



CITY OF GRAND RAPIDS

ADMINISTRATIVE POLICY

NUMBER: 15-03	DATE: 03-24-2015
REVISIONS:	
ISSUED BY: City Manager	SIGNED: <i>Gregory A. Sundstrom</i>

SUBJECT: ACQUISITION AND USE OF SURVEILLANCE EQUIPMENT AND SURVEILLANCE SERVICES

PURPOSE: To establish a uniform policy to be followed by City departments when acquiring surveillance equipment and services for use in City operations **including, but not limited to, ensuring the safety of persons and property, and the investigation of illegal behavior, and to ensure that the privacy interests of Grand Rapidians are considered in the decision to acquire, use, or deploy new surveillance equipment or surveillance services.**

POLICY:

I. Definitions

For purposes of this policy, the following definitions shall apply:

“Audit summary” means a formal report issued or adopted by the Office of Oversight and Accountability, or their representative as a result of an audit of activities conducted by the City of Grand Rapids, its departments, and or employees that fall within the scope of this policy. An audit summary will include, but not be limited to an accounting of the date of the audit, steps used during the process, a summary of evidence reviewed, and conclusions drawn from the evidence.

“Data management protocols” means those procedures governing how data collected by surveillance equipment and surveillance services will be retained, stored, indexed, and accessed.

“Data mining” means the computational process of discovering patterns in large data sets with the goal to extract information from data and transform it into an understandable

structure for further use.

“Extenuating circumstances” means incidents involving a good faith belief that an imminent danger to individual safety or public health is likely.

“Imminent danger” means a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

“Natural disaster” means catastrophic events resulting from natural processes of the Earth that can cause fatalities, property damage and social environmental disruption. Michigan's most common natural disasters include floods, severe storms, winter storms, wildfires, power outages, and tornadoes.

“Operational protocols” means those procedures governing how and when surveillance equipment or surveillance services may be used and by whom.

“Surveillance equipment” shall include:

- a. equipment capable of capturing or recording data, including images, video, photographs or audio operated by or at the direction of a City department or City employee, which may deliberately or inadvertently capture activities of individualson public or private property; and
- b. drones or unmanned aircraft and any attached equipment used to collect data.

“Surveillance equipment” shall not include:

- a. a camera intended to record activity inside City buildings or facilities or at the entrances of City buildings or facilities;
- b. a camera installed to monitor and protect the physical integrity of City infrastructureand City owned real property; and
- c. surveillance equipment acquired prior to ~~the effective date of this policy~~ **March 24, 2015** or any subsequent replacement of that surveillance equipment that does not materially change the functions or capabilities of the equipment.
- d. **equipment that is not capable of collecting identifiable information due to designed limitations in resolution and/or quality.**

“Surveillance services” means services provided to a City Department by a third party, whether public or private, that result in the acquisition of data, including information, images, video, personal or household behavioral information, photographs or audio, by the City department to be used for the purpose of monitoring, observing or analyzing individuals or groups of individuals regardless of whether such data is obscured, de-identified or anonymized before or after acquisition. Surveillance services already utilized by the City prior to ~~the effective date of this policy~~ **March 24, 2015**, shall be exempt from

the requirements of this policy unless the provider materially changes the functions or capabilities of those services.

“Weaponize” means to operate and or utilize surveillance equipment or surveillance services equipped with weapons (firearms, bombs, or other weapons), outfit surveillance equipment or surveillance services with weapons (firearms, bombs, or other weapons), or discharge weapons (firearms, bombs, or other weapons) attached to surveillance equipment or surveillance services.

II. Requests for Acquisition of Surveillance Equipment or Services

Any City department intending to acquire, use, or deploy new surveillance equipment or surveillance services after ~~the effective date of this policy~~ March 24, 2015, shall obtain City Commission approval prior to the initial acquisition, use, or deployment of that equipment or service. Once authority is granted to acquire, use, or deploy new surveillance equipment or surveillance services, a City department does not have to seek authority for each individual use or deployment of the same surveillance equipment or surveillance service, so long as the department does not exceed the grant of authority provided to the department at the time of the original authorization to acquire, use or deploy surveillance equipment or services. The process by which a City department shall seek to obtain City Commission approval is as follows:

(1) Update to Public Safety Committee and Request for a Public Hearing. A City department shall first provide a briefing regarding the requested surveillance equipment to the Public Safety Committee of the Grand Rapids City Commission at a properly noticed meeting called pursuant to provisions of the Open Meetings Act and the City department shall also request that the Public Safety Committee set a public hearing on this matter before the Grand Rapids City Commission. Should the Public Safety Committee deny a request for a public hearing, or any other approvals in this process, the City Manager may bring a request before the entire City Commission for reconsideration.

The Briefing must include a description of all proposed Operational Protocols and Data Management protocols associated with the use of this technology.

(2) Public Hearing Before the Grand Rapids City Commission. The acquisition, use, or deployment of new surveillance equipment or surveillance services shall not be approved without holding a properly noticed public hearing before the Grand Rapids City Commission.

(3) Fiscal Approval. Request to acquire new surveillance equipment or surveillance services shall be presented to the Fiscal Committee of the City Commission, at a properly noticed and posted meeting called pursuant to the Open Meetings

Act.

~~(4) Standard of Approval. The decision to acquire, use, or deploy new surveillance equipment or surveillance services shall be made in the best interest of Grand Rapidsians. Decisions to approve the acquisition, use, or deployment of new surveillance equipment or surveillance services shall consider the fiscal impacts of the purchase, community impact, privacy interest of impacted individuals, and ensure that the uses of the technology will not be based upon discriminatory practices or factors.~~

~~Any City department intending to use or deploy new surveillance equipment or surveillance services after the effective date of this policy shall obtain City Commission approval of proposed protocols for the use or deployment of such new equipment, prior to its use or deployment.~~

~~Operational Protocols and Data Management Protocols required by this policy shall be presented to the Committee of the Whole of the City Commission, at a properly noticed and posted meeting called pursuant to the provisions of the Open Meetings Act.~~

III. Operational Protocols

In requesting approval for acquisition, **use, or deployment** of surveillance equipment **or surveillance services**, City departments shall include proposed protocols containing the following information ~~for the City Commission's consideration~~, along with any other information specifically requested by **the Public Safety Committee and/or the City Commission**:

- (1) A clear statement describing the purpose and use of the proposed surveillance equipment;
- (2) The type of surveillance equipment to be acquired and used;
- (3) A description of the general location where the surveillance equipment is to be used, which shall include the type(s) of location(s) and neighborhood(s) where the equipment is to be used, but need not include the precise location where each piece of equipment is to be placed;
- (4) How and when the department proposes to use the surveillance equipment, such as whether the equipment will be operated continuously or used only under specific circumstances, and whether the equipment will be installed permanently or temporarily;
- (5) A description of privacy rights that may be affected by the installation and use of

- the surveillance equipment;
- (6) A mitigation plan describing how the department's use of the equipment will be regulated to protect individual privacy, to the extent reasonably practical;
 - (7) A description of how and when data will be collected and retained and who will have access to data captured by the surveillance equipment;
 - (8) The extent to which activity will be monitored in real time as data is being captured and the extent to which monitoring of historically recorded information will occur;
 - (9) If more than one department will have access to the surveillance equipment or the data captured by it, a lead department shall be identified that is responsible for maintaining the equipment and ensuring compliance with the requirements of this policy. If the lead department intends to delegate any related responsibilities to other departments and city personnel, these responsibilities and associated departments and personnel shall be clearly identified;
 - (10) Whether a department intends to share access to the surveillance equipment or the collected data with any other governmental entity **and a general description of the type of incidents in which information sharing may occur. (The mere sharing of information with another governmental entity does not automatically fall within the jurisdictional authority of this policy and does not necessitate reporting, unless the information sharing could have been reasonably foreseen and therefore should have been disclosed in compliance with this section of this policy);**
 - (11) A description of the training to be provided to operators or users of the surveillance equipment; **and**
 - (12) **An assessment identifying with specificity:**
 - a. **Any potential adverse impacts the surveillance technology, if deployed, might have on civil liberties and civil rights; and**
 - b. **What specific, affirmative measures will be implemented to safeguard the public from potential adverse impacts.**

IV. Data Management Protocols

Prior to operating surveillance equipment that is acquired after ~~the original effective date of this policy~~ **March 24, 2015**, City departments shall submit to the City Commission written protocols for managing the data collected by such surveillance equipment. These data management protocols shall address the following:

- (1) The time period for which any data collected by surveillance equipment will be retained;
- (2) The methods for storing recorded information, including how the data is to be labeled or indexed;
- (3) How the data may be accessed, including who will be responsible for authorizing access, who will be allowed to request access, and acceptable reasons for

- requesting access;
- (4) A viewer's log or other comparable method to track viewings of any data captured or collected by the surveillance equipment, including the date, time, the individuals involved, and the reason(s) for viewing the records;
 - (5) A description of the City personnel or departments who have authority to obtain copies of the records and how the existence and location of copies will be tracked;
 - (6) A general description of the system that will be used to store the data; and
 - (7) A description of the department or individuals responsible for ensuring compliance with the requirements of this policy.

V. Data Mining

Prior to conducting data mining procedures that analyze existing data in a new way, where such data mining may impinge on the privacy of an individual citizen, City Departments shall submit to the City Commission written protocols containing (A) the information required for Data Management Protocols as defined in Section IV, substituting "any products of data mining" for "data" in those protocols and (B) the following operational protocols.

- (1) A clear statement of the purpose of the proposed data mining.
- (2) A description of the privacy rights that may be affected by the data mining.
- (3) A mitigation plan describing how the data mining will be regulated to protect individual privacy to the extent reasonably possible.
- (4) A description of how and when the data to be mined has been and will be collected and retained.
- (5) A description of who will have access to the products of the data mining and with whom those products may be shared together with procedures for preventing and tracking unauthorized access.

~~VI. Transparency Requirements (Moved to a different section)~~

~~The City shall maintain, on a website accessible to the public, a full listing of all approvals issued by the City Commission for acquisition or use of surveillance equipment or surveillance services, along with the operational and data management protocols that have been approved for such surveillance equipment or services.~~

~~The City shall also, as part of its annual fiscal plan, separately identify public funds budgeted for the acquisition of new surveillance equipment that is subject to this policy.~~

VI. Governance and Oversight

- a. **Complaints.** Individuals with complaints regarding misuse or overuse of surveillance equipment and/or surveillance services may file complaints with the Office of Oversight and Public Accountability. Individuals with complaints

regarding other violations of this policy may also file complaints with the Office of Oversight and Public Accountability. The Staff of the Office of Oversight and Public Accountability will conduct an investigative audit and prepare an audit summary regarding whether surveillance equipment and/or surveillance services have been misused or overused and whether there have been any other violations of this policy. The Staff of the Office of Oversight and Public is authorized to initiate investigative audits without having a received a complaint from members of the public. Complaints regarding the actions of individual officers will be lodged and investigated in compliance with CCP 800-02, Section 2, titled "Investigation of Complaints." The mere fact that a complaint is filed regarding the surveillance policy does not automatically make the complaint eligible for review by the Grand Rapids Police Department Civilian Appeal Board.

Upon completion of the audit summary, the Office of Oversight and Public Accountability will provide a copy to the Complainant, City Manager, and the Department Director. After consultation with the City Attorney's Office, OPA will also publish the audit summary (redacted to the extent required by law) on the City's Website for review by the public. The Office of Oversight and Public Accountability will also provide the Public Safety Committee with copies of audit summaries and request action from the Public Safety Committee if an investigation finds that action is taken in violation of this policy.

To the extent allowed by law, Departments are directed to cooperate with the Office of Oversight and Public Accountability's reviews, audits, and reports and provide the Office of Oversight and Public Accountability with access to records, information and staff as requested to complete its investigation.

- b. **Surveillance Oversight Committee.** The Public Safety Committee of the Grand Rapids City Commission shall serve as the City's Surveillance Oversight Committee. As such, the Public Safety Committee shall review all proposed Operational Protocols and Data Management protocols associated with the use of this technology and evaluate whether a public hearing should be held to allow the new surveillance equipment or surveillance services.

The Public Safety Committee shall also review audit summaries provided by the Office of Oversight and Public Accountability. After review of the audit summaries, the Public Safety Committee shall be empowered to disallow the use of said surveillance equipment or surveillance services on its own motion. In the event that the use of surveillance equipment is disallowed, its use can

be reinstated by the City Commission after consideration by the Public Safety Committee. For the purpose of all matters governed by this policy, the position of the advisory members of the Public Safety Committee must be reflected in the minutes of the Public Safety Committee and any resolutions, items, memorandums, or similar documents regarding matters governed by this policy.

The Public Safety Committee is not authorized to engage in separate investigations, audits, to interview witnesses, or to hold evidentiary hearings, but it may remand the case to the Office of Oversight and Public Accountability to conduct supplementary interviews with the complainant, the departments involved, and witnesses in the event that it considers the record to be inadequate to complete its review. The Office of Oversight and Public Accountability will provide a written report to the Public Safety Committee summarizing the actions taken and information received during the supplemental audit investigation. Representatives of the department alleged to be in violation of this policy, the Office of Oversight and Public Accountability, and the City Attorney's Office will be present during the review process to provide information regarding the scope of the investigation and to answer legal questions.

- c. **Surveillance Use Reports.** In any quarter that surveillance equipment or surveillance services are used, departments utilizing surveillance equipment and/or surveillance services shall prepare a quarterly Surveillance Use Report. A copy of that report shall be provided to the Office of Oversight and Public Accountability for review.

Surveillance Use Reports shall detail the following:

- (1) a clear statement describing the purpose and specific use of the surveillance equipment or surveillance services used;
- (2) The type of surveillance equipment or services used;
- (3) The approximate amount of time the surveillance equipment was used;
- (4) A description of the general location where the surveillance equipment was used, which shall include the Ward(s) and nearest Intersection(s) where the equipment was used;

- d. **Annual Surveillance Report.** The Office of Oversight and Public Accountability shall annually submit to the Public Safety Committee and make available of the City's website an Annual Surveillance Report. The Annual

Surveillance Report shall, at a minimum, include the following information:

- (1) A summary of which surveillance technology was used and how it was used;
- (2) Whether and how often collected surveillance data was shared with and received from any external persons or entities, and the justification for the disclosure (information shared during the course of criminal investigations are specifically exempted from this provision);
- (3) Where applicable, a breakdown of where the surveillance technology was deployed geographically, by ward.
- (4) Whether the reported monitoring was subject to (A) a warrant, and (B) a non-warrant form of court authorization;
- (5) A summary of complaints or concerns that were received about the surveillance technology, to the extent possible disaggregated by race, gender, age and ward;
- (6) The results of any internal audits, any information about violations of the Surveillance Use Policy, and any actions taken in response;
- (7) An analysis of any discriminatory, disparate, and other adverse impacts the use of the technology may have had on the public's civil rights and civil liberties, including but not limited to those guaranteed by the First, Fourth, and Fourteenth Amendment to the United States Constitution, to the extent possible disaggregated by race, gender, age, and ward; and
- (8) Total annual costs for the surveillance technology, and what source of funding was used to fund the technology, excluding personnel.

- e. **Transparency Requirements.** The City shall maintain, on a website accessible to the public, a full listing of all approvals issued by the City Commission for acquisition or use of surveillance equipment or surveillance services, along with the operational and data management protocols that have been approved for such surveillance equipment or services.

For the purposes of the reporting aspects of this policy, disclosure of detailed information that would significantly interfere with an ongoing investigation may be withheld until the conclusion of the investigation. Even during an ongoing investigation, departments are still required to disclose the use of

surveillance equipment or services and other non-detailed information or services to the Office of Oversight and Public Accountability.

Additionally, given the high frequency regarding the use of Grand Rapids Police Department Body Worn Cameras and In-car video, the Grand Rapids Police Department needs only to report alleged or actual failure to use Body Worn Cameras or In-car video. Reporting regarding Body Worn Cameras and In-car video should be provided on a quarterly basis.

The City shall also, as part of its annual fiscal plan, separately identify public funds budgeted for the acquisition of new surveillance equipment that is subject to this policy.

VII. Policy Updates and Changes

Changes to this policy shall be made by the City Manager. The City Manager shall inform ~~presented to~~ the Public Safety Committee of the City Commission of any changes prior to the changes taking force and the changes shall be posted on the City's website. ~~referenced in Section V of this policy.~~

~~VIII. Exemption for Surveillance Equipment or Surveillance Services Used in Exigent Circumstances~~

~~Notwithstanding the above policy provisions, City Departments may acquire and use new surveillance equipment or surveillance services in exigent circumstances without following the provisions of this policy prior to such acquisition or use. A City Department that acquires or uses new surveillance equipment or services under exigent circumstances shall report such acquisition or use and provide Operational Protocols and Data Management Protocols to the Committee of the Whole of the City Commission within 30 days.~~

VIII. Prohibited Uses

- a. Surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.
- b. Surveillance equipment shall not be utilized to conduct personal business of any type.
- c. Except as approved by the City Manager, or their designee, in Extenuating Circumstances, surveillance equipment shall not be weaponized.

IX. Temporary Exemption for Surveillance Equipment or Surveillance Services Used in Extenuating Circumstances

- a. Notwithstanding the above policy provisions, City Departments may acquire and use new surveillance equipment or surveillance services in extenuating circumstances without following the provisions of this policy prior to such acquisition or use. Extenuating circumstances also include natural disasters or severe weather emergencies.
- b. A City Department that acquires or uses new surveillance equipment or services under the extenuating circumstances exception to this policy shall report such acquisition or use to the Office of Oversight and Accountability within 72 hours of the use or acquisition of the surveillance equipment or services. A City Department that acquires or uses new surveillance equipment or services under the extenuating circumstances exception to this policy shall also report such acquisition or use to the in addition to providing the operational and data management protocols to the Public Safety Committee of the Grand Rapids City Commission at the next scheduled Public Safety Committee meeting. Use of new surveillance equipment or services in connection with this exception, is limited to the qualifying extenuating circumstances event or instance. At the conclusion of the extenuating circumstances instance, the City Department shall immediately discontinue the use of the new surveillance equipment or services and seek approval from the City Commission for the permanent acquisition and use of surveillance equipment or other surveillance services as dictated in Admin 15-03.

X. Exemption for Replacement Surveillance Equipment or Surveillance Services

- a. City Departments may acquire and use new surveillance equipment or surveillance services that are substantially similar to surveillance equipment or surveillance services that were previously approved in accordance with this policy in order to replace equipment due to failure without following the provisions of this policy prior to such acquisition or use.
- b. Equipment failure refers to any event in which any equipment cannot accomplish its intended purpose or task. It may also mean that the equipment stopped working, is not operating properly, or is scheduled for a contractual routine upgrade with substantially similar equipment.
- c. Should a department seek to acquire, use or deploy additional amounts of surveillance equipment or services that have previously been approved in compliance with this policy, the department need only provide notice to the Public Safety Committee and seek fiscal approval from the City Commission's Fiscal Committee.
- d. Nothing in this section is intended to exempt City departments from other governance or reporting requirements detailed in this policy.