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## Audit Services Update: Police made some progress to strengthen intelligence gathering policies, but other management improvements remain

News Article



This is a one-year follow-up to our 2022 report *Police Intelligence-Gathering and Surveillance: Better management needed to protect civil rights*.

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Keeping information about political activity and using surveillance technology without safeguards infringes on rights to free speech. Our 2022 audit of Police intelligence gathering and surveillance found the Bureau provided no guidance to officers at protests about what information they could collect and that the criminal intelligence unit did not limit access to reports and kept them past the retention schedule. There were few policies and procedures in place to guide the use of surveillance technology. We also found that officers used social media for investigations without direction.

At the one-year mark, the Bureau has made varied degrees of progress across all five recommendations. The Bureau adopted two policies for investigations related to political, religious, and social information as well as the use of surveillance technology, but those policies did not include some elements highlighted in the audit. The Bureau reported that it would consider adding these elements to the policies the next time they were scheduled for review. They were also working to create a new procedure to manage records that did not contain suspected criminal activity. The Bureau was on track to

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develop a social media directive and report on the use of surveillance technology in its next annual report.

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## Five recommendations in process



### **New policy for criminal intelligence files does not address all missing elements, but the Bureau will consider additions during the next scheduled policy review**

We recommended that the Police Commissioner and Chief adopt a rule related to investigating First Amendment activity that provides guidance for the appropriate collection of information to protect civil rights. In March 2023, the Bureau adopted a new rule regarding management of Criminal Intelligence Files, but it did not include critical elements. The rule speaks to limiting access to criminal intelligence information and includes steps for validating and retaining information. However, it does not touch on elements that were missing during the audit including authorizing investigations related to political, religious, and social information; identifying who can gather information; or specifying when invasive investigation techniques can be used. The Bureau reported that it would consider adding elements like these to the policy the next time it was scheduled for review.

### **Procedure to manage records not associated with criminal activity is underway**

We recommended that Bureau leaders create a procedure to limit access to information related to political, religious, and social information and to ensure that it was not maintained if criminal activity was no longer suspected. We did so because we found instances where the Criminal Intelligence Unit was documenting investigations about such information in its reports that were widely available and keeping them past their retention schedule. The Bureau stated that the Records Division was working on new procedures to purge and destroy records when investigators determine there is no criminal activity. We will consider this recommendation implemented after the Bureau adopts these planned procedures.

### **New procedure for surveillance technology missing critical elements, but the Bureau will consider additions during the next scheduled policy review**

We recommended that Bureau leaders adopt a surveillance technology directive that includes Council authorization of technology, advice from a

privacy commission, and requirements for policies and reporting. In the audit report, we cited example policies from other jurisdictions that the Bureau could use as a model along with elements we considered essential. The Bureau adopted a standard operating procedure about surveillance technology, but it was missing most of these elements. For example, the procedure included authorization from the Commissioner in Charge instead of the City Council and did not include advice from a privacy commission. Making the approval process more transparent may alleviate some public fears about inappropriate surveillance. The Bureau reported that it would consider adding elements like these to the procedure the next time it was scheduled for review.

### **Bureau drafting directive for how social media can be used for investigative purposes**

We recommended that Bureau leaders add guidance to its social media directive about authorized uses for investigations and a requirement to document the law enforcement purpose for searching individuals and groups. The proposed directive limits social media use for a valid law enforcement purpose, requires authorization for setting up alias or fictitious accounts, and includes how information gathered from social media should be stored. As of June 2023, the proposed directive was still under review. We will consider this recommendation implemented after it is adopted.

### **First public report on surveillance technology use due next year**

We recommended that Bureau leaders publish reports about its use of surveillance technology. The Bureau adopted a standard operating procedure that requires public annual reporting on all surveillance technology including descriptions of technology, records of any complaints, and overall effectiveness. We recommended reporting on surveillance technology because it might ease some public concerns about inappropriate intelligence-gathering and how devices are managed to prevent it. Staff stated this information will be included in the Bureau annual report.

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