time relative to the system administrator’s role of administering and maintaining the surveillance camera program. All cameras are purchased and wholly owned and operated by City of Berkeley.

Initial Purchase Costs:

San Pablo Park: \$64,829.46 – 1 server and 21 camera views

Zero Waste Transfer Station – Weigh Station: \$15,962.35 – 1 server and 10 camera views

Marina: \$106,620.14 – 2 servers and 45 camera views

Ongoing Costs:

Personnel, maintenance, and other ongoing costs, including compliance and other reporting and oversight requirements - \$13,443.20 per year.

I. THIRD PARTY DEPENDENCE AND ACCESS

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.

J. ALTERNATIVES

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol City buildings and parks.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities.

PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT

K. EXPERIENCE OF OTHER ENTITIES

Neighboring cities including San Francisco, Oakland, and San Jose have adopted the use of Surveillance Cameras as a tool for reducing crime on city streets and parks. Many cities have developed their own usage policies which may include standards for use, data retention standards, and system controls.

Policy
611

Berkeley Police Department
Law Enforcement Services Manual

Unmanned Aerial System (UAS) Operations

611.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy – 1303 which corresponds with the Unmanned Aerial System is equally applicable. Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Surveillance Use Policy – 1303.

611.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

611.2 POLICY

Unmanned aerial systems may be utilized for the purpose of enhancing the department's mission of protecting lives and property by enabling remote surveillance and monitoring in the situations specified in 611.5 below when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. All uses of the UAS shall be reported in compliance with the Surveillance Technology Ordinance, BMC 2.99.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

611.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and 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). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

Unmanned Aerial System (UAS) Operations

611.4 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

611.5 AUTHORIZED USE

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. UAS may only be requested for the purpose of remote surveillance and monitoring in the following specified situations:

- (a) Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- (b) Disaster management;
- (c) Missing or lost persons;
- (d) Hazardous material releases;
- (e) Sideshow events where many vehicles and reckless driving is present;
- (f) Rescue operations;
- (g) Training;
- (h) Hazardous situations which present a high risk to officer and/or public safety, to include:
 - i. Armed suicidal persons;
 - ii. Hostage situations;
 - iii. Barricaded suspects;
- (i) Arrest of armed and/or dangerous persons
- (j) Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- (k) Other unforeseen exigent circumstances.

Unmanned Aerial Systems shall only be utilized for law enforcement purposes.

611.6 REQUEST PROCESS

Pursuant to BMC 2.99, the Surveillance Technology Ordinance governing the use of drones, the following steps must occur to seek permission to temporarily use a drone. The requests shall be made to the City Manager via the Chain of Command, as follows:

Unmanned Aerial System (UAS) Operations

- (a) All requests shall be routed to the Watch Commander, if they are not available, the Duty Command Officer (DCO)
- (b) The Watch Commander or DCO should contact the Chief of Police, or the Acting Chief of Police in his/her absence.
- (c) The Chief of Police, Acting Chief of Police, or in exigent circumstances the DCO shall obtain approval from the City Manager authorizing the use of a Drone. The City Manager is responsible for logging the use and ensuring the notifications and reporting requirements are met pursuant to BMC 2.99.040.

611.7 RETENTION OF UAS DATA

If available, any data collected by the use of a UAS should be purged by BPD within 60 days if it doesn't contain any data of evidentiary value. If the data has evidentiary value, it should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

Surveillance Use Policy-Unmanned Aerial System (UAS)

1303.1 PURPOSE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS. Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Use Policy – 611.

1303.2 AUTHORIZED USE

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. UAS may only be requested for the purpose of remote surveillance and monitoring in the following specified situations:

- (a) Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- (b) Disaster management;
- (c) Missing or lost persons;
- (d) Hazardous material releases;
- (e) Sideshow events where many vehicles and reckless driving is present
- (f) Rescue operations;
- (g) Training;
- (h) Hazardous situations which present a high risk to officer and/or public safety, to include:
 - i. Armed suicidal persons;
 - ii. Hostage situations;
 - iii. Barricaded suspects;
- (i) Arrest of armed and/or dangerous persons
- (j) Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- (k) Other unforeseen exigent circumstances

Unmanned Aerial Systems shall only be utilized for law enforcement purpose.

1303.3 DATA COLLECTION

If equipped, it shall be the request on all BPD deployments that the “video recording only” function of the UAS be activated whenever the UAS is deployed, and deactivated whenever the UAS deployment is completed. The UAS operator will rely on SD Cards for video recordings.

Surveillance Use Policy-Unmanned Aerial System (UAS)

1303.4 DATA ACCESS

Access to UAS data shall be limited to Berkeley Police Department (BPD) personnel and the mutual assistance agency, in connection with an active investigation. Information may be shared in accordance with 1303.9 below. It shall be at the discretion of the Commander or senior supervisor to discern which members have a need to know, and limit access to those members. BPD is prohibited from selling any data obtained from the UAS.

1303.5 DATA PROTECTION

Whenever feasible, the data from the UAS should be encrypted by the vendor or operator. The data should only be accessible to BPD personnel who have been granted security access.

1303.6 CIVIL LIBERTIES AND RIGHTS PROTECTION

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of Unmanned Aerial Systems (UAS). These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

1303.7 DATA RETENTION

If available, any data collected by the use of a UAS should be purged by BPD within 60 days if it doesn't contain any data of evidentiary value. If the data has evidentiary value, it should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

1303.8 PUBLIC ACCESS

UAS data which is collected and retained under this policy is considered a "law enforcement investigatory file" pursuant to Government Code § 6254, and shall be exempt from public disclosure. UAS data which is retained pursuant to this policy shall be available via public records request pursuant to applicable law regarding Public Records Requests as soon as the criminal or administrative investigations has concluded and/or adjudicated.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

1303.9 THIRD-PARTY DATA-SHARING

Data collected from the UAS may be shared with the following:

Surveillance Use Policy-Unmanned Aerial System (UAS)

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Other third parties, pursuant to a Court Order or Search Warrant.

Surveillance Use Policy-Unmanned Aerial System (UAS)

1303.10 TRAINING

The use of a UAS shall only occur as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS. All BPD personnel shall be provided with this Surveillance Use Policy. BPD recognizes that the assisting agency will need to satisfy their respective training requirements to operate the UAS, however BPD personnel shall follow this policy and all relevant policies, including Records Management, Policy 804 while access or retaining any of the captured data from the UAS.

1303.11 AUDITING AND OVERSIGHT

Division Captains or their designee shall ensure compliance with this Surveillance Use Policy.

The security and integrity of the Surveillance Technology and collected information will be completed in the form of a random biennial audit of the uses from the Audit and Inspection's Sergeant. This audit will be routed to the Captain of Professional Standards Bureau and the Chief of Police for review.

Intentional violation of this policy may serve as grounds for disciplinary action pursuant to Policy 1010, Personnel Complaints.

1303.12 MAINTENANCE

UAS's will only be used in a mutual assistance request, and thereby must be obtained from the City Manager via the Chain of Command. All UAS maintenance shall be conducted by the owner/operator of the device consistent with all other mutual assistance response agreements.

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BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

UNMANNED AERIAL SYSTEM (UAS)**A. DESCRIPTION**

An Unmanned Aerial System (UAS) is an unmanned aircraft of any type that is capable of sustaining directed flight, whether pre-programmed or remotely controlled and all of the supporting or attached components designed for gathering information through imaging, recording, or any other means. Generally, a UAS consists of:

- An unmanned aircraft which consists of the chassis with several propellers for flight, radio frequency and antenna equipment to communicate with a remote-control unit, control propellers and other flight stabilization technology (e.g. accelerometer, a gyroscope), a computer chip for technology control, a camera for recording, and a digital image/video storage system for recording onto a secure digital card (SD card);
- A remote-control unit that communicates with the unmanned aircraft via radio frequency; and
- A battery charging equipment for the aircraft and remote control.

UAS are controlled from a remote-control unit (similar to a tablet computer). Wireless connectivity lets pilots view the UAS and its surroundings from a bird's-eye perspective. UAS have cameras so the UAS pilot can view the aerial perspective. UAS record image and video data onto a secure digital (SD) memory cards. SD cards can be removed from UAS after flights to input into a computer for evidence.

B. PURPOSE

UAS offer to significantly improve the capacity of law enforcement (LE) to provide a variety of foundational police services. This technology has already been used with many law enforcement agencies to save lives and help capture dangerous criminal suspects. UAS can support first responders in hazardous incidents that would benefit from an aerial perspective.

Responding to violent crime in Berkeley often requires officers to face risks to their safety – in addition to the clear risks faced by members of the public when violent crime is present. From 2018 to 2022, the yearly average number of shootings has doubled. In 2021 Berkeley had 265 robberies, 210 aggravated assaults, 57 sexual assaults, and 118 firearms recovered.

Technology such as UAS can play a vital role in mitigating these omnipresent dangers, by providing a greater view into the immediate surroundings of crime scenes and active pursuits. The use of a UAS is also in line with the Department's philosophy around de-escalation, as this tool can provide greater time and distance, which are the critical components in offering officers the greatest likelihood of a peaceful, or less violent resolution.

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BERKELEY POLICE DEPARTMENT SURVEILLANCE ACQUISITION REPORT – UNMANNED AERIAL SYSTEM (UAS)

Searches for armed and dangerous suspects are more effective and controlled with UAS support; an armed suspect can be hiding in a tree or on a roof. LE can respond accordingly and more safely when provided with this critical information (see Section #10 below “Alternatives Considered” for more information on how UAS compares to alternatives for situational awareness). More informed responses also lead to less injury and less uses of force.

LE agencies have successfully used UAS to locate missing persons, especially in more remote areas – as well as for rescue missions. UAS is also being used during disasters and during any hazardous material releases. The situational awareness UAS provides has also become an important tool for large events (e.g. sport events, parades, and festivals); the aerial view provides information that would otherwise require a much larger deployment of LE personnel to maintain the same level of public safety support. Furthermore, smaller UAS can be equipped with a loud speaker to communicate (e.g. hostage situations/providing verbal commands and directions to the subject).

BPD must seek approval from the City Manager prior to any use. BPD may then make a mutual assistance request to ACSO for their UAS. This approval process could be rapid or take several hours depending if their resources are deployed elsewhere, and there is no guarantee that the equipment will be available.

C. LOCATION

BPD proposes to use UAS as outlined in policy 611- Unmanned Aerial System (UAS), and further guided by policy 1303-Surveillance Use Policy Unmanned Aerial System (UAS). Department Personnel shall adhere to requirements for Unmanned Aerial Systems covered in this policy as well as the corresponding Surveillance Use Policy – 1303. BPD proposes to only use UAS as the result of a mutual assistance request, and no BPD personnel will be allowed to operate a UAS.

UAS may only be requested for the following specified situations:

- a. Mass casualty incidents (e.g. large structure fires with numerous casualties, mass shootings involving multiple deaths or injuries);
- b. Disaster management;
- c. Missing or lost persons;
- d. Hazardous material releases;
- e. Sideshow events where many vehicles and reckless driving is present;
- f. Rescue operations;
- g. Training;
- h. Hazardous situations which present a high risk to officer and/or public safety, to include:

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- i. Barricaded suspects;
- ii. Hostage situations;
- iii. Armed suicidal persons;
- i. Arrest of armed and/or dangerous persons
- j. Service of high-risk search and arrest warrants involving armed and/or dangerous persons
- k. Other unforeseen exigent circumstances

Unmanned Aerial Systems shall only be used for law enforcement purposes.

Potentially, UAS could be deployed in any location in the City of Berkeley where one or more of the above situations occur and where the proper authorizations are provided. Fortunately, several of these situations rarely occur – but some do occur regularly, such as arresting armed/dangerous person. BPD occasionally arrests individuals for violent homicides, shootings, robberies, violent sexual assaults, and other crimes– UAS can provide situational awareness in all of these critical incidents to provide a greater level of safety for officers, as well as for nearby civilians

D. IMPACT

BPD recognizes that the use of UAS raises privacy concerns. UAS are becoming ubiquitous in the United States, and there is a growing concern that people can be surveilled without notice or reason. There is concern that UAS can be utilized to observe people in places, public or private, where there is an expectation of privacy. The level of potential privacy impact depends upon factors such as flight elevation and camera zoom magnitude, as well as where the UAS is flown.

The results of the research study titled, "Mission-based citizen views on UAV usage and privacy: an affective perspective¹," published in February 2016 found that people's perceptions of how UAS impacts privacy relate to use type. The researchers from College of Aeronautics, Florida Institute of Technology, and the Aeronautical Science at Embry-Riddle Aeronautical University (ERAU), College of Aviation UAS Lab found that people tend to be less concerned about police UAS use when the technology is only used for specific uses - "concerns for privacy were less in the condition where the UAV was only used for a specific mission than when it was operated continuously." Policy 611 and 1303 provide strict acceptable guidelines, and Authorized Uses which explains when BPD personnel can request the use of a UAS for specific missions.

E. MITIGATION

¹ <https://www.nrcresearchpress.com/doi/abs/10.1139/juvs-2015-0031#.XkHEAWhKIUI>

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BPD's policy 611 restricts BPD's use of UAS in several ways to promote greater privacy protections.

BPD will only request use UAS for specific missions rather than operating continuously, mitigating concerns raised in the February 2016 study cited above.

Policy 611 and 1303. Authorized Use lists the only allowable uses of UAS (e.g. mass casualty incidents, disaster management, missing or lost persons, hazardous material releases, sideshow events where many vehicles and reckless driving is present, rescue operations, training, hazardous situations which present a high risk to officer and/or public safety to armed suicidal persons, hostage situations, barricaded suspects, arrest of armed and/or dangerous persons, service of high risk search and arrest warrants involving armed and/or dangerous persons, and other unforeseen exigent circumstances). Policy 611 also articulates the Request Process which indicates the approval must come from the City Manager via the Chain of Command for all use approvals.

All requests and deployments shall be reported annually in the Surveillance Technology Report as outlined in BMC 2.99.070. Additionally, the Department shall publish data regarding the specific requests and deployments on the Department's transparency portal within 14 days of use.

The Federal Aviation Administration (FAA) sets strict flight regulations for all UAS users, including for law enforcement. The FAA provides two law enforcement options for creating acceptable UAS under 14 Code of Federal Regulation (CFR) part 107, subpart E, Special Rule for Model Aircraft; the agency can designate individual members to earn FAA drone pilot certificates and fly under the rules for small UAS, or receive a FAA certificate to function as a "public aircraft operator" to self-certify agency drone pilots and drones. Either way, these options allow for BPD to use systems under 55 pounds, for flying at or below 400 feet above ground level. Absent an emergency situation warranting a FAA COA/Part 107 waiver- permitted law enforcement response, law enforcement is also restricted from using UAS to fly over or near the following locations:

- Stadiums and Sporting Events;
- Near Airports; and
- Emergency and Rescue Operations (wildfires and hurricanes).

Policy 611 "Privacy Considerations," outlines several other protocols for mitigating against privacy abuse:

BPD UAS mutual assistance personnel must adhere to FAA altitude guidelines – flying below 400 feet helps to ensure that UAS is not used for surveilling overly large geographic areas; BPD will use UAS to focus on specific areas.

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BPD UAS 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, place of worship, medical provider's office).

Mutual assistance operators and observers shall take reasonable precautions, such as turning imaging devices away, to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

Policy 611 "Prohibited Use" explains that:

UAS shall not be used for the following activities:

- To conduct random surveillance activities.
- To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation when not connected to actual information about specific individuals related to criminal investigations;
- For the purpose of harassing, intimidating, or discriminating against any individual or group; or
- To conduct personal business of any type.

BPD is prohibited from weaponizing any UAS.

F. DATA TYPES AND SOURCES

UAS will record using industry standard file types such as (e.g. jpeg, mov, mp4, wav or RAW). Such files may contain standard color photograph, standard color video, or other imaging technology such as thermal. Although UAS can transmit one-way audio from the operator, the UAS technology available today does not currently record sound.

G. DATA SECURITY

BPD takes data security seriously and safeguards UAS data by both procedural and technological means. The video recording function of the UAS shall be activated whenever the UAS is deployed. Video data will be recorded onto Secure Digital (SD) Cards. Any data collected by the use of a UAS should be kept by BPD minimally for 60 days. The data should be uploaded into BPD's evidence database and kept pursuant to the established retention guidelines set forth in policy 804-Records Maintenance and Release.

H. FISCAL COST

The only costs will be staff time, since at this time BPD is only proposing this acquisition for the purposes of leveraging our neighboring agencies UAS during the proposed policy

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guidelines. Use of UAS by neighboring agencies in a mutual assistance scenario will not result in additional costs to the City.

I. THIRD-PARTY DEPENDENCE AND ACCESS

BPD is primarily reliant upon the Alameda County Sheriff's Office (ACSO) and Oakland Police Department when exigent circumstances occur that warrant UAS requests. BPD requested and received UAS support from ACSO two times in 2021/2022.

BPD proposes that any data collected from the UAS may be shared with the following:

The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;

Other law enforcement personnel as part of an active criminal investigation;

Other third parties, pursuant to a Court Order or Search Warrant.

J. ALTERNATIVES

In some instances, BPD could rely on requesting the assistance of an outside agency's helicopter, which cause significant carbon emissions, especially when considering the footprint of a UAS.

Another alternative is the deployment of additional police resources. The inherent problem with this alternative is that this may be counterproductive to the Department's philosophy on de-escalation as it reduces the Department's ability to leverage time and distance to reduce the likeliness of a physical or violent confrontation.

K. EXPERIENCE OF OTHER ENTITIES

Currently, in Alameda County, the following cities have UAS programs, The Alameda County Sheriff's Office, the Oakland Police Department, Fremont Police Department, Hayward Police Department, and Newark Police Department. At the time of publication, the author had not received a response from Oakland and Fremont Police Departments.

Alameda County Sheriff's Office

An Alameda County Sheriff's Office representative indicated the only financial burden is the changing technology every 12-18 months, including improved batteries and cameras that require possible updates.

In 2015 when the Sheriff's Office proposed the use of UAS' to the Board of Supervisors, several community groups expressed opposition due to the fear of an invasion of privacy and spying on the public. Since the approval by the Board of Supervisors, ACSO created a website for the public to voice their complaints. As of January 2023, they have received one complaint from a community member in Alameda County. That specific complaint was deemed not relate to ACSO UAS.

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No community costs. No unintended video was captured, and if it was, it would be deleted per their policy.

Successes in their program were described as follows:

- 1) Community and Officers are Safer
- 2) UAVs contributed to the arrest of fleeing suspects
- 3) Reported Missing Person suffering from a Health Condition (Alzheimer's) have been located
- 4) Documenting crime scenes are conducted more efficiently and conducted in a shorter time

No noted failures to date from the program that were reported to Berkeley Police Department.

Hayward Police Department

Hayward Police Department did not have any unintended financial burdens. Their initial drone purchase (4 drones) was budgeted, and they also have a CIP (Capitol Improvement Budget) item where every three years they get \$50,000 to purchase new drones as new equipment becomes available or just as a replacement plan.

Hayward Police Department did not report any unintended community costs or backlash. Hayward Police Department reported that since the program began, it's paid dividends past what they thought it would. For instance, a lieutenant with Hayward Police Department stated that several drone deployments have resulted in a significant risk reduction when trying to stabilize potentially critical incidents.

Hayward Police Department held two community meetings (separate from the council sessions) and had an outside agency bring a done, and they included an educational training for all persons who attended. This is believed to have mitigated many issues (and educated the city council members as well), which addressed many of the initial concerns. Hayward Police Department also worked closely with ACSO to craft their policy and create their program. Hayward Police Department has deployed their UAS approximately 75 times since March of 2022 with 0 citizen complaints.

Newark Police Department

Newark Police Department reported no unintended financial burdens associated with the UAS. Newark Police Department spent \$1,200 to purchase a drone from BestBuy, which

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came from their organization's operating funds. Newark Police Department obtained a grant which funded the purchase of three additional drones at a cost of \$30,000.

Newark Police Department has not had any unintended community costs or backlash. Newark Police Department has a community academy in which the Department provides training on the program and the uses associated with the UAS.

Newark Police Department reported that the program had the unintended benefit of working more closely with ACSO and Fremont, garnering a better working relationship which was unanticipated.

Newark Police Department used many of the processes that ACSO used in creating their UAS program. Newark Police Department relied heavily on the policies and practices developed by Alameda County Sheriff's Office due to their very robust input from various stakeholders. This helped create a solid foundation they could build upon. From this, they have succeeded in the creation and implementation of their UAS program.

DRAFT

RESOLUTION NO. ##,###-N.S.

SURVEILLANCE ORDINANCE ITEMS: FIXED SURVEILLANCE CAMERAS
AND UNMANNED AERIAL SYSTEMS

WHEREAS, the Berkeley City Council adopted Ordinance NO. 7,592-N.S., the Surveillance Technology Use and Community Safety Ordinance on March 13, 2018; and

WHEREAS, BMC section 2.99.020 (4) mandates a Surveillance Use Policy for use of Surveillance Technology; and

WHEREAS, External Fixed Video Surveillance Cameras and Unmanned Aerial System are considered Surveillance Technology per BMC section 2.99.020 (1); and

WHEREAS, per BMC section 2.99.030 (1)(b), requires the City Manager to obtain City Council approval for the acquisition of new Surveillance Technology, Fixed Video Surveillance Cameras, by placing an item on the Action Calendar; and

WHEREAS, per BMC section 2.99.030 (1)(c), requires the City Manager to obtain City Council approval for the use of new Surveillance Technology, Unmanned Aerial System by placing an item on the Action Calendar.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the acquisition and Use Policies for the External Fixed Video Surveillance Cameras and for the Unmanned Aerial System.

