

1 [Administrative Code - Surveillance Technology Policy for Police Department Use of Non-City
2 Entity Surveillance Cameras]

3 **Ordinance approving Surveillance Technology Policy for Police Department use of**
4 **non-City entity surveillance cameras and establishing a sunset date ~~one year~~ fifteen**
5 **months after the effective date of the ordinance.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. Background.

15 (a) Administrative Code Chapter 19(B) establishes requirements that City departments
16 must follow before they may use or acquire new Surveillance Technology. Under
17 Administrative Code Section 19B.2(a), a City department must obtain Board of Supervisors
18 approval by ordinance of a Surveillance Technology Policy before: (1) seeking funds for
19 Surveillance Technology; (2) acquiring or borrowing new Surveillance Technology; (3) using
20 new or existing Surveillance Technology for a purpose, in a manner, or in a location not
21 specified in a Board-approved Surveillance Technology ordinance; (4) entering into
22 agreement with a non-City entity to acquire, share, or otherwise use Surveillance Technology;
23 or (5) entering into an oral or written agreement under which a non-City entity or individual
24 regularly provides the department with data or information acquired through the entity’s use of
25 Surveillance Technology.

1 (b) Under Administrative Code Section 19B.2(b), the Board of Supervisors may
2 approve a Surveillance Technology Policy ordinance under Section 19B.2(a) only if: (1) the
3 department seeking Board approval first submits to the Committee on Information Technology
4 (COIT) a Surveillance Impact Report for the Surveillance Technology to be acquired or used;
5 (2) based on the Surveillance Impact Report, COIT develops a Surveillance Technology
6 Policy for the Surveillance Technology to be acquired or used; and (3) at a public meeting at
7 which COIT considers the Surveillance Technology Policy, COIT recommends that the Board
8 adopt, adopt with modification, or decline to adopt the Surveillance Technology Policy for the
9 Surveillance Technology to be acquired or used.

10 (c) Under Administrative Code Section 19B.4, the City policy is that the Board of
11 Supervisors will approve a Surveillance Technology Policy ordinance only if it determines that
12 the benefits that the Surveillance Technology ordinance authorizes outweigh its costs, that the
13 Surveillance Technology Policy ordinance will safeguard civil liberties and civil rights, and that
14 the uses and deployments of the Surveillance Technology under the ordinance will not be
15 based upon discriminatory or viewpoint-based factors or have a disparate impact on any
16 community or Protected Class.

17
18 Section 2. Surveillance Technology Policy Ordinance for Police Department Use of
19 Non-City Entity Surveillance Cameras.

20 (a) Purpose. The Police Department seeks Board of Supervisors authorization under
21 Section 19B.2(a) to use surveillance cameras and surveillance camera networks owned,
22 leased, managed, or operated by non-City entities to: (1) temporarily live monitor activity
23 during exigent circumstances, significant events with public safety concerns, and
24 investigations relating to active misdemeanor and felony violations; (2) gather and review
25 historical video footage for the purposes of conducting a criminal investigation; and (3) gather

1 and review historical video footage for the purposes of an internal investigation regarding
2 officer misconduct.

3 (b) Surveillance Impact Report. The Police Department submitted to COIT a
4 Surveillance Impact Report for Non-City Entity Surveillance Cameras. A copy of the Police
5 Department Surveillance Impact Report for Non-City Entity Surveillance Cameras is in Board
6 File No. 220606, and is incorporated herein by reference.

7 (c) Public Hearings. Between March 25, 2022 and April 21, 2022, inclusive, COIT and
8 its Privacy and Surveillance Advisory Board (PSAB) conducted four public hearings at which
9 they considered the Surveillance Impact Report referenced in subsection (b) and developed a
10 Surveillance Technology Policy for the Police Department's use of non-City entity surveillance
11 cameras. A copy of the Surveillance Technology Policy for the Police Department's use of the
12 Non-City Entity Surveillance Cameras ("San Francisco Police Department (SFPD) Non-City
13 Entity Surveillance Cameras Policy") is in Board File No. 220606, and is incorporated herein
14 by reference.

15 (d) COIT Recommendation. On April 21, 2022, COIT voted to recommend the SFPD
16 Non-City Entity Surveillance Cameras Policy to the Board of Supervisors for approval.

17 (e) Findings. The Board of Supervisors hereby finds that the stated benefits of the
18 Police Department's use of non-City entity surveillance cameras outweigh the costs and risks
19 of use of such Surveillance Technology; that the SFPD Non-City Entity Surveillance Cameras
20 Policy, as modified by the Board of Supervisors, will safeguard civil liberties and civil rights;
21 and that the uses and deployments of non-City entity surveillance cameras, as set forth in the
22 SFPD Non-City Entity Surveillance Cameras Policy, will not be based upon discriminatory or
23 viewpoint-based factors or have a disparate impact on any community or a protected class.

1 Section 3. Approval of Modified Policy.

2 The Board of Supervisors hereby approves the SFPD Non-City Entity Surveillance
3 Cameras Policy for a one-year period, with the following modifications:-

4 (a) The section entitled, "Purpose and Scope," is amended to include the following
5 language as the last paragraph: "Absent a subpoena or search warrant, SFPD access to all
6 systems noted in this Policy will be obtained through the express consent of the individual or
7 entity managing the surveillance system at the time of request. SFPD does not and shall not
8 manage a surveillance camera registry, have public observation devices, or have a
9 Ring/Neighbors or similar partnership agreements."

10 (b) The section entitled, "Policy Statement," is amended as follows: (1) the second
11 bullet point under the second paragraph is amended to include "or memorandum of
12 understanding" after the words "contractual agreement"; and (2) the sentence, "These
13 exclusions shall be governed by a separate use policy compliant with the requirements of
14 Section 19B." shall be added as the final paragraph in that section.

15 (c) The section entitled "Authorizes Use(s)" is amended as follows: (1) paragraph
16 number 1 is deleted in its entirety and replaced with the following paragraph number 1:
17 "Temporary live monitoring (a) during an exigent circumstance as defined by Administrative
18 Code Section 19B; (b) during Significant Events with public safety concerns only for
19 placement of police personnel due to crowd sizes or other issues creating imminent public
20 safety hazards; or (c) in the course of a specific criminal investigation if an SFPD Captain or
21 member in rank above Captain confirms in writing that the department has credible
22 information of criminal activity and live monitoring is being requested in furtherance of that
23 criminal investigation. Temporary live monitoring will cease, and the connection will be
24 severed, within 24 hours after the non-city entity has provided access to SFPD. SFPD shall
25 not record or duplicate the live monitoring feed using any electronic device, including body

1 worn cameras or cell phones. If SFPD observes misdemeanor or felony violations on the live
2 monitoring feed, nothing in this policy ordinance prohibits SFPD from deferring to authorized
3 use No. 2 or No. 3 of this section.”; (2) in paragraph number 2, the word “specific” is inserted
4 before the words “criminal investigation.”

5 (d) The section entitled, “Prohibitions,” is amended as follows: (1) in the fifth bullet
6 point, the phrase “for reasons outside of redeployment needs,” is deleted and the phrase
7 “unless there are exigent circumstances or for placement of police personnel,” is inserted after
8 the words “First Amendment activities”; (2) in the fifth bullet point, the word “imminent” is
9 inserted before the phrase “public safety hazards”; and (3) the following paragraph shall be
10 added as the seventh bullet point, “SFPD is prohibited from seeking to obtain surveillance
11 footage for purposes of enforcing prohibitions on reproductive care or interstate travel for
12 reproductive care. Except as required by law, SFPD shall not share surveillance footage with
13 any law enforcement agency for purposes of enforcing prohibitions on reproductive care or
14 interstate travel for reproductive care. Unless legally required, SFPD will not share footage
15 with non-California law enforcement agencies.”

16 (e) In the section entitled, “Policy Requirements,” the last paragraph under the sub-
17 subsection “Data Security,” that begins with “Reporting,” is amended to insert the following
18 sentences after the sentence that ends with “Board of Supervisors” and before the sentence
19 that begins with “The reporting requirement shall commence . . . ”: “For live monitoring
20 requests, the quarterly report shall identify whether each request was granted or denied by
21 the Captain or member in rank above Captain; the justification for granting the request if it was
22 granted, including the reason(s) why the Captain or member in rank above Captain found the
23 information credible; whether the request was granted by the non-City entity; the total costs to
24 the Department, including any staff time and other costs, associated with the request and
25 usage; felony and misdemeanor crime statistics for the census tract surrounding the camera

1 used for live monitoring for the month prior to the live monitoring as well as the month
2 following the live monitoring; whether the images were used to bring criminal charges; the
3 types of charges brought; and the results of the charges.” In addition, immediately following
4 the last paragraph under the sub-subsection “Data Security,” that begins with “Reporting,” a
5 new paragraph is inserted to read: “The Department understands that the Board of
6 Supervisors intends to direct the Budget and Legislative Analyst to evaluate the efficacy of the
7 Policy based on a review of the SFPD’s quarterly reports and any other information relevant to
8 making such an evaluation.”

9 (f) In the section entitled, “Policy Requirements,” under the subsection, “Data Sharing,”
10 the second bullet point under “A. Internal (City Entity) Data Sharing,” is amended to insert the
11 words “and federal” after the phrase “in accordance with California.”

12 (g) In the section entitled, “Policy Requirement,” the subsection “Data Retention,” is
13 amended as follows: (1) the sentence “The Department’s data retention period and
14 justification are as follows:” is amended to read: “The Department’s data retention period is as
15 follows:”; (2) the paragraph after the first bullet point that begins with “Security Camera shared
16 with Department . . .” is deleted in its entirety and replaced with: “Security Camera data
17 shared with Department by a non-City entity will be stored only for the period necessary for
18 investigation, prosecution, or litigation following an incident. All historical footage is
19 associated with a specific criminal investigation and is tagged as evidence. This data shall be
20 retained as required by State evidence retention laws. Camera footage associated with an
21 officer misconduct or Officer Involved Shooting (OIS) investigation shall be maintained in
22 perpetuity.”; (3) the paragraph after the second bullet point that begins with “Justification,” is
23 deleted in its entirety and replaced with “Any historical video not tagged into evidence and
24 subject to the use requirements of Chapter 19B shall be deleted within 90 days.”

1 (h) The Police Department shall place a copy of the modified policy in Board File No.
2 220606 within 30 days of the effective date of this ordinance.

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4 Section 4. Sunset Provision. Unless reauthorized by ordinance, the SFPD Non-City
5 Entity Surveillance Cameras Policy, as modified herein, shall expire ~~one year~~ fifteen months
6 after the effective date of this ordinance. Upon expiration, the City Attorney is authorized to
7 remove the SFPD Non-City Entity Surveillance Cameras Policy ~~to be removed~~ from the
8 Appendix to Administrative Code Chapter 19B.

9 Section 45. Effective Date. This ordinance shall become effective 30 days after
10 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
11 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
12 of Supervisors overrides the Mayor's veto of the ordinance.

13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ Zachary Porianda
16 ZACHARY PORIANDA
17 Deputy City Attorney

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