

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Paulino, Liaison to the Board of Supervisors, Mayor's Office
Anne Pearson, Deputy City Attorney, Office of the City Attorney
John Arntz, Director, Department of Elections
LeeAnn Pelham, Executive Director, Ethics Commission
William Scott, Police Chief, Police Department

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*
Board of Supervisors

DATE: January 18, 2022

SUBJECT: INITIATIVE ORDINANCE INTRODUCED
June 7, 2022 Election

The Board of Supervisors' Rules Committee has received the following Initiative Ordinance for the June 7, 2022, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

File No. 220064

Hearing to consider the proposed Initiative Ordinance submitted by the Mayor to the voters for the June 7, 2022, Election, entitled "Ordinance amending the Administrative Code to authorize the Police Department to acquire and use surveillance technology with respect to certain criminal events, as defined, and criminal activity that is concentrated in certain geographically distinct areas.

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Andres Power, Mayor's Office
Patrick Ford, Ethics Commission
Lisa Ortiz, Police Dept.
Lili Gamero, Police Dept.
Diana Oliva-Aroche, Police Dept.
Sgt. Stacy Youngblood, Police Dept.

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2022 JAN 18 PM 4:46

BY



Submittal Form

**For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections**

SAN FRANCISCO
FILED

2022 JAN 18 P 3 26

DEPARTMENT OF ELECTIONS

by 4 or more Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors' Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections (per Proposition C, November 2007).

This matter is for the **June 6, 2022** Election.

Sponsor(s): Mayor London Breed

Subject: Initiative Ordinance - Administrative Code - Surveillance Technology

The text is listed below or attached:

(See attached.)

Mayor Breed:



(Clerk of the Board's Time Stamp)

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2022 JAN 20 PM 2:50

DEPARTMENT OF ELECTIONS

BY

AK

**Submittal Form
For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections**

by 4 or more Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors' Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections (per Proposition C, November 2007).

This matter is for the **June 7, 2022** Election.

*
sue

Sponsor(s): Mayor London Breed

Subject: Initiative Ordinance - Administrative Code - Surveillance Technology

The text is listed below or attached:

(See attached.)

Mayor Breed:



(Clerk of the Board's Time Stamp)

SAN FRANCISCO
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2022 JAN 18 P 3:20

DEPARTMENT OF ELECTIONS
**PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY THE
MAYOR TO THE VOTERS AT THE JUNE 7, 2022 ELECTION.**

[Under Charter Sections 3.100(16) and 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than *45 days prior* to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Administrative Code - Surveillance Technology]

Ordinance amending the Administrative Code to authorize the Police Department to acquire and use surveillance technology with respect to certain criminal events, as defined, and criminal activity that is concentrated in certain geographically distinct areas.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Chapter 19B of the Administrative Code is hereby amended by revising Section 19B.1 (to add defined terms to be sequenced alphabetically with existing defined terms) and adding Section 19B.7-1, to read as follows:

SEC. 19B.1 DEFINITIONS.

“Acquire” means to buy, receive, or otherwise obtain.

* * * *

“Chief of Police” means the Chief of Police or the Chief’s designee.

* * * *

“Critical Event” means an incident, occurrence, or event of a criminal nature involving serious property damage or serious physical injury to any person, or an imminent threat of such an incident, occurrence, or event based on credible information. Critical Events meeting this definition may include, but are not limited to: mass assaults using firearms, vehicles, or other dangerous weapons; actual or suspected terrorist acts; arson; hostage and kidnapping incidents; organized theft or burglary; and looting or rioting.

* * * *

“Public Safety Crisis Area” means a geographic area in the City and County of San Francisco, as declared by the Chief of Police, where repeated or sustained high levels of criminal activity are directly impacting or jeopardizing public health or safety, including but not limited to areas with open-air illegal drug markets; areas where public drug sales and use block or inhibit public access to community amenities and services, such as public transit, parks, and playgrounds; and areas where there has been a documented increase in violent crimes over a 14-day period or longer.

* * * *

“Use” means to access, operate, or deploy Surveillance Technology so that information of any type or images captured or recorded thereon may be monitored in real time or reviewed after the information or images are captured or recorded.

* * * *

SEC. 19B.7-1. ACQUISITION AND USE OF SURVEILLANCE TECHNOLOGY BY THE POLICE DEPARTMENT IN RESPONSE TO A CRITICAL EVENT OR A PUBLIC SAFETY CRISIS.

(a) Notwithstanding any other provision of this Chapter 19B, and subject to the requirements of subsection (c) of this Section 19B.7-1, the San Francisco Police Department (“Police Department”) may temporarily acquire or use, and may enter into agreements to temporarily acquire

or use, Surveillance Technology, including Surveillance Technology owned or operated by another City Department, non-City entity, or individual, to monitor, review, or respond to criminal activity connected to a Critical Event or to monitor, review, or respond to criminal activity occurring in a Public Safety Crisis Area.

(b) The Chief of Police must comply with the following notice requirements in connection with a Critical Event or Public Safety Crisis Area declaration.

(1) The Chief of Police must notify the Mayor, the Board of Supervisors, and the Police Commission in writing that a Critical Event has occurred or is imminent based on credible information, and, without compromising police response, describe the circumstances of the Critical Event before, if feasible, or immediately after the Police Department acquires or uses Surveillance Technology pursuant to this Section 19B.7-1.

(2) When the Chief of Police declares an area to be a Public Safety Crisis Area, the declaration must be in writing; must provide specific, articulable facts giving rise to the crisis; and must include recent, contemporaneous, and reliable data or reports in support of the declaration. The Chief of Police must transmit the declaration to the Mayor, the Board of Supervisors, and the Police Commission before the Police Department may acquire or use Surveillance Technology pursuant to this Section 19B.7-1.

(c) If the Police Department temporarily acquires or uses Surveillance Technology under this Section 19B.7-1, the Police Department shall adhere to the following restrictions:

(1) Restricted Use: Use the Surveillance Technology solely to monitor, review, or respond to criminal activity connected to the Critical Event or criminal activity that formed the basis for the Public Safety Crisis Area declaration. Notwithstanding the foregoing, if the Police Department uncovers criminal activity unrelated to the facts and circumstances giving rise to the Public Safety Crisis Area declaration, the Police Department may retain and use information or data relating to that criminal activity consistent with subsection (c)(3).

(2) Restricted Time of Use: Use the Surveillance Technology no longer than is reasonable under the circumstances in the judgment of the Chief of Police. In addition to this general requirement regarding timing, which must always be satisfied, the following specific requirements place timing caps on the use of Surveillance Technology permitted by this Section 19B.7-1:

(A) When the Police Department has acquired or used Surveillance Technology with respect to a Critical Event, the Police Department must cease using the Surveillance Technology within 24 hours after the Critical Event or the threat of an imminent Critical Events ends. If the Chief of Police determines within that 24-hour period that there is a likelihood of further Critical Events of the same or similar nature in the same vicinity or perpetrated by some of the same individuals as the initial Critical Event, the Police Department must cease using the Surveillance Technology within eight days after the initial Critical Event ends. The Chief of Police must provide written notice of such determination to the Mayor, the Board of Supervisors, and the Police Commission. If a subsequent Critical Event occurs during that eight-day period, the timing restrictions set forth in this subsection (c)(2)(A) shall independently apply to that subsequent Critical Event.

(B) When the Police Department has acquired or used Surveillance Technology with respect to a Public Safety Crisis Area, the Police Department may use the Surveillance Technology for an initial period of up to 30 days. After that 30-day period, the Police Department may not continue to possess or use the Surveillance Technology unless the Chief of Police finds that (i) use of Surveillance Technology is necessary to enable the Police Department to respond to and abate the circumstances causing or contributing to public harms in the Public Safety Crisis Area, and (ii) use of Surveillance Technology during the preceding 30-day period has assisted the Police Department in addressing public harms in the Public Safety Crisis Area. This finding must be made every 30 days and must be transmitted in writing to the Mayor, the Board of Supervisors, and the Police Commission to continue the authorization to possess or use the Surveillance Technology.

(3) Restricted Retention of Data: Keep and maintain information or data obtained by use of Surveillance Technology only when the information or data is related to criminal activity connected to the Critical Event, Public Safety Crisis Area declaration, or any criminal investigation. The Police Department shall dispose of any information or data that is not relevant to a criminal investigation unless its retention is (A) authorized by court order, or (B) required by law.

(4) Required Report: Submit a written report summarizing the acquisition or use of Surveillance Technology under this Section 19B.7-1 to the Board of Supervisors within 60 days following the inception of the Critical Event or the threat of an imminent Critical Event or the declaration of a Public Safety Crisis Area.

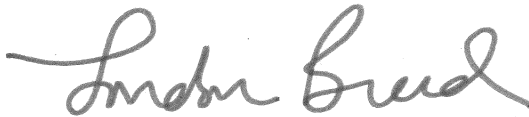
(d) Any Surveillance Technology temporarily acquired under this Section 19B.7-1 shall be returned within seven days after the possession or use of the Surveillance Technology no longer is permitted as provided in subsection (c)(2), unless the Police Department submits a Surveillance Impact Report to begin the process of seeking Board of Supervisors approval for such Surveillance Technology pursuant to Section 19B.2.

(e) The Board of Supervisors may by ordinance amend this Section 19B.7-1 as well as the definitions of Critical Event and Public Safety Crisis Area, to expand, but not constrain, the authorizations provided herein.

Section 2. Severability. If any section, subsection, sentence, clause, phrase, or word of this Section 19B.7-1, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Section.

* * *

SUBMITTED.



Date:

1.18.22

LONDON BREED
Mayor, City and County of San
Francisco

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