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September 1, 2022

VIA EMAIL

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102
Email: Board.of.Supervisors@sfgov.org

Re: The Bar Association of San Francisco's Opposition to the San Francisco Police Department's Live-Surveillance and Historical Review Surveillance Cameras

Dear Members of the Board of Supervisors:

The Bar Association of San Francisco (BASF), representing nearly 8,000 members, writes to express its opposition to the San Francisco Police Department's (SFPD) Non-City Entity Surveillance Cameras Policy (Policy), given the serious Fourth and First Amendment implications of the Policy. BASF is the largest legal organization in Northern California dedicated to criminal justice reform. In 2015, BASF established the Criminal Justice Task Force (CJTF), consisting of judges, prosecutors, public defenders, law enforcement (police and sheriff), private counsel, civil liberties advocates, and others, to advance systemic criminal justice reforms in San Francisco. BASF has a long history of undertaking legal research, supporting best practices and innovative ideas in the area of criminal justice reform, and has been deeply involved with modernizing and improving policing by SFPD.

We encourage and strongly support effective law enforcement and agree that public safety is a serious concern to San Franciscans, and we understand why SFPD might view increased surveillance as part of the solution to the current challenges in San Francisco. BASF believes that the better approach to public safety challenges is improved policing services, not the sort of mass surveillance proposed here. BASF and CJTF have been proud to assist SFPD in modernizing its policies and practices over the course of the past years, following the recommendations made by the U.S. Department of Justice in 2016. Notably, none of those federally-recommended reforms included a recommendation of mass surveillance.

Our legal research further makes clear that the proposed changes to Administrative Code 19B may give rise to litigation and jeopardize criminal



proceedings in certain cases. It does not appear to be unduly burdensome to require SFPD to seek an expedited warrant should it become necessary to gain access to desired camera footage. Failure to seek a warrant will invite civil lawsuits against San Francisco and, if footage is gathered as proposed, the evidence will likely be subject to suppression litigation in a criminal proceeding, jeopardizing any prosecution on which it relies. A warrant should be necessary to set forth the need for an extraordinary measure like live surveillance. Legal process and the approval of a judicial officer is readily available to law enforcement and has always protected the rights of San Franciscans as well as the integrity of criminal prosecutions.

Apart from these concerns, it is not clear the Policy will result in greater public safety given the absence of any evidence or data suggesting that SFPD needs radically expanded surveillance capabilities to do its job. Law enforcement agencies in this country have always been capable of ensuring public safety while also respecting Americans' civil liberties and we see no reason for a departure from traditional techniques. Should limited and exigent circumstances so require, the SFPD should seek a warrant to protect itself, the investigation, and the citizens of this City for the reasons set out above. Along those lines, BASF suggests that SFPD review its General Orders on Search Warrants (DGO 5.16)¹ and the Guidelines on First Amendment Activities (DGO 8.10)² and work with the Police Commission to assure their General Orders reflect the most recent legal decisions implicating the Fourth and First Amendments.

We therefore urge you to reject the proposed Policy unless it is substantially amended to respect the privacy and First Amendment rights of San Francisco's residents and visitors.

The Proposed Policy is Vague and Overreaching

The proposed Policy encroaches on the rights of San Franciscans to all of their daily activities, whether to demonstrate in public, organize to do so, or visit their doctor, meet with a friend whether downtown or near public housing, attend school, or earn a paycheck, without fear of police surveillance. The Board should not implement it and should instead refocus SFPD on traditional and modern community policing techniques that fall well within the limits of the law.

The proposed Policy would permit without a search warrant, SFPD access to "live monitoring during an exigency, or *significant events with public safety concerns*, or *investigations relating to active misdemeanor and felony violation*" for periods

¹ DGO 5.16 (Search Warrants) is currently under revision.

² DGO 8.10 (Guidelines on First Amendment Activities) has not been updated since 2008 to reflect recent case law.



up to 24 hours of privately owned cameras throughout the City.³ It also would permit, again in the absence of a warrant or subpoena, SFPD to review historical footage of privately owned cameras for purposes of “gathering evidence relevant to an investigation.” As we learned at the presentation before the Rules Committee of the Board of Supervisors, many privately owned cameras throughout San Francisco now provide highly developed technology, capable of zooming in closely enough to read the text on an individual’s cell phone, an otherwise private and constitutionally protected activity.

The proposed Policy as drafted does not impose any meaningful limitation on invasive police surveillance. It would permit SFPD to access thousands of private cameras throughout San Francisco to live-monitor anyone when there is a “Significant Event with public safety concerns” or an “investigation[] relating to active misdemeanor and felony violations.” A “Significant Event,” as the policy defines it, is any “large or high-profile event.” That captures most of San Francisco’s most celebrated gatherings, such as the Pride Parade, the Folsom Street Fair, Outside Lands, the Chinese New Year parade, the Cherry Blossom Festival in Japantown, the Ghirardelli Square Tree-Lighting Ceremony and other important opportunities for San Franciscans to exercise their First Amendment rights, whether demonstrating in support of Black Lives Matter, the right of a woman to choose, or to engage in labor action against an employer. There is no meaningful or clear limitation on the over-inclusive language, and as such, the proposed Policy is vulnerable to Constitutional challenge. Even a craft brew festival or a Giant’s game qualifies as a “high-profile event,” as written, subjecting large swaths of San Francisco to invasive police surveillance with no commensurate public safety justification.

The proposed Policy’s “investigation” prong permits even broader surveillance, posing especially problematic complications should criminal prosecutions result from the surveillance. Misdemeanor violations include trespassing, vandalism, fare evasion, petty theft, and many other low-level crimes. Those occur with regularity nearly everywhere, and investigations can remain open for years. Moreover, the time limits the proposed Policy imposes are illusory. It provides that “temporary live monitoring will cease ... within 24 hours after” SFPD gains access to a camera, but it fails to limit the number of times access can be renewed.⁴ The proposed language is neither narrow nor targeted, as would be required for any warrant application.

³ Presentation by SFPD to San Francisco Board of Supervisors Rules Committee, Presentation dated July 11, 2022 (Emphasis added.)

⁴ San Francisco Administrative Code § 19B.7(a)(2) provides that “surveillance technology” must “cease ... within seven days.” However, that limitation applies only to cameras SFPD has accessed to address “exigent circumstances,” as defined in the Code, and the policy does not incorporate it by reference.



The proposed Policy's treatment of "historical video" is no less concerning. Under the proposed Policy, SFPD may request, obtain, and review historical video footage "for purposes of gathering evidence relevant to a criminal investigation." SFPD may then keep that footage for two years, or, if it is part of an "ongoing investigation," indefinitely. This vague language is exceedingly permissive. Setting aside that content from nearly any camera in San Francisco may be "relevant to" some criminal investigation, the proposed Policy does not explain what separates "live" from "historical" footage. If SFPD reviews a video feed with a two-minute delay, is the content "live" (in which case the investigation must be relevant to an "active" criminal violation and cannot be recorded) or "historical" (in which case those conditions do not apply)? The proposed Policy does not say.

Critically, while the proposed Policy prohibits SFPD from using biometric identification and facial recognition technology, the changes sought by SFPD fail to limit, or even address, other advanced applications modern surveillance networks provide. As noted, many of the private cameras SFPD would be able to have access to have high-definition resolution, night vision, or zoom capabilities so powerful they can observe otherwise highly private and protected activity. Moreover, by linking together the thousands of cameras to which it would have access, and dumping the disparate footage into a single database, SFPD would have the power to comprehensively track any person in the city from the time she leaves her house in the morning to the moment she clicks off her reading light at night. *See, e.g., Lee Dye, Surveillance Systems Are Getting Smarter, ABC NEWS (Nov. 30, 2014, 3:20 AM)* (describing eight-year-old technology that allows "multiple cameras to follow an individual as she moves through a crowd, switching seamlessly from one camera to the next as the target moves from one field of view to another," even if "the target disappears for a while and then reappears in a different area").⁵ Whether it is a commute to work, a walk to conduct banking, a bike ride to meet a friend, or an evening stroll with a date or an intimate or sexual exchange, the Policy would give SFPD the power to weave together an unbroken chain of observation.

The proposed Policy is incomplete or misguided in other ways, too. It does not explain how a request for either live or historical footage is made, what documentation is required before a request is approved, where that documentation will be maintained, how each camera will be accessed, or whether and how access is terminated when justification for a video feed ends. It also allows SFPD to seek blanket consent from private citizens for access to their cameras, a potential path

⁵ <http://abcnews.go.com/Technology/surveillance-systems-smarter/story?id=27242336&singlePage=true>.



for mischief - residents might not be prepared to resist. All of these defects are likely to invite legal challenges.

The Proposed Policy Violates Residents' Privacy Rights

In addition to the problems above, the Policy's broad authorizations enabling police viewing of live and/or collect may violate the Fourth Amendment rights of San Francisco's visitors and residents, and therefore cannot serve one of the primary purposes for which the policy was intended. For the same reason, the proposed Policy may also subject San Francisco to expensive lawsuits for violating residents' First Amendment rights.

The Fourth Amendment requires that police obtain a warrant, supported by probable cause, before conducting a search. The "basic purpose" of that requirement "is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." *Camara v. Municipal Court of City and County of San Francisco*, 387 U.S. 523, 528 (1967). Historically, the Fourth Amendment guarded against the government's physical trespass onto private property. But "innovations in surveillance tools"—particularly those used in public spaces, like the cameras at issue here—have pushed the Supreme Court to re-conceptualize the Amendment's protections. *Carpenter v. United States*, 138 S. Ct. 2206, 2214 (2018). Today, "the Fourth Amendment protects people, not places." *Katz v. United States*, 389 U.S. 347, 351 (1967).

While "no single rubric definitely resolves" which activities the Fourth Amendment safeguards, the Court has provided some "basic guideposts." *Carpenter*, 138 S. Ct. at 2214. Those ensure that the Fourth Amendment "secure[s] the privacies of life against arbitrary power" and "place[s] obstacles in the way of a too permeating police surveillance," particularly where individuals will otherwise find themselves "at the mercy of advancing technology." *Id.* (quotations and citations omitted). Government surveillance violates these principles when it transgresses "a person's expectation of privacy in his physical location and movements"—something that is most likely to occur when advancing technology permits police to surveil in a manner that previously was "difficult and costly and therefore rare[]," or to collect information that is "detailed, encyclopedic, and effortlessly compiled," *id.* at 2216, 2217, particularly when that technology enhances the senses on which police traditionally relied.

The proposed Policy does exactly that. It allows police to turn any street into a stakeout at the click of a button. Like other modes of warrantless surveillance that the Supreme Court has held violate the Fourth Amendment, commandeering thousands of cameras from a central location "is remarkably easy, cheap, and efficient compared to traditional investigative tools." *Carpenter*, 138 S. Ct. at 2218. It also allows police to "travel back in time to retrace a person's



whereabouts, subject only to the retention policies of [a camera's owner]." *Id.* "Whoever the suspect turns out to be, he [may] effectively [have] been tailed every moment of every day" so long as some camera, somewhere in San Francisco, had him in view. *Id.* The problem, moreover, will only get worse as cameras become cheaper and easier to install and operate—as they will—allowing anyone to attach one (or many) to their homes, shops, cars, and bikes.

It does not matter, for Fourth Amendment purposes, that the cameras at issue are privately owned and (mostly) capture people as they move around out in the open. Fourth Amendment protections extend to information "held by a third party," *id.* at 2217, and to "movements ... disclosed to the public at large," *id.* at 2215 (citing at *United States v. Jones*, 565 U.S. 400, 430 (2021) (opinion of Alito, J.)). Nor does it matter that surveillance cameras are hardly new technology. The issue is not the security cameras themselves, but the way the proposed Policy permits police to use them. The proposed Policy provides access to an ever-growing (and potentially limitless) network of cameras, from a central location, with no restrictions on, or even mention of, advanced software that will allow the government to track anyone, anywhere, so long as a camera has them in view. Such dragnet-style surveillance will not take a mere snapshot of a person in public. It will, over time, construct a "precise, comprehensive record of a person's public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations." *Jones*, 565 U.S. at 415 (opinion of Sotomayor, J.). By allowing police to track "trips to the psychiatrist, the plastic surgeon, the abortion clinic, the AIDS treatment center, the strip club, the criminal defense attorney, the by-the-hour motel, the union meeting, the mosque, synagogue or church, [and] the gay bar," comprehensive surveillance cuts deep into the basic privacy rights San Franciscans hold dear. *Id.* (citation omitted). "[B]y making available at a relatively low cost such a substantial quantum of intimate information about any person whom the government, in its unfettered discretion, chooses to track," the proposed policy "may alter the relationship between citizen and government in a way that is inimical to democratic society." *Id.* (quotation marks omitted).

**The Solution to San Francisco's Public Safety Challenges is
Improved Traditional and Community Policing Tactics,
Not Mass Surveillance**

Public safety can be achieved without abandoning residents' Constitutional rights in favor of unprecedented levels of surveillance. Mass surveillance does not enjoy support from experts in modern policing and runs afoul of the traditional process required by law. As proposed, there is little evidence that the proposed Policy will actually improve our community and safety but there is enormous danger that it will undermine our most basic rights. We encourage the San Francisco Board of



THE BAR ASSOCIATION OF
SAN FRANCISCO

Supervisors to put the Constitutional rights of San Francisco's residents and visitors first.

Respectfully,

Yolanda Jackson
Executive Director & General Counsel
The Bar Association of San Francisco

cc: Mayor London Breed
David Chiu, San Francisco City Attorney
Chief William Scott, San Francisco Police Department
Brooke Jenkins, San Francisco District Attorney
Manohar Raju, San Francisco Public Defender



San Francisco Council of District Merchants Associations

SFCDMA

Masood Samereie
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Vice-President

Janet Tarlov
Vice-President

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September 12, 2022

Mr. Victor Young, Clerk of the SFBOS Rules Committee
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Dear Mr. Young,

The San Francisco Council of District Merchants' Executive Board and Legislative Committee support the 19B SFPD Non-City Entity Surveillance Camera Policy (revised 7/25/22). San Francisco's commercial corridors are increasingly experiencing the negative impacts of assault, brazen shoplifting, open-air drug dealing, thefts from cars, side-shows, chronic graffiti and other acts of vandalism. Even as thieves and criminals use social media and cutting-edge technology to hone their methods, SFPD is largely limited in their ability to utilize the readily available tool of high-quality surveillance cameras which are increasingly present in many businesses. Access to this footage—historical or live—is an indisputably powerful tool for the successful prosecution of bad actors who are making it ever-more challenging to safely conduct business in San Francisco. Business owners invest their own resources in these security systems and they should be permitted to share both historical and live footage with SFPD for the purpose of protecting themselves, their customers and staff and their merchandise and property.

We have closely followed the development of this legislation and feel that the current version adequately addresses concerns raised by the ACLU, the EFF and other privacy advocates; specifically around potential civil rights abuses, restricting access to reproductive health services and participation in immigration enforcement cases. The use of facial recognition technology is not permitted. It is our understanding that merchants and business owners will be empowered at their own discretion to grant access (or not) to SFPD to their cameras and that station Captains or their superiors will approve each authorization for live surveillance that will be in effect for 24 hours. We also approve of the sunset of the legislation in two years, so that a thorough review of any unintended consequences can be addressed.

We urge Supervisors Peskin, Mandelman and Chan to forward this legislation with recommendation to the full SF Board of Supervisors and help protect San Francisco's commercial corridors from continued deterioration in our quality of life.

Best Regards,

A handwritten signature in blue ink, appearing to read "Masood".

Masood Samereie, President
San Francisco Council of District Merchants Associations

A handwritten signature in blue ink, appearing to read "Janet".

Janet Tarlov, Legislative Committee Chair



September 12, 2022

Mr. Victor Young, Clerk of the SFBOS Rules Committee
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Dear Mr. Young,

The Board of the Glen Park Merchants Association supports the 19B SFPD Non-City Entity Surveillance Camera Policy (revised 7/25/22). In our small urban “village” commercial corridor, we increasingly experience the negative impacts of assault, brazen shoplifting, thefts from cars, side-shows, public intoxication and drug dealing, chronic graffiti and other acts of vandalism. Even as thieves and criminals use social media and cutting-edge technology to hone their methods, SFPD is too limited in their ability to access the readily available tool of high-quality surveillance cameras which are increasingly present in many homes and businesses in our community. Access to this footage—historical or live—is a potentially powerful tool for crime prevention; one that we feel business owners, who have purchased security cameras with their own money, should be permitted to share with SFPD.

We recognize that with current and likely ongoing staffing shortages at SFPD, officers will need every tool at their disposal in order to protect vulnerable business owners and their customers and staff from the kind of crime that has sadly become commonplace here in our own neighborhood. In Glen Park, merchants and business owners are typically eager to share historical video footage of crimes that have happened with SFPD and we know all too well that for criminals to be brought to justice, video evidence is essential. We feel comfortable speaking on behalf of our members in favor of this legislation, with the knowledge that merchants and business owners are free to opt out of requests, which are only in effect for 24 hours.

We urge Supervisors Peskin, Mandelman and Chan to forward this legislation to the full SF Board of Supervisors with recommendation and help protect San Francisco’s commercial corridors from continued deterioration in our quality of life.

Sincerely,

A handwritten signature in black ink, appearing to read 'Janet Tarlov', is written over a faint, light-colored signature line.

Janet Tarlov, President of the GPMA
On Behalf of the GPMA Board of Directors



Monday, September 12, 2022

TO: Rules Committee

RE: Support of Video Surveillance Policy

The Fisherman's Wharf Community Benefit District (FWCBD) is in favor of real-time monitoring, if individual or entities allow access that cannot exceed 24 hours. This policy does not give SFPD access to any video surveillance system, not even doorbell cameras, without the express consent of the owner at the time of request. This policy affirms current law enforcement best practices, allowing SFPD to request footage or live access from businesses or individuals and these entities and individuals retain the right to deny or allow the access.

Therefore the FWCBD is in support of this policy and ask that the Rules Committee approve today so SFPD can continue to use video footage as evidence and as a real time criminal mitigation tool.

Respectfully,

A handwritten signature in blue ink, appearing to read "R. M. J. [unclear]". The signature is fluid and cursive.

Executive Director
Fisherman's Wharf
Community Benefit District

CC: Rules Committee

From: [Julie Traun](#)
To: [Young, Victor \(BOS\)](#)
Cc: [Angulo, Sunny \(BOS\)](#); [Burke, Robyn \(BOS\)](#); [Green, Ross \(BOS\)](#)
Subject: Please add to the materials for item 7 on today's agenda
Date: Monday, September 12, 2022 10:51:35 AM

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I am Julie Traun from the Bar Association. I am here in person and I will be referencing this tool kit during public comment. I have previously sent it to each of the supervisors on the rules committee. I sent it yesterday. Can you please add it to the materials for item 7? Thank you very much.

<https://www-cdn.law.stanford.edu/wp-content/uploads/2020/01/Emerging-Police-Technology-A-Policy-Toolkit-2.pdf>

Sent from my iPhone

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Emerging Police Technology: A Policy Toolkit

CRIMINAL JUSTICE
POLICY PROGRAM
HARVARD LAW SCHOOL

Stanford Law School
Stanford Criminal
Justice Center



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Advisory Board

Matt Cagle, Technology and Civil Liberties Policy Attorney, ACLU of Northern California

Amy Condon, former Chief Legal Advisor, Boston Police Department

Catherine Crump, Assistant Clinical Professor and Director of the Samuelson Law, Technology & Public Policy Clinic, Berkeley School of Law

Ronald Davis, former Director of the Office of Community Oriented Policing Services, U.S. Department of Justice

Alfred Durham, former Police Chief, Richmond (VA) Police Department

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Sameena Usman, Government Relations Coordinator, Council on American-Islamic Relations

Reilly Webb, Executive Director, Texas Governor Greg Abbott's Criminal Justice Division

Acknowledgments

Emerging Police Technology: A Policy Toolkit was prepared by the Criminal Justice Policy Program at Harvard Law School and the Stanford Criminal Justice Center at Stanford Law School. Research and drafting were contributed by Harvard Law School students Rebecca Martin, Michael Roig, Natalie Salmanowitz, Jonathan Eubank, Keerthana Medarametla, Gene Park, Megan Lee, and Timothy Yap; and Stanford Law School students Julie Goldrosen, Robert Paris, Katie Kelsh, Drew Flood, Leah Yaffe, and Michael Poon. The toolkit drafting was overseen by Colin Doyle, Staff Attorney at CJPP; Mason Kortz, Clinical Instructor at the Harvard Law School Cyberlaw Clinic; Elana Fogel, Legal Fellow at CJPP; Brook Hopkins, Executive Director of CJPP; Debbie Mukamal, Executive Director of Stanford Criminal Justice Center; David Sklansky and Robert Weisberg, Faculty Co-Directors of the Stanford Criminal Justice Center; and Carol Steiker and Alex Whiting, Faculty Co-Directors of the Criminal Justice Policy Program.



How To Use This Toolkit

Modern police technologies pose an enormous challenge for police departments. License plate readers, drones, body cameras, and gunshot detection systems, for example, are powerful data-collection, data-creation, and data-retention tools. The value in these technologies is the information they generate. Their challenge is in collecting, managing, and using that information responsibly.

This toolkit begins with an introduction that describes this challenge and explains how smart, forward-thinking approaches are necessary in order to avoid mistakes and mismanagement. Next is a worksheet designed specifically for police chiefs to use as they consider acquiring new technology. The rest of the toolkit is divided into three sections that examine in detail the interconnected issues that data-collection technologies invariably cause police department leaders to face: Costs, Governance, and Community. Each section briefly summarizes challenges, outlines helpful practices for addressing them, and provides worksheets to help manage the process. The Governance and Community sections also include checklists which contain solutions and best practices.

An appendix at the end of the toolkit collects all of the worksheets and checklists in one place.

Introduction

Law enforcement agencies across the country are adopting new technologies at a rapid pace. Automated license plate readers, facial recognition systems, and predictive policing software are now common policing tools for big and small departments alike. Undeniably, modern technology has transformed the nature of police work. Police departments can now uncover, collect, create, and share troves of new information and integrate this data across devices and agencies.

Data-generating police technologies require new rules and new ways of thinking about long-term costs and controls. Acquiring data-collection technology is unlike other equipment procurement because the costs and downstream effects are connected not just to the physical hardware but to the resulting data governance required. Police departments are not just buying investigative tools, they are buying data systems that must be controlled and managed.

The mistakes and errors of past surveillance technology rollouts have resulted from not seeing this important difference between devices and data. Mismanaging technology can result in exorbitant financial costs, leave private data vulnerable to hackers, and damage a department's relationship with the community.

As technology has transformed policing practices, police departments and legislative bodies have struggled to keep pace with the associated issues and challenges. Police departments sometimes procure devices before establishing internal policies. And the cities and states that have begun to regulate police technology often take a piecemeal approach, designing policies for one specific technology at a time. Police departments and state and local regulators lack flexible, forward-thinking guidance that cut across multiple technologies.

The Stanford-Harvard Project on Technology and Policing was created to fill the gaps in police technology policy. PTP is a collaborative effort of Stanford Law School's Criminal Justice Center and Harvard Law School's Criminal Justice Policy Program. By bringing together law enforcement, state and local officials, lawyers, activists, technologists, community groups, and academics, we aim to identify crosscutting policy issues and develop helpful guidance for police departments, government regulators, and advocates.

PTP Roundtable Policy Discussion

In the fall of 2017, PTP held a roundtable policy discussion on policing technology with 24 national experts. Participants included local and state policymakers, law enforcement leaders, activists, academics, a technologist, and industry representatives with diverse backgrounds and a range of perspectives. Participants uniformly agreed that police departments should adopt policies for the procurement and use of new technologies, but also expressed concern that departments often lack the policy guidance they need.

In response to the concerns raised at the roundtable discussion, PTP created this toolkit to help police departments when considering new technology. Most of the roundtable participants are now members of PTP's advisory board and have provided valuable ideas and feedback for the toolkit.

Police Chief Worksheet

Before purchasing any new technology, consider these big picture questions.

1. Why does my department need this technology?

2. What public safety problem(s) does this technology help solve?

3. Is this public safety problem a priority or a distraction from more important issues in our community?

4. What is the full capacity of this technology—in other words, what does it do and what kinds of data does it collect beyond my organization's needs?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

5. Does the purchase of this technology require approval from legislative bodies, boards, or commissions?

6. What control will my department have over the data that is collected? Who will own it?

7. Who will have access to the data?

8. What are the privacy implications of this technology?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

9. What kind of legal liability could this technology bring?

10. How will my department protect data we collect?

11. How might this technology change my department's relationship with the community? How will deploying this technology affect my officers' day-to-day interactions with our community?

12. What concerns might the public have?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

13. How will my department listen to the public about this technology?

14. What independent research has been done to evaluate this technology? (Independent research is not paid for by developers or vendors of the technology or their agents.)

15. How has this technology worked out in other jurisdictions?

16. How much will it cost? Consider: hardware, software, maintenance, data storage, data security, staffing, training, and compliance with open record laws and policies.

The Data Challenge

Police have always adopted new technologies to help keep society safe. Over the years, innovations like police radios, computers in squad cars, and DNA testing have significantly changed and improved law enforcement, allowing police to do their work with more insight, efficiency, and effectiveness. But today's data-collection technologies are so powerful and entail such a problematic set of issues that new approaches to procurement, policies, and planning are imperative.

Today's smart phones and police cars have the ability to collect data about location, time, activity, and behavioral patterns. No longer just ordinary tools, these smart devices now create sophisticated data trails that can be mined for training, accountability, and use in civil or criminal litigation. Police surveillance technologies only add to this complexity. As digital cameras, body cameras, and sensors advance in sophistication, the ability to monitor the community and collect data on people grows in previously unimaginable ways. Police are now in the data business and must plan for this new role.

This toolkit addresses three data challenges: costs, data governance, and community relations. A clear understanding of each issue will help police departments adopt efficient, responsible, and effective policies.

Costs

Modern policing technologies generate substantial financial costs beyond an initial hardware or software purchase. By anticipating these future expenses, police departments can make more informed choices about which technologies are worth adopting.

Governance

Poor data management jeopardizes data privacy, accuracy, and reliability. Police departments can mitigate these risks through sensible data governance policies.

Community

New technologies can strengthen or weaken a department's relationship with the community. Regular public engagement and transparent policies allow police departments to build trust with the communities they serve.

Promising new digital technologies seem to appear every day. All present problems of data collection. If police departments don't have a strategic plan, they can be easily overwhelmed by data. From budgets to security to public trust—so much is at stake.

01 Costs

Data-generating technologies impose different costs than more traditional policing tools. That's because maintaining data has additional costs that can grow exponentially over time—including the costs involved with managing and mitigating risk. This section outlines the costs of acquiring data-generating technologies: Risk, Lifecycle, and Hidden Costs

Anticipating and managing risk is complex and time-consuming, but learning how to detect, prevent, and recover from mistakes and legal disputes will save considerable time, money, and frustration over the long run.

Risk

When a police department collects and retains data, it takes on the responsibility to safeguard it, ensure it is used appropriately, and comply with any applicable laws and regulations. Failure to do so means the department risks being held legally, financially, and publicly accountable—for example, if the data is misused or a data breach occurs.

Taking on these additional risks and responsibilities is costly. Departments should factor in the following costs when considering the adoption of any new data-collection technology:

Litigation

New police technologies are sometimes challenged in court. The cost of defending against a lawsuit can greatly increase the cost of a technology.

Public Record Requests

Emerging technologies generate troves of data—all of which may be subject to a state or local government's public record laws. Compliance with these laws can require dedicated personnel to process requests, comb through databases, and redact complicated files (including video and audio files).

Privacy

Surveillance technologies decrease the privacy of the communities that police serve and often decrease privacy for police officers themselves. This cost is determined by the capabilities of the technology, not the intent of the purchaser.

Community Relations

The public is often skeptical of new technology, especially technology that can infringe on privacy or is deployed only in certain neighborhoods. Overusing or misusing surveillance technology can erode community trust. Police departments around the country have accidentally leaked supposedly secure data, an embarrassing, costly, and potentially dangerous mistake that undermines police-community relations.

Real Risk: Vendor Error

Costly Data Breaches

In June of 2019, U.S. Customs and Border Protection reported that images collected at the border of people's faces and license plates were stolen in a cyberattack of its subcontractor Perceptics. This private vendor had violated CBP policy by transferring the images to its corporate network. The breach brought increased scrutiny and criticism from lawmakers and privacy advocates at an already tense time of national debate over the use of data-collection technology for law enforcement.

01 Costs

Police departments increasingly use sophisticated technologies to gather important data that helps them more effectively fight crime and protect the public. But ensuring that data is secure and properly processed, analyzed, shared, and finally archived becomes exponentially more challenging—and expensive—over time.

Lifecycle

The data lifecycle is everything that happens to a piece of information from the moment it is collected to the moment it is deleted. This includes migrating data from one system to another when storage technologies are updated.

Maintaining data throughout its lifecycle requires significant resources: storage space, computing power, backups, security, an interface to access and use the data, staff time, and more. Because of this, data-generating technologies have ever-growing costs that continue long after the hardware is acquired. These increased costs come in many forms.

Storage

Some technologies, especially video capture systems like body cameras and ALPRs, generate huge amounts of data. The cost of storing that data can quickly exceed the cost of acquiring the systems themselves. Some companies even offer free hardware because their real profits come from charging for data storage and maintenance.

Migration

When new technology replaces old technology, data must be moved from an old system to a new one. This means either spending staff time on the transition or hiring a vendor or outside consultant. There also can be added costs to make that new technology compatible with existing systems.

Staffing

Although police technologies can improve efficiency, more data often means more work. Officers may spend a significant amount of time each shift inputting, uploading, downloading, processing, browsing, searching, or otherwise handling data. For larger departments, getting the most out of data often means hiring specialized staff, such as a data analyst or long-term consultant.

Court Prep

Even if day-to-day use of the data doesn't require a specialist, use of the data in a trial may. In order to use data from police technologies at trial, departments need to be able to identify Brady material, respond to requests for evidence from the prosecution and defense, and get the data into formats that court systems can use and that judges and jurors can understand.

Legal Compliance

As local and state governments continue to amass more data, state legislatures are passing regulations that mandate how data must be stored, how long it must be retained, and how it must be made available to the public. As these laws proliferate, police departments can encounter unexpected cost increases for technologies that they've already purchased.

Community Oversight

Independent of any legal requirement, police departments often have their own transparency policies for disclosing information to the community. As a police department deploys more technology, it must also invest more time and energy into complying with these policies to maintain community trust.

01 Costs

Understanding the hidden costs of new technologies helps police departments make smart decisions, select the right tools, and reduce unnecessary expenditures.

Hidden Risks

Data-generating technologies often come with unknown capacities and consequences. Hidden risks are often impossible to identify, but there are specific areas where we know these risks can hide.

Vendors

Vendors are understandably eager to tell police about the benefits of their products—especially free ones. But “free” technology is rarely free for long. Vendors often offer free tools so they can charge for services later once a department has become dependent upon the technology.

Academic and Independent Research

Many academic institutions and independent research organizations examine the effectiveness of police technologies. Unfortunately, they do so with varying amounts of rigor, making it difficult to know which ones to trust. Sometimes a flawed research report can undermine the legitimate use of a technology. Good research on the other hand can help predict the effectiveness and impact of a new technology, but results are seldom universally applicable. Conclusions drawn from studying large, urban departments, for example, may not be applicable to smaller, rural departments, and vice versa.

Other Police Departments

With around 18,000 police departments in the United States, the chances are good that other nearby departments will have experience using and maintaining the same technology and are often the best resource for learning about unexpected costs. When considering the drawbacks to a technology, a police department can't limit itself to thinking only of the department's own potential problems. Lawsuits or protests challenging another jurisdiction's use of a police technology can have national consequences affecting the viability of using the technology elsewhere.

Real Risk: Bodycams

Technology Purchased and Abandoned

Police departments are abandoning once-promising bodycam programs because the costs of maintaining them have spiraled out of control. The East Dundee, Illinois police department ended its bodycam program because the data storage costs grew too big. And police in Wahoo, Nebraska ended their bodycam program because a new state data-retention law sent the cost of maintaining the program through the roof.

The Washington Post quotes Jim Pasco, executive director at the National Fraternal Order of Police: “The easy part is buying the body cameras and issuing them to the officers. They are not that expensive. But storing all the data that they collect—that cost is extraordinary. The smaller the department, the tougher it tends to be for them.”

Costs Worksheet

Calculating the costs and benefits of data-generating technologies is difficult. The following questions make the process more manageable.

1. Are there ongoing costs associated with maintaining the technology or storage equipment? What are the typical costs for a department of our size?

2. Does the vendor provide assistance with transition from older systems? What about transitioning away from the technology if we change vendors in the future?

3. Does the vendor provide training? Does this training fit the needs of our police department?

4. How much does the training cost? How much time does the training take?

Costs Worksheet (Continued)

Calculating the costs and benefits of data-generating technologies is difficult. The following questions make the process more manageable.

5. Does this technology rely on a proprietary (secret) software that is inaccessible to the police or the public? Are there alternatives available?

6. Has there been any litigation over the use of the technology, either against the company or against a police department that uses the technology?

7. Can our police department control what types of data are collected?

8. Can our police department control who has access to the data collected and can it share it with other entities?

Costs Worksheet (Continued)

Calculating the costs and benefits of data-generating technologies is difficult. The following questions make the process more manageable.

9. Where is the data we collect stored?

10. Is the vendor prohibited from using, sharing, or selling the data without express permission of our police department?

11. Does the vendor provide security software with this product? Does the software meet the security standards of our state, municipality, and department?

12. Does the vendor use data collected by the police or collect data beyond the needs of law enforcement? If so, how is the company using that data?

Costs Worksheet (Continued)

Calculating the costs and benefits of data-generating technologies is difficult. The following questions make the process more manageable.

13. Have independent studies been conducted on the effectiveness of the technology? (Independent studies are those not conducted or paid for by developers or vendors of the technology or their agents.)

14. Does our department need to sign a non-disclosure agreement to acquire the technology?

02 Governance

The data challenge makes smart data governance and management indispensable. Data governance is the creation and implementation of a strategy to ensure data best serves the needs of its organization. It determines the policies and practices that consistently keep data safe, accurate, relevant, and reliable. Data management is the administrative process that supports that strategy by appropriately collecting, securing, storing, organizing, sharing, archiving, and deleting data. Data governance and management work hand in hand. This section defines and explains some of their major goals.

Policies for data collection and management ensure that sensitive, useful information remains protected, accessible, and trustworthy.

Security

Sound data governance greatly benefits police departments and the public they serve by providing:

- Better protection of individual privacy
- Lower risk of cyber-attack
- Lower risk of staff misuse or abuse of technologies
- Increased accountability

The right time to create your data governance plan is before you begin collecting data. The decision not to collect data is always the first line of privacy protection. Data that is never collected cannot be lost, leaked, or misused. When a police department decides to collect data, the department should be able to articulate:

- How the data will be used
- What type and what amount of data will be collected
- With whom will the data will be shared
- When the data will be deleted
- Who in the department can read or edit the data

Many technologies collect data that can be used to identify specific individuals. This type of data must be managed carefully so that it is stored securely with strict access controls. Certain types of sensitive data must be handled with particular care under state and federal laws like HIPAA and FERPA which prohibit the disclosure of medical and educational histories.

02 Governance

Training is an essential part of any data governance plan—even the most comprehensive policy is ineffective if users do not follow it.

Training Personnel

Many data breaches are caused by avoidable internal errors rather than by external attacks. Employee training has been proven to significantly reduce such errors, yet many local agencies often have difficulty finding qualified data security personnel, let alone training the rest of their employees.

The Department of Homeland Security and the National Institute of Standards and Technology provide a list of resources that can help departments improve security awareness. Private companies also provide data security training. Even with these resources, training diverts time from other important police activities. Therefore, departments often choose a two-tiered plan for data security training:

Tier One

Employees who work directly with sensitive data and have the capability to add, delete, alter, or share this data receive comprehensive security training before being granted access.

Tier Two

Employees who do not work directly with this data also receive training, but this training focuses on spotting common security risks rather than understanding the inner workings of security frameworks, standards, and technologies.

Limiting Access

An access policy determines who has access to a dataset, network, or device. It also determines how much access each person has. The best access policies require logging all access and activity. Access policies can, if necessary, also restrict which devices a certain dataset is accessible on. For example, mobile phones and devices that can connect to public wifi networks are notoriously unsafe.

The best practice in creating an access policy is the principle of least privilege. This means that each person should only have as much access as they need to do their job. For example, a dataset could allow personnel to search through some data but prevent them from being able to alter or delete any of it. Access isn't an all-or-nothing prospect. Users can always be granted higher privileges temporarily if necessary for certain projects. But having an access policy is critical.

Deleting Data

The longer a police department retains its data, the greater the likelihood its data will be disclosed—deliberately or by accident. Over time, many types of data can become less useful for law enforcement purposes. That same data, however, still contains sensitive information. More data means more potential security breaches.

There are many approaches to setting data retention plans. One option is to use one deletion schedule for all of the department's data. A more nuanced plan may be preferable since the usefulness of certain kinds of data will expire faster than others. Some data types may become irrelevant after 24 hours, while others may remain useful for years. Data should not be stored after its usefulness has expired.

Data deletion can be automated. Automation is often desirable because it can be difficult for personnel to be faithful to data retention schedules; human error and day-to-day business can prolong the storage of data when its deletion is neglected. Departments that do not automatically delete data often set periodic notifications that remind appropriate staff members when to purge data.

02 Governance

It's not enough for your department to have secure data-sharing practices. The other departments and organizations you share data with must, too.

Sharing Data

Advances in technology have made data sharing easy and commonplace. Police departments often share data with fusion centers that pool evidence, intelligence, and other data across local jurisdictions and states nationwide.

Data security is only as strong as its weakest link. It doesn't matter how securely a department protects sensitive data if it is shared with an organization that does not have equally strong protections. Not everyone takes good care of their data. Even governmental agencies and other police departments may not apply adequate rigor or care to their data security.

Because increased data sharing results in higher risk of data breach and leaks, police departments must determine whether the entities who can access shared data are secure. Shared access to data requires a policy governing shared data control. Resources like [the National Criminal Intelligence Sharing Plan](#) help identify the best policies to implement for your department.

Police departments also need to be careful about accidentally sharing information with agencies whose practices conflict with a police department's own policies and mission. For example, many police departments and local jurisdictions have policies against cooperation with U.S. Immigrations and Customs Enforcement (ICE). But a recent investigation reveals some of these departments subscribed to a vendor's automatic license plate reader database without knowing that [ICE was also subscribed to the database](#). By contributing information to the database, some of these departments may have unintentionally violated both internal policies against cooperation with ICE and their local sanctuary city laws.

Auditing

Data governance policies often include periodic audits, both to determine policy compliance and to aid in the development of new policies. To enable auditability, every data interaction should be logged, including but not limited to collection, searches, access, and integration. Although data-generating technologies are often less visible than many traditional policing tools, they are also more auditable.

While law enforcement agencies should implement internal auditing procedures, independent third-party audits should also be conducted periodically to ensure objectivity and accuracy. Auditing the use of the voluminous data sets collected by police can be a challenge because of the sheer amount of activity.

Real Risk: Ransomware

Data Held Hostage

In recent years, hackers have infected police departments around the country with "ransomware" viruses that [lock police out of their own systems](#). Affected departments have to choose between paying off the hackers and losing access to their data—which can mean [losing months of work](#). Ransomware attacks can also cost cities [millions of dollars](#) in security fixes.

Governance Worksheet

When a police department collects data, it must be able to articulate every aspect of its data governance and management plans. These questions are some of the most important to answer.

1. What type of data will we collect?

2. Why do we need this data?

3. How will we use this data?

4. Could this data be used in ways that might raise concerns for our community?

Governance Worksheet (Continued)

When a police department collects data, it must be able to articulate every aspect of its data governance and management plans. These questions are some of the most important to answer.

5. Who in our department will be able to access this data and when?

6. Who will we share this data with?

7. When will we delete this data?

Governance Checklist

Use this checklist to make sure you're covering the most important aspects of your data governance and management plans.

1. Dataset integration

Police departments collect many kinds of data. Although individual datasets may be benign, problems may emerge when coupled with other datasets. Consider, for example, that each dataset may contain information about a piece of a person's life. As datasets become linked, they will form a more complete profile of that person. Dataset integration may make for effective policing, but it also raises increased privacy concerns.

- Avoid data integration if it is not absolutely necessary for legitimate law enforcement purposes.

2. Security Protocol

For a sample security policy, see the FBI's Criminal Justice Information Services ("CJIS") [Security Policy](#). For a general introduction to institutional data security, see the U.S. Department of Homeland Security Computer Emergency Readiness Team ("US-CERT") [security publications](#). More guidelines can be found at the National Institute of Standards and Technology ("NIST") [Computer Security Resource Center](#).

Include these security protocol basics to ensure your data is secure:

- Strong password protocol and standards for all devices
- Effective antivirus and malware software and policies
- Stringent, limited access policies
- Limited connection to the internet
- Frequent purges to eliminate former users

3. Training

In order to keep data secure, reduce employee errors, and help keep staff accountable, your department should incorporate the following two tiers of training:

- Tier One Training: all employees receive training focused on best practices and spotting common security risks
- Tier Two Training: employees who work directly with sensitive data and have the capability to add, delete, alter, or share this data, receive specialized security training

4. Limited access

- Make sure only personnel who absolutely need data—especially sensitive data—have access to it.
- Maintain a comprehensive inventory of personnel who have access to sensitive data.
- Monitor and audit user access to sensitive data.

Governance Checklist (Continued)

Use this checklist to make sure you're covering the most important aspects of your data governance and management plans.

5. Data Sharing

- Keep track of who we share data with and why.
- Frequently review whether those we share data with still need it.
- Vet the organizations we plan to share data with to make sure they have adequate security policies and practices.

6. Data Retention

- Decide whether automatic or manual deletion approaches are best for each dataset your department collects.

7. Audits

Third-party audits are necessary to protect police data adequately. Some security loopholes escape even the most competent computer users.

- Use third party auditors to verify that what appears secure is actually secure.

03 Community

Modern policing depends upon strong community relationships. Technology has the potential to strengthen the relationship between the police and the community. Police can interact with community members on social media, issue electronic alerts and advisories, and provide opportunities for public accountability by soliciting feedback and releasing data and video.

But new policing technology can also undermine a department's relationship with its community by intruding upon privacy interests and targeting specific populations for surveillance. Community engagement is essential. When police acquire and use surveillance technology in secret, refuse to disclose how technology is being used, and resist public record requests, community relations fall apart.

In many cities and towns, police departments more heavily patrol and surveil minority and poor communities that have higher crime rates. Taken together, the many forms of police technology—security cameras, license plate readers, gunshot detection systems, and more—can indiscriminately record the entire public life of a neighborhood. Accordingly, police technology can disproportionately encroach upon the privacy of poor communities and communities of color. In many places, a legacy of government discrimination or a history of police violence means that these same communities do not trust the police to use surveillance technologies in a fair and equitable way. This distrust can be hard for departments to overcome.

Careless deployment of technology can reopen old wounds or create new rifts between police and the public. Technology that was acquired to support investigations can undermine investigations if police cannot also rely on the support and trust of their community. Recognizing this, some departments have opted out of using certain technologies, not because the department feared that its officers would misuse the technology, but because the department acknowledged that any use of the technology would damage the department's relationship with the community.

When community relationships are not managed properly, police technology can invite public skepticism, distrust, and protest.

Real Risk: Public Backlash

Grounded Drones

In 2010, the Seattle Police Department used over \$80,000 in federal funds to purchase surveillance drones. But the department never informed Seattle's City Council—the local body in charge of the department's budget—about this purchase. In fact, the Council did not learn about the department's drones until two years later, when the Federal Aviation Administration released a report that listed the Seattle Police Department as an authorized drone user. This revelation invited backlash from the public and the City Council. In response to the bad press and public protests, the police department shut down its drone surveillance program without ever using the equipment.

03 Community

Better policies come from cooperation and dialogue. Community meetings are an opportunity for the police to inform the public and for the public to inform the police.

Community Meetings

A police department should hold community meetings prior to technology procurement and deployment to keep the public informed and get feedback. Soliciting public input informs the community, informs the police, and builds legitimacy for police using a technology in the future. Early community feedback and involvement helps the community to be a partner in policing efforts and prevents the public from feeling blindsided by new or expanded uses of policing technologies. By listening to community voices early in the procurement process, police departments can also ensure that public funds are not spent on technology that the community will reject.

Community meetings serve two important goals. First, they allow police to educate the community and correct misconceptions about technology and how police plan to deploy it. Second, they allow the communities most likely to be affected by these technologies to educate the police about their concerns. Without these meetings, communities and police risk talking past each other and holding mistaken assumptions about the other's objectives, actions, and motives.

Dialogue helps clear up misconceptions. In many instances, the public may be concerned about the nefarious deployment of surveillance technology that police have not even contemplated. For example, a police department may acquire surveillance technology thinking that it would be useful for emergency situations like terrorist attacks. The public fears that the police will use the technology to conduct regular surveillance in certain residential neighborhoods that are already heavily policed. Through community engagement, police departments can clear up misconceptions and the public can share their concerns. In response to community concerns raised at these meetings, police can enact policies limiting how a new technology is used.

Operating Policies

An operating policy describes how a department will—and won't—use a given technology. It prevents confusion and miscommunication about appropriate use of a new technology. Without an operating policy, a police department cannot set a standard for responsible use of the technology and will be unable to identify misconduct. Without defining guidelines or limits, police departments won't be able to assure the public with credibility that the technology will be used only in a responsible way.

Operating policies can be shared publicly on a department's website with the opportunity for local residents to provide their feedback and concerns. This kind of sustained public engagement provides reassurance to constituents, demonstrates a commitment to accountability, and can make a department aware of privacy or transparency concerns that it had not previously considered.

03 Community

Every state has adopted some form of public record law that enables the public to access government files. Public record laws typically allow citizens to obtain copies of government documents that are not confidential, do not contain private information, and do not present a security risk.

Accountability

Emerging technologies give a police department the opportunity to more closely and accurately monitor its own activity. Body-worn cameras have gained the most attention, but data collections of all kinds—from videos of interrogations to datasets of arrest information—give departments, the public, advocacy groups, and academics the opportunity to more closely monitor police officer and staff behavior. Public reports and compliance with public record requests serve everyone's interests.

Public Record Requests

The data collected by many police technologies is subject to public records law. Public record laws encompass digital files, including video, audio, and text files. Even when the data itself is not a public record, information about how that technology is used, such as policies and training material, may be. Compliance with public record laws can be both challenging and expensive in an era of automatic data creation. In addition to responding to public record requests and sending relevant data and files, police departments also need to identify sensitive data and decide what information should be redacted. Depending on the jurisdiction, all license plate reader data or [police-worn body camera footage](#) may be subject to public record request laws. The grants that fund the acquisition of this technology often do not extend to cover the public record requests that follow.

Public Reports

Police departments have begun creating public-facing annual reports about the use of surveillance technology within their jurisdictions. In many places, local regulations require police departments to issue these reports and post them on the department's website. Creating public reports can be a helpful, proactive practice for police departments seeking to promote community accountability and build public trust. Across jurisdictions, this type of report chronicles how the police department has addressed many of the issues brought up in this toolkit, including:

- Purpose of the police technology
- Overview of how the technology has been used
- Operating policies
- Policies for data collection, protection, retention, access, and sharing
- Training protocols
- Auditing results
- Impacts on civil liberties and civil rights
- Financial costs
- Records of public meetings and comments from the public

The format and content of the reports vary. For example, [the 2018 Seattle Police Department's Automated License Plate Recognition Report](#) is forty-one pages long and includes descriptions of the technology, operating and training policies, and assessments of racial equity and civil liberty concerns. In contrast, police in Davis, CA created a [four-page report on GPS monitoring](#) that covered similar issues in a briefer fashion, commenting on training, civil liberties concerns, operating policies, and more.

Community Worksheet: Planning

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help prepare your team.

1. What message do we want to send to our community about this new technology?

2. How can we introduce this new technology in a way that reinforces that message?

3. What are we interested in learning from our community?

4. How will we manage and run our community meetings to make them effective?

Community Worksheet: Planning (Continued)

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help prepare your team.

5. Who will speak on behalf of our department? How can we train or prepare the team for the meeting?

6. How will we communicate operating policies to the community?

7. How will we invite community members to contribute?

8. How will we invite community feedback beyond community meetings?

Community Worksheet: Analysis & Follow-up

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help you process the feedback you received from your community.

1. What concerns has the community raised about the new technology?

2. What misconceptions about this technology need to be addressed?

3. How will we address these misconceptions?

4. Does the feedback we received affect how we should use this technology? Are there uses of this technology that need to be limited or prohibited?

Community Worksheet: Analysis & Follow-up (Continued)

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help you process the feedback you received from your community.

5. How will we communicate operating policies to our community and the larger public?

6. How will our community and the larger public be able to verify that our department is following these policies?

7. How else can we address our community's concerns?

8. What public reporting and public record laws apply to this technology? Are we prepared to comply?

Community Checklist

Before acquiring or deploying a new police technology, engage your community. It will build trust, prevent miscommunication, and help you to plan. The following checklist provides ways to engage.

1. Community Meetings

- Hold community meetings before new technologies are procured and deployed.

2. Open Communication

Invite public comments by any means possible, including:

- Phone
- Mail
- Email
- Website
- Social media

3. Transparent Operating Policies

Publish operating policies on the police department's website and include:

- The purpose of each police technology
- The allowed uses for each police technology
- The prohibited uses for each police technology
- Internal oversight practices

4. Annual Public Reports

Publish annual public reports on police technology on the police department's website and include:

- The purpose of the police technology
- An overview of how the technology has been used
- All operating policies, including for data collection, protection, retention, access, and sharing
- Training Protocols
- Results of any internal or external audits
- The benefits these technologies bring to law enforcement investigations
- The impact on civil liberties
- The impact on racial, ethnic, and religious equality
- The fiscal costs
- The records of public meetings and comments from the public

Conclusion

Police departments across the country face the challenge of properly managing police technology. Modern technology is different than police equipment of the past because of its capacity to acquire, create, store, and interpret data. Modern police technologies can assist with building investigations and deterring criminal activity, but they also carry costs and risks. Police departments are buying data systems, not just hardware. Predicting future expenses is a challenge when data storage and public record requests have limitless potential. Protecting troves of data requires much more sophistication and effort than a strong computer password. And building community relationships is a particular challenge in a time of increased data collection and reduced privacy.

As chronicled in this toolkit, many of the mistakes of police technologies deployment are the direct result of departments not understanding the difference that data makes. We hope that this toolkit provides useful frameworks and worksheets for thinking through modern police technology's unique challenges.



Appendix: Collected Worksheets & Checklists

Police Chief Worksheet

Before purchasing any new technology, consider these big picture questions.

1. Why does my department need this technology?

2. What public safety problem(s) does this technology help solve?

3. Is this public safety problem a priority or a distraction from more important issues in our community?

4. What is the full capacity of this technology—in other words, what does it do and what kinds of data does it collect beyond my organization's needs?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

5. Does the purchase of this technology require approval from legislative bodies, boards, or commissions?

6. What control will my department have over the data that is collected? Who will own it?

7. Who will have access to the data?

8. What are the privacy implications of this technology?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

9. What kind of legal liability could this technology bring?

10. How will my department protect data we collect?

11. How might this technology change my department's relationship with the community? How will deploying this technology affect my officers' day-to-day interactions with our community?

12. What concerns might the public have?

Police Chief Worksheet (Continued)

Before purchasing any new technology, consider these big picture questions.

13. How will my department listen to the public about this technology?

14. What independent research has been done to evaluate this technology? (Independent research is not paid for by developers or vendors of the technology or their agents.)

15. How has this technology worked out in other jurisdictions?

16. How much will it cost? Consider: hardware, software, maintenance, data storage, data security, staffing, training, and compliance with open record laws and policies.

Costs Worksheet

Calculating the costs and benefits of data-generating technologies is difficult. The following questions make the process more manageable.

1. Are there ongoing costs associated with maintaining the technology or storage equipment? What are the typical costs for a department of our size?

2. Does the vendor provide assistance with transition from older systems? What about transitioning away from the technology if we change vendors in the future?

3. Does the vendor provide training? Does this training fit the needs of our police department?

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Costs Worksheet (Continued)

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14. Does our department need to sign a non-disclosure agreement to acquire the technology?

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2. Why do we need this data?

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4. Could this data be used in ways that might raise concerns for our community?

Governance Worksheet (Continued)

When a police department collects data, it must be able to articulate every aspect of its data governance and management plans. These questions are some of the most important to answer.

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6. Who will we share this data with?

7. When will we delete this data?

Governance Checklist

Use this checklist to make sure you're covering the most important aspects of your data governance and management plans.

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Police departments collect many kinds of data. Although individual datasets may be benign, problems may emerge when coupled with other datasets. Consider, for example, that each dataset may contain information about a piece of a person's life. As datasets become linked, they will form a more complete profile of that person. Dataset integration may make for effective policing, but it also raises increased privacy concerns.

- Avoid data integration if it is not absolutely necessary for legitimate law enforcement purposes.

2. Security Protocol

For a sample security policy, see the FBI's Criminal Justice Information Services ("CJIS") [Security Policy](#). For a general introduction to institutional data security, see the U.S. Department of Homeland Security Computer Emergency Readiness Team ("US-CERT") [security publications](#). More guidelines can be found at the National Institute of Standards and Technology ("NIST") [Computer Security Resource Center](#).

Include these security protocol basics to ensure your data is secure:

- Strong password protocol and standards for all devices
- Effective antivirus and malware software and policies
- Stringent, limited access policies
- Limited connection to the internet
- Frequent purges to eliminate former users

3. Training

In order to keep data secure, reduce employee errors, and help keep staff accountable, your department should incorporate the following two tiers of training:

- Tier One Training: all employees receive training focused on best practices and spotting common security risks
- Tier Two Training: employees who work directly with sensitive data, and have the capability to add, delete, alter, or share this data, receive specialized security training

4. Limited access

- Make sure only personnel who absolutely need data—especially sensitive data—have access to it.
- Maintain a comprehensive inventory of personnel who have access to sensitive data.
- Monitor and audit user access to sensitive data.

Governance Checklist (Continued)

Use this checklist to make sure you're covering the most important aspects of your data governance and management plans.

5. Data Sharing

- Keep track of who we share data with and why.
- Frequently review whether those we share data with still need it.
- Vet the organizations we plan to share data with to make sure they have adequate security policies and practices.

6. Data Retention

- Decide whether automatic or manual deletion approaches are best for each dataset your department collects.

7. Audits

Third-party audits are necessary to protect police data adequately. Some security loopholes escape even the most competent computer users.

- Use third party auditors to verify that what appears secure is actually secure.

Community Worksheet: Planning

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help prepare your team.

1. What message do we want to send to our community about this new technology?

2. How can we introduce this new technology in a way that reinforces that message?

3. What are we interested in learning from our community?

4. How will we manage and run our community meetings to make them effective?

Community Worksheet: Planning (Continued)

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help prepare your team.

5. Who will speak on behalf of our department? How can we train or prepare the team for the meeting?

6. How will we communicate operating policies to the community?

7. How will we invite community members to contribute?

8. How will we invite community feedback beyond community meetings?

Community Worksheet: Analysis & Follow-up

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help you process the feedback you received from your community.

1. What concerns has the community raised about the new technology?

2. What misconceptions about this technology need to be addressed?

3. How will we address these misconceptions?

4. Does the feedback we received affect how we should use this technology? Are there uses of this technology that need to be limited or prohibited?

Community Worksheet: Analysis & Follow-up (Continued)

Before acquiring or deploying a new police technology, engage your community to build trust and prevent miscommunication. These questions help you process the feedback you received from your community.

5. How will we communicate operating policies to our community and the larger public?

6. How will our community and the larger public be able to verify that our department is following these policies?

7. How else can we address our community's concerns?

8. What public reporting and public record laws apply to this technology? Are we prepared to comply?

Community Checklist

Before acquiring or deploying a new police technology, engage your community. It will build trust, prevent miscommunication, and help you to plan. The following checklist provides ways to engage.

1. Community Meetings

- Hold community meetings before new technologies are procured and deployed.

2. Open Communication

Invite public comments by any means possible, including:

- Phone
- Mail
- Email
- Website
- Social media

3. Transparent Operating Policies

Publish operating policies on the police department's website and include:

- The purpose of each police technology
- The allowed uses for each police technology
- The prohibited uses for each police technology
- Internal oversight practices

4. Annual Public Reports

Publish annual public reports on police technology on the police department's website and include:

- The purpose of the police technology
- An overview of how the technology has been used
- All operating policies, including for data collection, protection, retention, access, and sharing
- Training Protocols
- Results of any internal or external audits
- The benefits these technologies bring to law enforcement investigations
- The impact on civil liberties
- The impact on racial, ethnic, and religious equality
- The fiscal costs
- The records of public meetings and comments from the public

From: [Julie Traun](#)
To: [Young, Victor \(BOS\)](#)
Cc: [Mikele Lewis-Nelson](#)
Subject: RE: BASF CJTF Letter Opposing Surveillance by SFPD Using Privately Owned Cameras
Date: Thursday, September 8, 2022 5:26:44 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Perhaps it would be helpful to add that this letter pertains to Item 7 on Monday's agenda:
7. 220606 [Administrative Code - Surveillance Technology Policy for Police Department Use of Non-City Entity Surveillance Cameras] Sponsor: Mayor

From: Julie Traun
Sent: Thursday, September 8, 2022 5:21 PM
To: 'victor.young@sfgov.org'
Cc: Mikele Lewis-Nelson
Subject: FW: BASF CJTF Letter Opposing Surveillance by SFPD Using Privately Owned Cameras
Importance: High

Good afternoon,
This was sent to the full board by the Bar Association of San Francisco on September 1, 2022, but I don't see it included in the materials for Rules on Monday, September 12th. Can it be added please?
Thank you.
Julie Traun

Julie Traun
Director of Court Programs
Lawyer Referral and Information Service
Bar Association of San Francisco
201 Mission Street, Suite 400,
San Francisco, CA 94105
Tel: 415-782-8942
Fax: 415-782-8993

From: Mikele Lewis-Nelson
Sent: Thursday, September 1, 2022 11:06 AM
To: 'Board.of.Supervisors@sfgov.org'
Cc: Yolanda Jackson; Mary McNamara
Subject: BASF CJTF Letter Opposing Surveillance by SFPD Using Privately Owned Cameras
Importance: High

Good Morning,

Please see the attached letter, *sent on behalf of Yolanda Jackson, Executive Director of The Bar*

Association of San Francisco.

Thank You,
Mikele Lewis-Nelson

Mikele Lewis-Nelson | Executive Assistant
The Bar Association of San Francisco | 201 Mission Street, Fourth Floor | San Francisco, CA 94105
Tel: 415-782-8998 | Fax: 415-477-2388
mlewis@sfbbar.org | www.sfbbar.org
(First name pronounced – Mih-KELL)

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From: [Krystal Koop](#)
To: [Peskin, Aaron \(BOS\)](#); [ChanStaff \(BOS\)](#); [MandelmanStaff, \[BOS\]](#); [Young, Victor \(BOS\)](#)
Subject: Approve the Surveillance Technology Policy for SFPD!!
Date: Friday, September 9, 2022 1:53:51 PM

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Message to the Rules Committee

From your constituent Krystal Koop
Email krystalkoop@gmail.com

I am a resident of [District 1](#)

Approve the Surveillance Technology Policy for SFPD!!

Message to the Rules
Committee

Dear Supervisors Peskin, Chan and Mandelman:

I call on you to support the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

The ordinance, as written, balances our rights and public safety. Business owners can opt-in or not. People who own private cameras must consent.

Any claim that the ordinance grants SFPD broad monitoring of our lives, is false. The ordinance applies to very specific, important circumstances, including SFPD officer misconduct. It is case-specific, and protects First Amendment rights and the limits on how long footage can be retained are reasonable. Officer training is extensive, and Chief Scott, who has continuously sought out appropriate criminal justice reforms, has committed to honoring the ordinance as intended.

Please approve the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

Thank you.

From: [Howard Lee](#)
To: [Peskin, Aaron \(BOS\)](#); [ChanStaff \(BOS\)](#); [MandelmanStaff, \[BOS\]](#); [Young, Victor \(BOS\)](#)
Subject: Approve the Surveillance Technology Policy for SFPD!!
Date: Friday, September 9, 2022 4:51:49 PM

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Message to the Rules Committee

From your constituent Howard Lee

Email howard.lee90@gmail.com

I am a resident of District 7

Approve the Surveillance Technology Policy for SFPD!!

Message to the Rules
Committee

Dear Supervisors Peskin, Chan, and Mandelman:

I call on you to support the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

The ordinance, as written, balances our rights and public safety. Business owners can opt-in or not. People who own private cameras must consent.

Any claim that the ordinance grants SFPD broad monitoring of our lives, is false. The ordinance applies to very specific, important circumstances, including SFPD officer misconduct. It is case-specific and protects First Amendment rights and the limits on how long footage can be retained are reasonable. Officer training is extensive, and Chief Scott, who has continuously sought out appropriate criminal justice reforms, has committed to honoring the ordinance as intended.

Please approve the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

Thank you.

From: [Dan Richards](#)
To: [Peskin, Aaron \(BOS\)](#); [ChanStaff \(BOS\)](#); [MandelmanStaff, \[BOS\]](#); [Young, Victor \(BOS\)](#)
Subject: Approve the Surveillance Technology Policy for SFPD!!
Date: Sunday, September 11, 2022 6:16:46 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Message to the Rules Committee

From your constituent Dan Richards

Email rucks_slats.0@icloud.com

I am a resident of District 11

Approve the Surveillance Technology Policy for SFPD!!

Message to the Rules Committee

Dear Supervisors Peskin, Chan and Mandelman:

I call on you to support the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

The ordinance, as written, balances our rights and public safety. Business owners can opt-in or not. People who own private cameras must consent.

Any claim that the ordinance grants SFPD broad monitoring of our lives, is false. The ordinance applies to very specific, important circumstances, including SFPD officer misconduct. It is case-specific, and protects First Amendment rights and the limits on how long footage can be retained are reasonable. Officer training is extensive, and Chief Scott, who has continuously sought out appropriate criminal justice reforms, has committed to honoring the ordinance as intended.

Please approve the Surveillance Technology Policy for the Police Department's use of non-City entity surveillance cameras.

Thank you.

