

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
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MEMORANDUM

TO: Tom Paulino - All City Departments, via the Mayors Offices

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: October 17, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed Ordinance:

File No. 240983

Ordinance amending the Administrative Code to revise the Surveillance Technology Ordinance by, among other things, reducing administrative burdens associated with reporting requirements; clarifying certain exceptions to the definition of "Surveillance Technology;" transferring the responsibility of creating or amending a Surveillance Technology Policy from the Committee on Information Technology (COIT) to the departments using such technology; and adding a reporting requirement for COIT regarding existing Surveillance Technology still awaiting approval of a Surveillance Technology Policy.

If you have comments or reports to be included with the file, please forward them to Victor Young at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c: Andres Power, Mayor's Office



City and County of San Francisco

Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 240983 **File Type:** Ordinance **Status:** 30 Day Rule

Enacted: _____ **Effective:** _____

Version: 1 **In Control:** Rules Committee

File Name: Administrative Code - Surveillance Technology Ordinance Amendments **Date Introduced:** 10/08/2024

Requester: _____ **Cost:** _____ **Final Action:** _____

Comment: _____ **Title:** Ordinance amending the Administrative Code to revise the Surveillance Technology Ordinance by, among other things, reducing administrative burdens associated with reporting requirements; clarifying certain exceptions to the definition of “Surveillance Technology;” transferring the responsibility of creating or amending a Surveillance Technology Policy from the Committee on Information Technology (COIT) to the departments using such technology; and adding a reporting requirement for COIT regarding existing Surveillance Technology still awaiting approval of a Surveillance Technology Policy.

Sponsor: Peskin

History of Legislative File 240983

Ver	Acting Body	Date	Action	Sent To	Due Date	Result
1	President	10/08/2024	ASSIGNED UNDER 30 DAY RULE	Rules Committee	11/07/2024	

1 [Administrative Code - Surveillance Technology Ordinance Amendments]

2

3 **Ordinance amending the Administrative Code to revise the Surveillance Technology**
 4 **Ordinance by, among other things, reducing administrative burdens associated with**
 5 **reporting requirements; clarifying certain exceptions to the definition of “Surveillance**
 6 **Technology;” transferring the responsibility of creating or amending a Surveillance**
 7 **Technology Policy from the Committee on Information Technology (COIT) to the**
 8 **departments using such technology; and adding a reporting requirement for COIT**
 9 **regarding existing Surveillance Technology still awaiting approval of a Surveillance**
 10 **Technology Policy.**

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

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

19 Section 1. Chapter 19B of the Administrative Code is hereby amended by revising
 20 Sections 19B.1, 19B.2, 19B.3, 19B.5, and 19B.6, to read as follows:

21 **SEC. 19B.1. DEFINITIONS.**

22 “Annual Surveillance Report” means a written report that includes all of the following:

23 (1) A general description of how the Surveillance Technology was used;

24 (2) ~~A general description of whether and how often data acquired through the use of the~~
 25 ~~Surveillance Technology item was shared with outside entities, the name of any recipient outside entity,~~
 the type(s) of data disclosed, under what legal standard(s) the data was disclosed, and the justification

1 ~~for the disclosure(s);~~

2 ~~(3)–A summary of complaints or concerns from the public about the Surveillance~~
3 ~~Technology item, including complaints or concerns regarding the receipt of information from Face~~
4 ~~Recognition Technology;~~

5 ~~(34) The aggregate results of any internal audits required by the Surveillance Technology~~
6 ~~Policy, any general, aggregate information about violations of the Surveillance Technology Policy, and~~
7 ~~a general description of any actions taken in response; A summary of any violations of the Surveillance~~
8 ~~Technology Policy, including a description of each violation, the location of each violation, and the~~
9 ~~date of each violation;~~

10 ~~(45) Information, including crime statistics, which help the Board of Supervisors~~
11 ~~assess whether the Surveillance Technology has been effective at achieving its identified~~
12 ~~purposes; and~~

13 ~~(6) Aggregate statistics and information about any Surveillance Technology related to Public~~
14 ~~Records Act requests;~~

15 ~~(7) Total annual costs for the Surveillance Technology, including personnel and other ongoing~~
16 ~~costs, and what source of funding will fund the Surveillance Technology in the coming year;~~

17 ~~(58) Any requested modifications to the Surveillance Technology Policy and a detailed~~
18 ~~basis for the request; ;~~

19 ~~(9) Where applicable, a general breakdown of what physical objects the Surveillance~~
20 ~~Technology hardware was installed upon, using general descriptive terms; for Surveillance Technology~~
21 ~~software, a general breakdown of what data sources the Surveillance Technology was applied to;~~

22 ~~(10) A description of products and services acquired or used in the preceding year that are not~~
23 ~~already included in the Surveillance Technology Policy, including manufacturer and model numbers,~~
24 ~~and the identity of any entity or individual that provides to the Department services or equipment~~
25 ~~essential to the functioning or effectiveness of the Surveillance Technology; and~~

1 ~~(H)~~ *A summary of all requests for Board of Supervisors' approval for a Surveillance*
2 *Technology Policy ordinance.*

3 An Annual Surveillance Report shall not contain the specific records that a Surveillance
4 Technology item collects, stores, exchanges, or analyzes and/or information protected,
5 restricted, and/or sealed pursuant to State and/or federal laws, including information exempt
6 from disclosure under the California Public Records Act.

7 * * * *

8 “COIT” means the Committee on Information Technology, *including any subcommittee*
9 *designated by COIT.*

10 * * * *

11 “Personal communication device” means a cellular telephone that has not been modified
12 beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or
13 similar wireless two-way communications and/or portable Internet accessing device, whether procured
14 or subsidized by a City entity or personally owned, that is used in the regular course of conducting City
15 business.

16 “Protected Class” means a class of persons with shared characteristics based on sex, race,
17 color, religion, ancestry, national origin, disability, medical condition, genetic information, marital
18 status, gender identity, gender expression, or sexual orientation, or any other class protected under the
19 California Unruh Civil Rights Act.

20 “Surveillance Impact Report” means a written report that includes at a minimum the
21 following:

22 (1) Information describing the Surveillance Technology and how it works, ~~including~~
23 ~~product descriptions from manufacturers;~~

24 (2) ~~Information on the proposed purpose(s) for the Surveillance Technology;~~

25 ~~(3)~~ If applicable, the general location(s) it may be deployed and crime statistics for any

1 location(s);

2 (34) An assessment identifying any potential impact on civil liberties and civil rights
3 and discussing any plans to safeguard the rights of the public;

4 (45) The fiscal costs for the Surveillance Technology, including initial purchase,
5 personnel and other ongoing costs, and any current or potential sources of funding;

6 (56) Whether use or maintenance of the technology will require data gathered by the
7 technology to be handled or stored by a third-party vendor on an ongoing basis; and

8 (67) A summary of the experience, if any, other governmental entities have had with
9 the proposed technology, including information about its effectiveness and any known
10 adverse information about the technology such as unanticipated costs, failures, or civil rights
11 and civil liberties abuses.

12 ~~“Personal communication device” means a cellular telephone that has not been modified~~
13 ~~beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or~~
14 ~~similar wireless two-way communications and/or portable Internet accessing devices, whether~~
15 ~~procured or subsidized by a City entity or personally owned, that is used in the regular course of~~
16 ~~conducting City business.~~

17 ~~“Protected Class” means a class of persons with shared characteristics based on sex, race,~~
18 ~~color, religion, ancestry, national origin, disability, medical condition, genetic information, marital~~
19 ~~status, gender identity, gender expression, or sexual orientation, or any other class protected under the~~
20 ~~California Unruh Civil Rights Act.~~

21 “Surveillance Technology” means any software, electronic device, system utilizing an
22 electronic device, or similar device used, designed, or primarily intended to collect, retain,
23 process, or share audio, electronic, visual, location, thermal, biometric, olfactory, or similar
24 information specifically associated with, or capable of being associated with, any individual or
25 group. Surveillance Technology” includes but is not limited to the following: international

1 mobile subscriber identity (IMSI) catchers and other cell site simulators; automatic license
2 plate readers; electric toll readers; closed-circuit television cameras; gunshot detection
3 hardware and services; video and audio monitoring and/or recording technology, such as
4 surveillance cameras, wide-angle cameras, and wearable body cameras; mobile DNA capture
5 technology; biometric software or technology, including facial, voice, iris, and gait-recognition
6 software and databases; software designed to monitor social media services; x-ray vans;
7 software designed to forecast criminal activity or criminality; radio-frequency I.D. (RFID)
8 scanners; and tools, including software and hardware, used to gain unauthorized access to a
9 computer, computer service, or computer network. Surveillance Technology does not include
10 the following devices, hardware, or software:

11 * * * *

12 (2) City databases and enterprise systems that contain information kept in the
13 ordinary course of City business, including, but not limited to, human resource, permit,
14 license, and business records essential to the Department's customary operations;

15 * * * *

16 (13) Police department computer aided dispatch (CAD), records/case management,
17 Live Scan, booking, Department of Motor Vehicles, California Law Enforcement
18 Telecommunications Systems (CLETS), 9-1-1 and related dispatch and operation or
19 departmental or interdepartmental emergency services systems;

20 (14) Police department early warning systems; ~~and~~

21 (15) Computers, software, hardware, or devices intended to be used solely to monitor
22 the safety and security of City facilities and City vehicles, not generally accessible to the
23 public;

24 (16) Information acquired voluntarily from an individual who was given an opportunity to
25 decline to provide the information, that the Department requires in order to provide a City benefit or

1 service, and where the information will not be shared by the Department or used for any other purpose;

2 and

3 (17) Technology that requires Board of Supervisors approval under State law.

4 * * * *

5
6 **SEC. 19B.2. BOARD OF SUPERVISORS APPROVAL OF SURVEILLANCE**
7 **TECHNOLOGY POLICY.**

8 (a) Except as stated in subsection (c), and in accordance with the procedures set forth
9 in subsection (b), a Department must obtain Board of Supervisors approval by ordinance of a
10 Surveillance Technology Policy under which the Department will acquire and use Surveillance
11 Technology, prior to engaging in any of the following:

12 (1) Seeking funds for Surveillance Technology, including but not limited to applying for
13 a grant, or accepting state or federal funds, or public or private in-kind or other donations;

14 (2) Acquiring or borrowing new Surveillance Technology, including but not limited to
15 acquiring Surveillance Technology without the exchange of monies or other consideration;

16 (3) Using new or existing Surveillance Technology for a purpose, in a manner, or in a
17 location not specified in a Surveillance Technology Policy ordinance approved by the Board in
18 accordance with this Chapter 19B;

19 (4) Entering into agreement with a non-City entity to acquire, share, or otherwise use
20 Surveillance Technology; or

21 (5) Entering into an oral or written agreement under which a non-City entity or
22 individual regularly provides the Department with data or information acquired through the
23 entity's use of Surveillance Technology.

24 (b) The Board of Supervisors may approve a Surveillance Technology Policy
25 ordinance under subsection (a) only under the following circumstances:

1 (1) The Department seeking Board approval under subsection (a) first creates submits
2 ~~to COIT~~ a Surveillance Technology Policy and Surveillance Impact Report for the Surveillance
3 Technology to be acquired or used; and

4 (2) ~~Based on the Surveillance Impact Report submitted by the Department, COIT develops a~~
5 ~~Surveillance Technology Policy for the Surveillance Technology to be acquired or used;~~

6 ~~(3)~~—At a public hearing at which COIT considers the Surveillance Technology Policy,
7 COIT recommends that the Board of Supervisors adopt, adopt with modifications, or decline
8 to adopt the Surveillance Technology Policy for the Surveillance Technology to be acquired or
9 used.

10 * * * *

11 (l) Nothing in this Chapter 19B shall prohibit, restrict, or interfere with a Department’s
12 use of Surveillance Technology to conduct internal investigations involving City employees,
13 contractors, and volunteers, or the City Attorney’s ability to receive or use, in preparation for
14 or in civil or administrative proceedings, information from Surveillance Technology (excluding
15 Face Recognition Technology to the extent prohibited under Section 19B.2-(d)(1) that any
16 City agency, department, or official gathers or that any other non-City entity or person gathers.

17 (m) Any amendment to an existing Surveillance Technology Policy shall be submitted directly
18 to the Board of Supervisors and not to COIT.

19
20 **SEC. 19B.3. SURVEILLANCE IMPACT REPORT AND SURVEILLANCE**
21 **TECHNOLOGY POLICY SUBMISSION.**

22 (a) COIT shall post on COIT’s website each Surveillance Impact Report submitted by
23 Departments under subsection 19B.2(b)~~(1) and COIT’s recommendations to the Board of~~
24 ~~Supervisor’s 1 under subsection 19B.2(b)(3) for each Surveillance Technology Policy.~~

25 (b) The Department seeking approval under Section 19B.2 shall submit to the Board

1 of Supervisors and publicly post on the Department website a Surveillance Impact Report and
2 a proposed Surveillance Technology Policy ordinance at least 30 days prior to the first public
3 meeting where the Board will consider that Surveillance Technology Policy ordinance
4 pursuant to Section 19B.2.

5 ~~(e) Prior to submitting the Surveillance Technology Policy ordinance to the Board, the~~
6 ~~Department must first approve the policy, submit the policy to the City Attorney for review, and submit~~
7 ~~the policy to the Mayor.~~

8
9 **SEC. 19B.5. COMPLIANCE FOR EXISTING SURVEILLANCE TECHNOLOGY.**

10 (a) Each Department possessing or using Surveillance Technology before the
11 effective date of this Chapter 19B shall submit an inventory of its Surveillance Technology to
12 COIT, within 60 days of the effective date of this Chapter. COIT shall publicly post the
13 inventory on COIT's website.

14 ~~(b) Each Department possessing or using Surveillance Technology before the effective date of~~
15 ~~this Chapter 19B shall submit a proposed Surveillance Technology Policy ordinance to the Board of~~
16 ~~Supervisors, in accordance with the procedures set forth in subsection 19B.2(b), for each particular~~
17 ~~Surveillance Technology no later than 180 days following the effective date of this Chapter, for review~~
18 ~~and approval by the Board by ordinance. A Department may submit a Surveillance Technology Policy~~
19 ~~ordinance that includes multiple, separate policies for each particular Surveillance Technology~~
20 ~~possessed or used before the effective date of this Chapter 19B.~~

21 ~~(c) If a Department is unable to meet this 180-day timeline, the Department may notify the~~
22 ~~COIT in writing of the Department's request to extend this period and the reasons for that request.~~
23 ~~COIT may for good cause grant a Department extensions of up to 90 days per extension, beyond the~~
24 ~~180-day timeline to submit a proposed Surveillance Technology Policy.~~

25 ~~(d) Each Department possessing or using Surveillance Technology before the~~

1 effective date of this Chapter 19B may continue its use of the Surveillance Technology and
2 the sharing of data from the Surveillance Technology until such time as the Board enacts an
3 ordinance regarding the Department's Surveillance Technology Policy and such ordinance
4 becomes effective under Charter Section 2.105.

5 (c) Beginning on March 1, 2025, and every six months thereafter, COIT staff shall issue and
6 post on its website a report that includes the status of any Surveillance Technology listed on an
7 inventory under Section 19B.5 and the number of Surveillance Technologies in use by Departments and
8 still awaiting an approved Surveillance Technology Policy, including the number of Surveillance
9 Technologies in use by the Police Department under Section 19B.2(c).

10
11 **SEC. 19B.6. ANNUAL SURVEILLANCE REPORT.**

12 (a) A Department that obtains approval for the acquisition of Surveillance
13 Technology under Section 19B.2 must submit to the Board of Supervisors and COIT, and
14 make available on its website, an Annual Surveillance Report for all each Surveillance
15 Technology used by the City Department within 12 months of Board approval of the applicable
16 Surveillance Technology Policy, and ~~annually thereafter~~ on or before November 1 every two
17 years thereafter. If the Department is unable to meet the deadline, the Department may submit
18 a request to COIT for an extension of the deadline. COIT may extend the deadline for good
19 cause. For each report a Department submits to the Board of Supervisors, the Department shall
20 include a resolution to accept the report.

21 (b) ~~By no later than February 15 of each year, each Department that has obtained approval~~
22 ~~for the acquisition of Surveillance Technology under Section 19B.2 shall submit to the Board of~~
23 ~~Supervisors the Department's Annual Surveillance Report and a resolution to accept the report.~~

24 ~~(c)~~ By no later than February 15 of each year, the Board of Supervisors shall publish a
25 summary of all requests for Board approval of Surveillance Technology Policy ordinances for

LEGISLATIVE DIGEST

[Administrative Code - Surveillance Technology Ordinance Amendments]

Ordinance amending the Administrative Code to revise the Surveillance Technology Ordinance by, among other things, reducing administrative burdens associated with reporting requirements; clarifying certain exceptions to the definition of “Surveillance Technology;” transferring the responsibility of creating or amending a Surveillance Technology Policy from the Committee on Information Technology (COIT) to the departments using such technology; and adding a reporting requirement for COIT regarding existing Surveillance Technology still awaiting approval of a Surveillance Technology Policy.

Existing Law

Chapter 19B of the Administrative Code requires Departments that seek to acquire or use surveillance technology to obtain approval from the Board of Supervisors. Departments are responsible for creating a Surveillance Technology Policy to submit to COIT, and based on that policy, COIT develops a Surveillance Technology Policy. Following approval of their Surveillance Technology Policy, Departments must also submit Annual Reports to the Board of Supervisors. Chapter 19B defines, among other things, the information a Department must include in its Surveillance Technology Policy, Surveillance Impact Report, and Annual Surveillance Reports. It also defines Surveillance Technology and lists fifteen categories of technology that are exempt from that definition.

For surveillance technology that a Department was already using in 2019, when the Surveillance Technology Ordinance was initially adopted, Departments were required to submit to COIT an inventory of such technology and to, within 180 days after the effective date of Chapter 19B, submit to the Board of Supervisors policies covering that existing technology. COIT is authorized to extend that deadline for good cause.

Amendments to Current Law

This ordinance would amend Chapter 19B to reduce administrative burdens on Departments by: (1) eliminating redundancy between the requirements for a Surveillance Impact Report and Surveillance Technology Policy; (2) removing the requirements that Departments submit their Surveillance Technology Policy to the City Attorney and Mayor for review before submitting it to the Board of Supervisors; (3) reducing the amount of information Departments must submit with their Annual Surveillance Reports; and (4) reducing the cadence of Annual Surveillance reports from every year to every two years after the first annual report.

The ordinance would also amend Chapter 19B to reduce administrative burdens on COIT by shifting from COIT to Departments the responsibility of creating a Surveillance Technology

FILE NO. 240983

Policy and clarifying that Departments are responsible for submitting any amendments to a policy directly to the Board of Supervisors rather than to COIT.

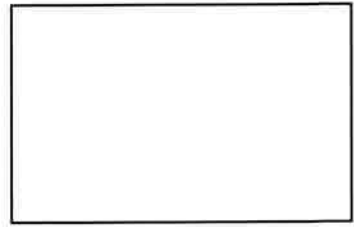
For technology that Departments were using before Chapter 19B went into effect in 2019, the ordinance would remove the requirement that COIT approve extensions of time for Departments to obtain Board of Supervisors approval of Surveillance Technology Policies. But, the ordinance would impose a new requirement that, on March 1, 2025 and every six months thereafter, COIT issue a report on the status of any Surveillance Technology for which a Department has not yet received Board approval of a Surveillance Technology Policy.

The ordinance also includes updates to the definition of Surveillance Technology to reflect information gathered by COIT during the first five years of implementing the Surveillance Technology Ordinance and to more clearly define technology that does not qualify as Surveillance Technology.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor _____ inquires..."
- 5. City Attorney Request
- 6. Call File No. _____ from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No. _____
- 9. Reactivate File No. _____
- 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Peskin

Subject:

Administrative Code - Surveillance Technology Ordinance Amendments

Long Title or text listed:

Ordinance amending the Administrative Code to revise the Surveillance Technology Ordinance by, among other things, reducing administrative burdens associated with reporting requirements; clarifying certain exceptions to the definition of "Surveillance Technology"; transferring the responsibility of creating or amending a Surveillance Technology Policy from the Committee on Information Technology (COIT) to the departments using such technology; and adding a reporting requirement for COIT regarding existing Surveillance Technology still awaiting approval of a Surveillance Technology Policy.

Signature of Sponsoring Supervisor:



From: [Yan, Calvin \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Hayward, Sophie \(ADM\)](#); [Chrusciel, Julia \(ADM\)](#); [Gong, Jane \(ADM\)](#); [Petruccione, Katharine \(ADM\)](#); [GIVNER, JON \(CAT\)](#); [CROWLEY, SARAH \(CAT\)](#); [BOS-Operations](#); [KIMBERLIN, KATE \(CAT\)](#)
Subject: PESKIN - ORD - Administrative Code - Surveillance Technology Ordinance Amendments
Date: Tuesday, October 8, 2024 2:41:55 PM
Attachments: [image002.png](#)
[01791485.docx](#)
[01791527.docx](#)
[PESKIN - INTRO - ORD - Administrative Code - Surveillance Technology Ordinance Amendments.pdf](#)

Madam Clerk,

Please accept the attached subject ordinance and introduction form amending the Administrative Code – Surveillance Technology Ordinance.

Also, please find below DCA Kate Kimberlin’s email approving the amendments as to form.

Thank you,

Calvin Yan | 甄錦浩
Legislative Aide | 市參事助理
Office of Supervisor Peskin | 市參事佩斯金辦公室
Office: 415-554-7450
Direct: 415-554-7453
calvin.yan@sfgov.org

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From: Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>
Sent: Tuesday, October 8, 2024 2:10 PM
To: Yan, Calvin (BOS) <calvin.yan@sfgov.org>; Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petruccione, Katharine (ADM) <katharine.petruccione@sfgov.org>; GIVNER, JON (CAT) <Jon.Givner@sfcityatty.org>; CROWLEY, SARAH (CAT) <Sarah.Crowley@sfcityatty.org>
Subject: RE: 19B Ordinance Amendment - Current Draft

Dear All:

I am resending this email with the final draft ordinance and legislative digest. These are identical to what I circulated this morning. I inadvertently failed to include Jon and Sarah, who are advising the Board in Brad’s absence.

Kate G. Kimberlin (*she/her*)
Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4780 Direct

www.sfcityattorney.org

From: Kimberlin, Kate (CAT)
Sent: Tuesday, October 8, 2024 10:03 AM
To: Yan, Calvin (BOS) <calvin.yan@sfgov.org>; Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petrucione, Katharine (ADM) <katharine.petrucione@sfgov.org>
Subject: RE: 19B Ordinance Amendment - Current Draft

Good morning, Calvin – I was just about to send you the finals. Isn't introduction today, though?

Attached is a final version of the 19B amendment ordinance as well as the legislative digest. This email confirms my electronic signature on the ordinance approving as to form.

Very truly,

Kate G. Kimberlin (*she/her*)
Deputy City Attorney
Office of City Attorney David Chiu
(415) 554-4780 Direct
www.sfcityattorney.org

From: Yan, Calvin (BOS) <calvin.yan@sfgov.org>
Sent: Tuesday, October 8, 2024 10:01 AM
To: Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petrucione, Katharine (ADM) <katharine.petrucione@sfgov.org>
Subject: RE: 19B Ordinance Amendment - Current Draft

Hi Kate,

Circling back and see if the legislative review team has completed the edits in time for introduction tomorrow.

Thanks!

Calvin Yan | 甄錦浩
Legislative Aide | 市參事助理
Office of Supervisor Peskin | 市參事佩斯金辦公室
Office: 415-554-7450
Direct: 415-554-7453
calvin.yan@sfgov.org

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From: Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>
Sent: Thursday, October 3, 2024 8:58 AM
To: Yan, Calvin (BOS) <calvin.yan@sfgov.org>; KIMBERLIN, KATE (CAT) <Kate.Kimberlin@sfcityatty.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petrucione, Katharine (ADM) <katharine.petrucione@sfgov.org>
Subject: Re: 19B Ordinance Amendment - Current Draft

Huge thanks, all — this is exciting!

Sophie Hayward | Pronouns: she/her

Legislative and Public Affairs Director

Office of the City Administrator

City & County of San Francisco

sophie.hayward@sfgov.org

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From: Yan, Calvin (BOS) <calvin.yan@sfgov.org>
Sent: Wednesday, October 2, 2024 7:07 PM
To: KIMBERLIN, KATE (CAT) <Kate.Kimberlin@sfcityatty.org>; Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petrucione, Katharine (ADM) <katharine.petrucione@sfgov.org>
Subject: RE: 19B Ordinance Amendment - Current Draft

Thank you, Kate and team!

Calvin Yan | 甄錦浩

Legislative Aide | 市參事助理

Office of Supervisor Peskin | 市參事佩斯金辦公室

Office: 415-554-7450

Direct: 415-554-7453

calvin.yan@sfgov.org

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From: Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>
Sent: Wednesday, October 2, 2024 3:49 PM
To: Yan, Calvin (BOS) <calvin.yan@sfgov.org>; Hayward, Sophie (ADM) <sophie.hayward@sfgov.org>; Chrusciel, Julia (ADM) <julia.chrusciel@sfgov.org>; Gong, Jane (ADM) <jane.gong@sfgov.org>
Cc: Petrucione, Katharine (ADM) <katharine.petrucione@sfgov.org>
Subject: 19B Ordinance Amendment - Current Draft

Dear All:

Thank you for the productive call. As promised, I'm attaching the further revised version of the 19B amendments which includes the substantive edits we discussed as well as a few other housekeeping changes I made based on our legislative review process. I anticipate this will be ready for introduction on Tuesday, 10/8. I will work to finalize and prepare the legislative digest. In the meantime, if there are any additional questions or edits, please feel free to reach out.

Very truly,

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1 [Administrative Code - Surveillance Technology Ordinance Amendments]

2
 3 **Ordinance amending the Administrative Code to revise the Surveillance Technology**
 4 **Ordinance by, among other things, reducing administrative burdens associated with**
 5 **reporting requirements; clarifying certain exceptions to the definition of “Surveillance**
 6 **Technology”;** transferring the responsibility of creating or amending a Surveillance
 7 **Technology Policy from the Committee on Information Technology (COIT) to the**
 8 **departments using such technology; and adding a reporting requirement for COIT**
 9 **regarding existing Surveillance Technology still awaiting approval of a Surveillance**
 10 **Technology Policy.**

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

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

19 Section 1. Chapter 19B of the Administrative Code is hereby amended by revising
 20 Sections 19B.1, 19B.2, 19B.3, 19B.5, and 19B.6, to read as follows:

21 **SEC. 19B.1. DEFINITIONS.**

22 “Annual Surveillance Report” means a written report that includes all of the following:

23 (1) A general description of how the Surveillance Technology was used;

24 (2) ~~A general description of whether and how often data acquired through the use of the~~
 25 ~~Surveillance Technology item was shared with outside entities, the name of any recipient outside entity,~~
 the type(s) of data disclosed, under what legal standard(s) the data was disclosed, and the justification

1 ~~for the disclosure(s);~~

2 ~~(3)–A summary of complaints or concerns from the public about the Surveillance~~
3 ~~Technology item, including complaints or concerns regarding the receipt of information from Face~~
4 ~~Recognition Technology;~~

5 ~~(34) The aggregate results of any internal audits required by the Surveillance Technology~~
6 ~~Policy, any general, aggregate information about violations of the Surveillance Technology Policy, and~~
7 ~~a general description of any actions taken in response; A summary of any violations of the Surveillance~~
8 ~~Technology Policy, including a description of each violation, the location of each violation, and the~~
9 ~~date of each violation;~~

10 ~~(45) Information, including crime statistics, which help the Board of Supervisors~~
11 ~~assess whether the Surveillance Technology has been effective at achieving its identified~~
12 ~~purposes; and~~

13 ~~(6) Aggregate statistics and information about any Surveillance Technology related to Public~~
14 ~~Records Act requests;~~

15 ~~(7) Total annual costs for the Surveillance Technology, including personnel and other ongoing~~
16 ~~costs, and what source of funding will fund the Surveillance Technology in the coming year;~~

17 ~~(58) Any requested modifications to the Surveillance Technology Policy and a detailed~~
18 ~~basis for the request; ;~~

19 ~~(9) Where applicable, a general breakdown of what physical objects the Surveillance~~
20 ~~Technology hardware was installed upon, using general descriptive terms; for Surveillance Technology~~
21 ~~software, a general breakdown of what data sources the Surveillance Technology was applied to;~~

22 ~~(10) A description of products and services acquired or used in the preceding year that are not~~
23 ~~already included in the Surveillance Technology Policy, including manufacturer and model numbers,~~
24 ~~and the identity of any entity or individual that provides to the Department services or equipment~~
25 ~~essential to the functioning or effectiveness of the Surveillance Technology; and~~

1 ~~(H)~~ *A summary of all requests for Board of Supervisors' approval for a Surveillance*
2 *Technology Policy ordinance.*

3 An Annual Surveillance Report shall not contain the specific records that a Surveillance
4 Technology item collects, stores, exchanges, or analyzes and/or information protected,
5 restricted, and/or sealed pursuant to State and/or federal laws, including information exempt
6 from disclosure under the California Public Records Act.

7 * * * *

8 “COIT” means the Committee on Information Technology, *including any subcommittee*
9 *designated by COIT.*

10 * * * *

11 “Personal communication device” means a cellular telephone that has not been modified
12 beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or
13 similar wireless two-way communications and/or portable Internet accessing device, whether procured
14 or subsidized by a City entity or personally owned, that is used in the regular course of conducting City
15 business.

16 “Protected Class” means a class of persons with shared characteristics based on sex, race,
17 color, religion, ancestry, national origin, disability, medical condition, genetic information, marital
18 status, gender identity, gender expression, or sexual orientation, or any other class protected under the
19 California Unruh Civil Rights Act.

20 “Surveillance Impact Report” means a written report that includes at a minimum the
21 following:

22 (1) Information describing the Surveillance Technology and how it works, ~~including~~
23 ~~product descriptions from manufacturers;~~

24 (2) ~~Information on the proposed purpose(s) for the Surveillance Technology;~~

25 ~~(3)~~ If applicable, the general location(s) it may be deployed and crime statistics for any

1 location(s);

2 (34) An assessment identifying any potential impact on civil liberties and civil rights
3 and discussing any plans to safeguard the rights of the public;

4 (45) The fiscal costs for the Surveillance Technology, including initial purchase,
5 personnel and other ongoing costs, and any current or potential sources of funding;

6 (56) Whether use or maintenance of the technology will require data gathered by the
7 technology to be handled or stored by a third-party vendor on an ongoing basis; and

8 (67) A summary of the experience, if any, other governmental entities have had with
9 the proposed technology, including information about its effectiveness and any known
10 adverse information about the technology such as unanticipated costs, failures, or civil rights
11 and civil liberties abuses.

12 ~~“Personal communication device” means a cellular telephone that has not been modified~~
13 ~~beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet or~~
14 ~~similar wireless two-way communications and/or portable Internet accessing devices, whether~~
15 ~~procured or subsidized by a City entity or personally owned, that is used in the regular course of~~
16 ~~conducting City business.~~

17 ~~“Protected Class” means a class of persons with shared characteristics based on sex, race,~~
18 ~~color, religion, ancestry, national origin, disability, medical condition, genetic information, marital~~
19 ~~status, gender identity, gender expression, or sexual orientation, or any other class protected under the~~
20 ~~California Unruh Civil Rights Act.~~

21 “Surveillance Technology” means any software, electronic device, system utilizing an
22 electronic device, or similar device used, designed, or primarily intended to collect, retain,
23 process, or share audio, electronic, visual, location, thermal, biometric, olfactory, or similar
24 information specifically associated with, or capable of being associated with, any individual or
25 group. Surveillance Technology” includes but is not limited to the following: international

1 mobile subscriber identity (IMSI) catchers and other cell site simulators; automatic license
2 plate readers; electric toll readers; closed-circuit television cameras; gunshot detection
3 hardware and services; video and audio monitoring and/or recording technology, such as
4 surveillance cameras, wide-angle cameras, and wearable body cameras; mobile DNA capture
5 technology; biometric software or technology, including facial, voice, iris, and gait-recognition
6 software and databases; software designed to monitor social media services; x-ray vans;
7 software designed to forecast criminal activity or criminality; radio-frequency I.D. (RFID)
8 scanners; and tools, including software and hardware, used to gain unauthorized access to a
9 computer, computer service, or computer network. Surveillance Technology does not include
10 the following devices, hardware, or software:

11 * * * *

12 (2) City databases and enterprise systems that contain information kept in the
13 ordinary course of City business, including, but not limited to, human resource, permit,
14 license, and business records essential to the Department's customary operations;

15 * * * *

16 (13) Police department computer aided dispatch (CAD), records/case management,
17 Live Scan, booking, Department of Motor Vehicles, California Law Enforcement
18 Telecommunications Systems (CLETS), 9-1-1 and related dispatch and operation or
19 departmental or interdepartmental emergency services systems;

20 (14) Police department early warning systems; ~~and~~

21 (15) Computers, software, hardware, or devices intended to be used solely to monitor
22 the safety and security of City facilities and City vehicles, not generally accessible to the
23 public;

24 (16) Information acquired voluntarily from an individual who was given an opportunity to
25 decline to provide the information, that the Department requires in order to provide a City benefit or

1 service, and where the information will not be shared by the Department or used for any other purpose;

2 and

3 (17) Technology that requires Board of Supervisors approval under State law.

4 * * * *

5
6 **SEC. 19B.2. BOARD OF SUPERVISORS APPROVAL OF SURVEILLANCE**
7 **TECHNOLOGY POLICY.**

8 (a) Except as stated in subsection (c), and in accordance with the procedures set forth
9 in subsection (b), a Department must obtain Board of Supervisors approval by ordinance of a
10 Surveillance Technology Policy under which the Department will acquire and use Surveillance
11 Technology, prior to engaging in any of the following:

12 (1) Seeking funds for Surveillance Technology, including but not limited to applying for
13 a grant, or accepting state or federal funds, or public or private in-kind or other donations;

14 (2) Acquiring or borrowing new Surveillance Technology, including but not limited to
15 acquiring Surveillance Technology without the exchange of monies or other consideration;

16 (3) Using new or existing Surveillance Technology for a purpose, in a manner, or in a
17 location not specified in a Surveillance Technology Policy ordinance approved by the Board in
18 accordance with this Chapter 19B;

19 (4) Entering into agreement with a non-City entity to acquire, share, or otherwise use
20 Surveillance Technology; or

21 (5) Entering into an oral or written agreement under which a non-City entity or
22 individual regularly provides the Department with data or information acquired through the
23 entity's use of Surveillance Technology.

24 (b) The Board of Supervisors may approve a Surveillance Technology Policy
25 ordinance under subsection (a) only under the following circumstances:

1 (1) The Department seeking Board approval under subsection (a) first creates submits
2 ~~to COIT~~ a Surveillance Technology Policy and Surveillance Impact Report for the Surveillance
3 Technology to be acquired or used; and

4 (2) ~~Based on the Surveillance Impact Report submitted by the Department, COIT develops a~~
5 ~~Surveillance Technology Policy for the Surveillance Technology to be acquired or used;~~

6 ~~(3)~~—At a public hearing at which COIT considers the Surveillance Technology Policy,
7 COIT recommends that the Board of Supervisors adopt, adopt with modifications, or decline
8 to adopt the Surveillance Technology Policy for the Surveillance Technology to be acquired or
9 used.

10 * * * *

11 (l) Nothing in this Chapter 19B shall prohibit, restrict, or interfere with a Department’s
12 use of Surveillance Technology to conduct internal investigations involving City employees,
13 contractors, and volunteers, or the City Attorney’s ability to receive or use, in preparation for
14 or in civil or administrative proceedings, information from Surveillance Technology (excluding
15 Face Recognition Technology to the extent prohibited under Section 19B.2-(d)(1) that any
16 City agency, department, or official gathers or that any other non-City entity or person gathers.

17 (m) Any amendment to an existing Surveillance Technology Policy shall be submitted directly
18 to the Board of Supervisors and not to COIT.

19
20 **SEC. 19B.3. SURVEILLANCE IMPACT REPORT AND SURVEILLANCE**
21 **TECHNOLOGY POLICY SUBMISSION.**

22 (a) COIT shall post on COIT’s website each Surveillance Impact Report submitted by
23 Departments under subsection 19B.2(b)~~(1) and COIT’s recommendations to the Board of~~
24 ~~Supervisor’s 1 under subsection 19B.2(b)(3) for each Surveillance Technology Policy.~~

25 (b) The Department seeking approval under Section 19B.2 shall submit to the Board

1 of Supervisors and publicly post on the Department website a Surveillance Impact Report and
2 a proposed Surveillance Technology Policy ordinance at least 30 days prior to the first public
3 meeting where the Board will consider that Surveillance Technology Policy ordinance
4 pursuant to Section 19B.2.

5 ~~(e) Prior to submitting the Surveillance Technology Policy ordinance to the Board, the~~
6 ~~Department must first approve the policy, submit the policy to the City Attorney for review, and submit~~
7 ~~the policy to the Mayor.~~

8
9 **SEC. 19B.5. COMPLIANCE FOR EXISTING SURVEILLANCE TECHNOLOGY.**

10 (a) Each Department possessing or using Surveillance Technology before the
11 effective date of this Chapter 19B shall submit an inventory of its Surveillance Technology to
12 COIT, within 60 days of the effective date of this Chapter. COIT shall publicly post the
13 inventory on COIT's website.

14 ~~(b) Each Department possessing or using Surveillance Technology before the effective date of~~
15 ~~this Chapter 19B shall submit a proposed Surveillance Technology Policy ordinance to the Board of~~
16 ~~Supervisors, in accordance with the procedures set forth in subsection 19B.2(b), for each particular~~
17 ~~Surveillance Technology no later than 180 days following the effective date of this Chapter, for review~~
18 ~~and approval by the Board by ordinance. A Department may submit a Surveillance Technology Policy~~
19 ~~ordinance that includes multiple, separate policies for each particular Surveillance Technology~~
20 ~~possessed or used before the effective date of this Chapter 19B.~~

21 ~~(c) If a Department is unable to meet this 180-day timeline, the Department may notify the~~
22 ~~COIT in writing of the Department's request to extend this period and the reasons for that request.~~
23 ~~COIT may for good cause grant a Department extensions of up to 90 days per extension, beyond the~~
24 ~~180-day timeline to submit a proposed Surveillance Technology Policy.~~

25 ~~(d) Each Department possessing or using Surveillance Technology before the~~

1 effective date of this Chapter 19B may continue its use of the Surveillance Technology and
2 the sharing of data from the Surveillance Technology until such time as the Board enacts an
3 ordinance regarding the Department's Surveillance Technology Policy and such ordinance
4 becomes effective under Charter Section 2.105.

5 (c) Beginning on March 1, 2025, and every six months thereafter, COIT staff shall issue and
6 post on its website a report that includes the status of any Surveillance Technology listed on an
7 inventory under Section 19B.5 and the number of Surveillance Technologies in use by Departments and
8 still awaiting an approved Surveillance Technology Policy, including the number of Surveillance
9 Technologies in use by the Police Department under Section 19B.2(c).

10
11 **SEC. 19B.6. ANNUAL SURVEILLANCE REPORT.**

12 (a) A Department that obtains approval for the acquisition of Surveillance
13 Technology under Section 19B.2 must submit to the Board of Supervisors and COIT, and
14 make available on its website, an Annual Surveillance Report for all each Surveillance
15 Technology used by the City Department within 12 months of Board approval of the applicable
16 Surveillance Technology Policy, and ~~annually thereafter~~ on or before November 1 every two
17 years thereafter. If the Department is unable to meet the deadline, the Department may submit
18 a request to COIT for an extension of the deadline. COIT may extend the deadline for good
19 cause. For each report a Department submits to the Board of Supervisors, the Department shall
20 include a resolution to accept the report.

21 (b) ~~By no later than February 15 of each year, each Department that has obtained approval~~
22 ~~for the acquisition of Surveillance Technology under Section 19B.2 shall submit to the Board of~~
23 ~~Supervisors the Department's Annual Surveillance Report and a resolution to accept the report.~~

24 (e) ~~By no later than February 15 of each year, the Board of Supervisors shall publish a~~
25 summary of all requests for Board approval of Surveillance Technology Policy ordinances for

1 *the prior calendar year*, which shall include a summary of any Board action related to such
2 requests, and all Annual Surveillance Reports submitted in the prior calendar year.

3 (~~c~~) By no later than February 15 of each year, COIT shall post on its website each
4 Annual Surveillance Report submitted to COIT in the prior year.

5
6 Section 2. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10
11 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the “Note” that appears under
16 the official title of the ordinance.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ _____
21 KATE G. KIMBERLIN
22 Deputy City Attorney

23
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