



MEMORANDUM

TO: LeRonne Armstrong,
Chief of Police

FROM: Drennon Lindsey, Deputy Chief
OPD, Bureau of Investigations

SUBJECT: Live stream transmitter– 2021
Annual Report

DATE: March 15, 2022

Background

Oakland Municipal Code (OMC) 9.64.040: Surveillance Technology “Oversight following City Council approval” requires that for each approved surveillance technology item, city staff must present a written annual surveillance report for Privacy Advisory Commission (PAC). After review by the Privacy Advisory Commission, city staff shall submit the annual surveillance report to the City Council. The PAC shall recommend to the City Council that:

- The benefits to the community of the surveillance technology outweigh the costs and that civil liberties and civil rights are safeguarded.
- That use of the surveillance technology cease; or
- Propose modifications to the corresponding surveillance use policy that will resolve the concerns.

Oakland Police Department (OPD) I-23: Live Stream Transmitter Use Policy governs OPD’s use of Live Stream Transmitters; the policy was approved by the City Council on April 21, 2020 through Resolution No. 88099 C.M.S., as well as OMC 9.64.040, requires that OPD provide an annual report to the Chief of Police, the Privacy Advisory Commission (PAC), and the City Council. The information provided below is compliant with the annual report policy requirements of OMC 9.64.040 and DGO I-23.

Sergeant Inez Ramirez is currently the Live Stream / Video Team Program Coordinator.

A. A description of how the surveillance technology was used, including the type and quantity of data gathered or analyzed by the technology:

*OPD used the livestream transmitter technology one time in 2021. **Attachment A** to this report provides the detail from the required after-action report provided to the City’s Privacy Advisory Commission (PAC) as well as the City’s Chief Privacy Officer. From page one of the report:*

“The City of Oakland activated its Emergency Operations Center (EOC) on May 1, 2021 and, as part of the City’s Incident Command System response, OPD staffed the EOC positions therein including the role of OPD Operations Incident Command. The activation and associated operations were necessitated by the plan to address planned but unpermitted crowd management events associated to “May Day” parades, marches, rallies, demonstrations, protests and May 1st events. Although OPD deployed video teams with EOC video stream transmitters during the entire operational period, the technology use was

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limited to evening and late evening hours to better assess, plan, direct, and respond to circumstances associated with a march of approximately 70 persons.”

- B. Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s):

DGO I-11 does provide that OPD may share live stream data with other law enforcement agencies that have a right to know and a need to know¹, such as an inspector with the District Attorney’s Office. However, no live stream data was downloaded, retained, or shared with different agencies. Video was streamed into the EOC/DOC. Any supporting agency inside the EOC would have viewed the live stream. No live stream video was saved/downloaded at the EOC/DOC. No live stream video was shared with other law enforcement agency, unless they viewed it live on the screen at the EOC/DOC. No one is allowed at the EOC without:

- 1. Authorization*
- 2. Verification of their status, department, rank, and title*
- 3. All verifications are documented by OPD and or City Administration.*

- C. Where applicable, a breakdown of what physical objects the surveillance technology hardware was installed upon; using general descriptive terms so as not to reveal the specific location of such hardware; for surveillance technology software, a breakdown of what data sources the surveillance technology was applied to:

The transmitters are attached to video cameras which are handheld by officers monitoring the events.

- D. Where applicable, a breakdown of where the surveillance technology was deployed geographically, by each police area in the relevant year:

The live stream transmitters were deployed in areas where the protests and marches occurred in parts of downtown Oakland.

- E. A summary of community complaints or concerns about the surveillance technology, and an analysis of the technology’s adopted use policy and whether it is adequate in protecting civil rights and civil liberties. The analysis shall also identify the race of each person that was subject to the technology’s use. The Privacy Advisory Commission may waive this requirement upon making a determination that the probative value in gathering this information to evaluate the technology’s impact on privacy interests is outweighed by the City’s administrative burden in collecting or verifying this information and the potential greater invasiveness in capturing such data. If the Privacy Advisory Commission makes such a determination, written findings in support of the determination shall be included in the annual report submitted for City Council review.

¹ DGO I-23 explains that a right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law

Staff reached out to each City Council office to ask about possible community complaints or concerns related to this surveillance technology. No community complaints or concerns were communicated to staff.

OPD did notify the City's Chief Privacy Officer and Chair and Co-Chair of the Privacy Advisory Commission on May 3, 2021 of the use of the equipment on May 1, 2021. The report was discussed at the public May 5, 2021 PAC meeting.

In terms of an "analysis shall also identify the race of each person that was subject to the technology's use:"

- *data was not generated from use of the livestream transmitter as the transmission was not recorded; there is no data to analyze.*
- *Additionally, the technology is used to survey a large area for situational awareness. The administration burden would be high and challenging to determine the race of everyone who may have been streamed via the live video during even one usage over the course of an hour or more in an event with hundreds of people.*

For the reasons cited above, staff recommends that the PAC waive this requirement upon making a determination that the probative value in gathering this information to evaluate the technology's impact on privacy interests is outweighed by both the City's administrative burden in collecting or verifying this information and the potential greater invasiveness in capturing such data

F. The results of any internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response unless the release of such information is prohibited by law, including but not limited to confidential personnel file information:

The one use in 2021 was reviewed for adherence to policy and internal protocols:

- *Video was not recorded during the incident (see **Attachment A** for full report);*
- *Appropriate staff were notified of use and the City's Privacy Officer and PAC were notified according to policy.*
- *Technology was properly stored with the OPD Information Technology Unit (ITU).*
- *OPD is not aware of any policy violations from use of the live stream transmitters in 2021.*

G. Information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response:

OPD is not aware of any data breaches; furthermore, data was not generated from use of the livestream transmitter as the transmission was not recorded.

H. Information, including crime statistics, that helps the community assess whether the surveillance technology has been effective at achieving its identified purposes:

*The "Report on Video Stream Request and Usage," dated May 3, 201 (see **Attachment A**) explains that the decision to activate live stream and recording during the evening hours:*

- *Video Team assignments and equipment are a recommended if not required component of OPD response to planned events involving potentially large crowds.*
- *Live stream may be authorized by the Incident Commander.*
- *The march was reportedly organized or promoted by the same source linked to a April 16, 2021 march that resulted in numerous instances of property damage, arson, assault, and battery of police officers; the apparent organizers or participants of that event had refused to communicate with or otherwise cooperate with police*
- *The imagery used to promote the unpermitted march displayed burning structures with proximate protest activity inferring desired crimes of arson.*
- *The text used in this event's main social media/internet posting urged absences of livestreaming, picture taking, and "snitching" for an inferred intent to commit criminal acts with reduced chances of being identified and arrested.*
- *The text used in this event's main social media/internet posting was inherently anti-police and requested participants to "bring soup." Soup cans were thrown at officers with intent to injure during past anti-police demonstrations including the previously referenced 16 Apr 21 event.*
- *Open media sources had reported "antifa" communication and meetings in nearby Northern Ca communities identifying "May Day" as an opportunity to "kill cops." Persons affiliated with the "antifa" group(s) had ties to past Oakland events in which violence was used.*
- *The social media/internet posting urged persons to wear all black. "Black Blok" is a tactic in which persons desiring to commit unlawful acts wear black clothing so that they may not be easily identified or found within the crowd during or after committing criminal acts.*
- *The vast majority of persons assembled at Frank Ogawa Plaza arrived wearing all black.*
- *Many persons arriving at Frank Ogawa Plaza possessed bulky backpacks. Backpacks have been used to secret "tools of violence" and other instruments to damage property, commit acts of arson, or batter police officers.*
- *Officers observed a bag of canned soup brought to or possessed by persons assembling at Frank Ogawa Plaza.*
- *Attempts to communicate with the persons assembled in Frank Ogawa Plaza failed to achieve cooperation in establishing a march route, police liaison, and means by which criminal activity could be mitigated or otherwise cooperatively addressed.*
- *When persons assembled at Frank Ogawa Plaza entered the roadway with apparent intent to march, I authorized live stream and recording in order to better observe, plan, direct, and assess the crowd control incident in best effort to prevent, record, and address instances of property damage, arson, crime, and assaultive behavior.*

I. Statistics and information about public records act requests regarding the relevant subject surveillance technology, including response rates:

There were no PRRs related to live stream transmitters in 2021.

J. Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year:

One hundred thirty thousand dollars (\$130,000) in one-time purchase cost. In 2021, OPD upgraded the video streaming system that was originally purchased in 2011. This included camera equipment, transmitters, receivers and software licensing.

K. Any requested modifications to the Surveillance Use Policy and a detailed basis for the request:

No requests for changes at this time.

OPD is committed to providing the best services to our community while being transparent and instilling procedural justice through daily police activity. This report is compliance with these OPD commitments. OPD hopes that this report helps to strengthen our trust within the Oakland community.

Respectfully submitted,

Drennon Lindsey, Deputy Chief
OPD, Bureau of Investigations

Reviewed by,
Jeffrey Thomason, Lieutenant
OPD, Special Operations Section

Prepared by:
David Pullen, Officer
OPD, Bureau of Services, Information Technology Unit

Bruce Stoffmacher, Legislation and Privacy Manager
OPD, Research and Planning Unit

Attachments (1)
Appendix A: 2020 Video Stream Deployment Memos

CITY OF OAKLAND

Memorandum

TO: Privacy Advisory Commission and Chief Privacy Officer
FROM: Christopher Bolton, Deputy Chief of Police
DATE: May 3, 2021
RE: Report on Video Stream Request and Usage

This Memorandum summarizes the use of live-stream transmitters by the Oakland Police Department (OPD) in support of the specified event. This memorandum is provided in accordance with OPD Department General Order I-23: “Handheld Livestream Transmitter¹.”

Purpose (from DGO I-23)

Live stream camera transmitters allow OPD to deploy a minimal level of police presence while providing critical situational awareness to OPD commanders. A small number of officers can monitor events and provide real-time footage to Command. This information helps OPD Command to make efficient deployment decisions.

OPD commanders need real time situational awareness to ensure public safety in public spaces. Real-time information regarding events (e.g., crowd management facilitation, coordinated response to catastrophic unplanned events) provides critical information for OPD commanders when making resource deployment decisions. Authorized personnel utilizing cameras with live-streaming transmitters can provide important situational awareness to OPD without the need to deploy many officers.

Livestream Transmitter Use

The City of Oakland activated its Emergency Operations Center (EOC) on May 1, 2021 and, as part of the City’s Incident Command System response, OPD staffed the EOC positions therein including the role of OPD Operations Incident Command. The activation and associated operations were necessitated by the plan to address planned but unpermitted crowd management events associated to “May Day” parades, marches, rallies, demonstrations, protests and May 1st events. Although OPD deployed video teams with EOC video stream transmitters during the entire operational period, the technology use was limited to evening and late evening hours to better assess, plan, direct, and respond to circumstances associated with a march of approximately 70 persons. As the

¹ DGO I-23: Sec. III.B “Restricted Use,” Sec 4.ii: ii. For each use of live stream transmitters, OPD shall articulate the facts and circumstances surrounding the use in a written statement filed with the Chief Privacy Officer and/or Chair of the Privacy Advisory Commission within 72 hours. This statement (and the use itself) shall be included in the required Annual Report.

Incident Commander, my decision to utilize video teams with streaming and recording² capabilities was based on numerous factors but driven by an overriding desire and mandate to videotape in a manner that minimizes interference with people lawfully participating in First Amendment activities. As evidence of this commitment, video stream was not utilized to record or display the actions of more than 150 persons during the peaceful car caravan and march early within the day. The below is a non-inclusive list of factors informing my decision to activate live stream and recording during the evening hours:

- Video Team assignments and equipment are a recommended if not required component of OPD response to planned events involving potentially large crowds.
- Live stream may be authorized by the Incident Commander.
- The march was reportedly organized or promoted by the same source linked to a April 16, 2021 march that resulted in numerous instances of property damage, arson, assault, and battery of police officers; the apparent organizers or participants of that event had refused to communicate with or otherwise cooperate with police/
- The imagery used to promote the unpermitted march displayed burning structures with proximate protest activity inferring desired crimes of arson.
- The text used in this event's main social media/internet posting urged absences of livestreaming, picture taking, and "snitching" for an inferred intent to commit criminal acts with reduced chances of being identified and arrested.
- The text used in this event's main social media/internet posting was inherently anti-police and requested participants to "bring soup." Soup cans were thrown at officers with intent to injure during past anti-police demonstrations including the previously referenced 16 Apr 21 event.
- Open media sources had reported "antifa" communication and meetings in nearby Northern Ca communities identifying "May Day" as an opportunity to "kill cops." Persons affiliated with the "antifa" group(s) had ties to past Oakland events in which violence was used.
- The social media/internet posting urged persons to wear all black. "Black Blok" is a tactic in which persons desiring to commit unlawful acts wear black clothing so that they may not be easily identified or found within the crowd during or after committing criminal acts.
- The vast majority of persons assembled at Frank Ogawa Plaza arrived wearing all black.
- Many persons arriving at Frank Ogawa Plaza possessed bulky backpacks. Backpacks have been used to secret "tools of violence" and other instruments to damage property, commit acts of arson, or batter police officers.

² In accordance with DGO I-23, IV.B Livestream Camera Data, "Retention,": Handheld live stream cameras can send the digital stream wirelessly. The EOC does not record this data; data recorded by the handheld cameras is maintained by the OPD IT Unit within in the Bureau of Services (BOS). Personnel using live-stream cameras shall return them at the end of their shift to the IT Unit. For data that is captured and used as evidence, such data shall be turned in and stored as evidence pursuant to existing policy. Otherwise, camera data will be destroyed after 30 days.

- Officers observed a bag of canned soup brought to or possessed by persons assembling at Frank Ogawa Plaza.
- Attempts to communicate with the persons assembled in Frank Ogawa Plaza failed to achieve cooperation in establishing a march route, police liaison, and means by which criminal activity could be mitigated or otherwise cooperatively addressed.
- When persons assembled at Frank Ogawa Plaza entered the roadway with apparent intent to march, I authorized live stream and recording in order to better observe, plan, direct, and assess the crowd control incident in best effort to prevent, record, and address instances of property damage, arson, crime, and assaultive behavior.

RD# or Incident #: 21- 019659

Date of Incident: 1 May 21

Type of Event: Protest

Was EOC/DOC activated: YES

Number of Video Streams provide to EOC/DOC: 3 video streams.

Initial Request: Video Teams were requested by D.C. C. Bolton on 28 Apr 21.

Summary: On 1 May 21 at 2045 hrs. at the direction of D.C. C. Bolton, three video streams were provided by the Video Team to the EOC. The livestream ended at approximately 2230 hrs, when the demonstration ended.

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