

OAKLAND POLICE DEPARTMENT

Surveillance Impact Report: Alameda County Narcotics Taskforce (ACNTF) Surveillance Airplane

A. Description: *information describing the surveillance technology and how it works, including product descriptions and manuals from manufacturers.*

The ACNTF operates through participating members from the City of Hayward, Bay Area Rapid Transit Police Department, East bay Regional Parks Police Department, California Highway Patrol, Oakland Housing Authority Police Department, City of Oakland, the Alameda County Probation Department as well as the Alameda County Sheriff's Office (ACSO) and the Alameda County District Attorney's Office (ACDA). These agencies created the ACNTF to formalize focused protocols and procedures related to joint investigations of between illegal narcotics distribution. The ACNTF utilized a fixed wing airplane owned by ACSO. The current airplane, at the time of the production of this report in May 2021, is a Cessna 206 aircraft. The airplane is used to gain aerial information related to felony investigations when ground-based techniques are either impractical or unsafe. The aircraft contains a single image camera, video camera and a FLIR¹ Camera capable of video recording. The aircraft may be used for rescue, missing person, terrorism response or fire operations as necessary to meet public safety needs.

B. Purpose: *information on the proposed purposes(s) for the surveillance technology.*

ACNTF member cities have been partnering since 1990 to stem the flow of illegal drugs into Alameda County, and to support the disruption of locally operating major drug distribution networks. OPD personnel see the value in this partnership because of the proven nexus between illegal narcotics distribution and violent crime. The ACNTF operates through participating members from the City of Hayward, Bay Area Rapid Transit Police Department, East bay Regional Parks Police Department, California Highway Patrol, Oakland Housing Authority Police Department, City of Oakland, the Alameda County Probation Department as well as the Alameda County Sheriff's Office (ACSO) and the Alameda County District Attorney's Office (ACDA). The ACNTF is directed by a

¹ The term FLIR is an acronym for the abbreviation Forward Looking InfraRed; FLIR cameras capture low to high thermal measurements. The cameras take the thermal differentials with computer processing to create visual images. This technology does not rely on daylight produce images and therefor can be used at night.

county-led Executive Policy Committee.

The plane is used primarily to follow vehicles when it is anticipated that the target will be traveling a long distance, or in heavy traffic or in isolated areas where vehicle traffic is low and counter surveillance would likely lead to the subject identifying surveillance officers. For example, a felony investigation target, under surveillance, could drive into a rural area. The area has no other vehicle traffic and is away from any main roads or highways. The target enters a property in an area where there are no other residences. An officer would not have the ability to follow the person into the area in a vehicle or on foot without being discovered. A helicopter would not offer a solution, as the helicopter would need to fly lower to the ground and can be heard by people in its immediate area. An airplane can be used inconspicuously in a manner that cannot be duplicated using ground-based vehicles or air-based helicopters.

The airplane is used sparingly by the ACNTF because of the high cost of operation – between \$80,000 and \$100,000 annually for fuel, personnel, and maintenance costs. However, the City of Oakland has benefited in the use of the airplane to assist with investigations. Since May of 1993, the ACNTF plane has flown over 9,000 hours which includes over 7,000 hours of surveillance. ACNTF dedicates between 60-85% of its investigative time and resources within the City of Oakland on a monthly basis.

C. Location: *the location(s) it may be deployed, using general descriptive, terms, and crime statistics for any location(s).*

The airplane could be used in any lawful location has a connection with the sales of narcotics, weapons or violence in Alameda County where the person being surveilled travels.

The following information illustrates some of the investigation efforts between OPD and the ACNTF in 2019 and 2020:

- In December 2019, ACNTF arrested a mid-level heroin dealer operating in the Oakland area. During the arrest, ACNTF members found 3.5 ounces of cocaine, 8.76 ounces of heroin, one pound of marijuana, 17 hydrocodone pills, and a loaded unknown make and model bullpup .223 assault rifle. Three suspects were arrested with firearms in their possession.
- In January 2020, an OPD investigator a person later identified as Border Brother gang member. A loaded .40 caliber Springfield Armory semi-automatic handgun was recovered. A record check revealed that in 2013, the suspect was convicted of three felony counts of PC 266I(A)(1) – Pander and PC 266H(A) – Pimping. This person was sentenced to 10

- years in state prison.
- In January 2020, ACNTF developed information pertaining to a mid-level methamphetamine dealer operating in Oakland, San Leandro and Hayward areas. The ACNTF recovered over eight pounds of methamphetamine; detectives also located and recovered a loaded Smith and Wesson 9mm handgun underneath the driver seat.
 - During a subsequent controlled buy operation, a street dealer was observed obtaining heroin from a residence. A search warrant was obtained and served with the assistance of the U.S. Marshals Service, California Highway Patrol, and ACSO. During the search, detectives located and recovered a Smith and Wesson 40 caliber semi-auto handgun loaded with a 15-round magazine. Inside a bedroom, detectives located and recovered a Glock 23, 40 caliber semi-auto loaded with high-capacity drum. magazine and \$3,878 in cash.
 - In February 2020, a surveillance was conducted on suspect, resting on the front seat of the vehicle was a Glock 19 handgun (9mm) loaded with a 15-round magazine and the suspect was in possession of \$4,729 cash. ACNTF located and recovered one ounce of cocaine base from inside of the vehicle. Additional marijuana and firearm ammunition were recovered from inside of the apartment.
 - In June 2020, ACNTF developed information regarding a female who was associated with a parked trailer who was selling methamphetamine. A controlled purchase of methamphetamine was conducted, which led to the issuance of a search warrant. During the operation, members of the task force found 130g of methamphetamine, and a loaded firearm. Another suspect was located inside the apartment and found to have an active Ramey warrant out of Oakland or a shooting/ (245(a)(2) PC.
 - In late May 2020, ACNTF developed information regarding a subject, who was from the East Bay and sold cocaine via social media. ACNTF authored and obtained search warrants. A controlled purchase was conducted and during a subsequent surveillance operation ACNTF conducted a search warrant operation. During the search, ACNTF located and recovered 415.5g of cocaine, 3,689.1g of marijuana, 572 Xanax pills and \$18,057 in cash. Additionally, detectives recovered four (4) Glock handguns and one Draco 7.62 assault rifle.
 - In early August 2020, ACNTF developed information regarding an upper-level cocaine dealer in the Lake Merritt area. During the course of the investigation, a successful controlled purchase was conducted. ACNTF obtained a search warrant. The suspect stated he was a convicted felon and admitted to possessing a loaded firearm and body armor. The firearm was a homemade short barreled AR-15 assault rifle which was recovered. The suspect's safe was forced opened and which contained 54.5g of cocaine, 337 Adderall pills, \$152,669.00 cash.

Table 1 below summarizes 2020 ANCTF data from related investigations and

seizures.

Table1: ACNTF 2020 Data

ACNTF Data Type	Amount
Operations	357
Probation Searches	52
Search Warrants	88
Firearms Seized	92
U.S. Currency Seized	\$1,796,992
Cocaine	51,239.02 grams
DMT	65,002.3 grams
Fentanyl	4,845
GBL	32 gallons
Heroin	22,798.4 grams
LSD	14 grams
Marijuana	82'603.16 grams
Marijuana Plants	3,293
Methamphetamine	24,596.08 grams
MDMA	1377.8 grams
Psilocybin	817.4 grams

D. Privacy Impact: *an assessment of the technology's adopted use policy and whether it is adequate in protecting civil rights and liberties and whether the surveillance technology was used or deployed, intentionally or inadvertently, in a manner that is discriminatory, viewpoint-based, or biased via algorithm.*

There is a possibility that the airplane would fly over groups of people during its use in an investigation. However, the deployment of the airplane is strictly directed for surveillance. The airplane is not used arbitrarily for searching or for observations of criminal offenses.

E. Mitigations: *Mitigations: identify specific, affirmative technical and procedural measures that will be implemented to safeguard the public from each such impacts.*

The use of the airplane must be authorized by the ACNTF commander. The Use Policy clarifies:

1. The airplane shall not be equipped with any weapon systems or analytics capable of identifying groups or individuals, including but not limited to facial recognition or gait analysis;

2. The airplane shall not be used, on behalf of the ACNTF, for any purposes that do not directly support ACNTF felony investigations; and
3. OPD shall not request that the ACNTF airplane be used for any situation not stipulated by III.A.3 "Allowed Uses" defined above.

F. Data Types and Sources: *a list of all types and sources of data to be collected, analyzed, or processed by the surveillance technology, including "open source" data, scores, reports, logic or algorithm used, and any additional information derived therefrom.*

The ACNTF Coordinator and all participating agencies shall ensure that all data derived from the use of the airplane shall be secured according to standard law enforcement criminal investigation data protection standards.

G. Data Security: *Data Security: information about the steps that will be taken to ensure that adequate security measures are used to safeguard the data collected or generated by the technology from unauthorized access or disclosure.*

Any data generated from the use of the use of the airplane shall be maintained by participating ACNTF personnel according to ACSO and/or other ACNTF law enforcement partner agency crime investigation legal requirements.

The ACNTF Commander, who is an employee of the Alameda County Sheriff's Office (ACSO) shall ensure ACNTF surveillance airplane data security and access. Direct requests to ACNTF for airplane-derived information shall follow ACSO procedures including making request in writing including a need and right to know. OPD personnel shall follow the following procedures for any requests for surveillance-airplane-derived information provided by ACNTF to OPD:

1. Information may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.
2. The agency makes a written request for the OPD information which includes:
 - a. The name of the requesting agency.
 - b. The name of the individual making the request.
 - c. The basis of their need for and right to the information.
 - d. A right to know is the legal authority to receive information

pursuant to a court order, statutory law, or case law. A need to know is a compelling reason to request information such as direct involvement in an investigation.

- e. The request is reviewed by the Chief of Police, Assistant Chief of Police, or Deputy Chief/ Deputy Director or designee and approved before the request is fulfilled.
- f. The approved request is retained on file, and incorporated into the annual report pursuant to Oakland Municipal Code Section 9.64.010 1.B.

H. Fiscal Cost: *the fiscal costs for the surveillance technology, including initial purchase, personnel and other ongoing costs, operative or proposed contract, and any current or potential sources of funding.*

OPD and the City of Oakland shall not pay for any costs for the use of the airplane, or for its maintenance. ACSO owns and maintains the airplane.

I. Third Party Dependence: *Third Party Dependence: whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis.*

OPD would be a participant in the ACNTF and rely upon ACSO and other taskforce members for use of the airplane.

J. Alternatives: *a summary of all alternative methods (whether involving the use of a new technology or not) considered before deciding to use the proposed surveillance technology, including the costs and benefits associated with each alternative and an explanation of the reasons why each alternative is inadequate.*

There is no complimentary alternative to the use of the airplane. The "Purpose Section" above explains how both vehicles and/or helicopters do not offer the same type of surveillance support. OPD would not have access to investigative support if the City Council did not support this taskforce and the use of the Surveillance Airplane for priority ANCTF investigations.

K. Track Record: *a summary of the experience (if any) other entities, especially government entities, have had with the proposed technology, including, if available, quantitative information about the effectiveness of the proposed technology in achieving its stated*

purpose in other jurisdictions, and any known adverse information about the technology (such as unanticipated costs, failures, or civil rights and civil liberties abuses).

The San Mateo County Sheriff's Office leads the San Mateo County Narcotics Task Force (SMCNTF)². The SMCNTF also maintains a surveillance airplane to support investigations into narcotics trafficking and illegal drug organizations.

OPD is in the process of gathering more information about the SMCNTF use of their airplane.

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² <https://www.smcsheriff.com/multi-jurisdictional-division>