

SAN FRANCISCO
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2023 OCT 17 PM 3:31
DEPARTMENT OF ELECTIONS

**Submittal Form
For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections
by 4 or more Supervisors or the Mayor**

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

This matter is for the **March 5, 2024** Election.

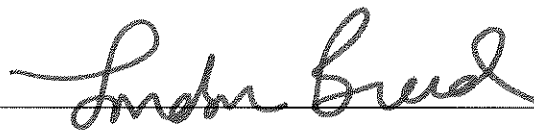
Sponsor(s): Mayor London Breed

Subject: Initiative Ordinance - Administrative Code - Police Department Policies and Procedures and Use of Technology

The text is listed below or attached:

(See attached.)

Mayor Breed :



(Clerk of the Board's Time Stamp)

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DEPARTMENT OF ELECTIONS

**PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY THE
MAYOR TO THE VOTERS AT THE MARCH 5 2024 ELECTION.**

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

[Initiative Ordinance - Administrative Code - Police Department Policies and Procedures and Use of Technology]

Ordinance amending the Administrative Code to 1) require a standardized community engagement process before the Police Commission changes policies or procedures regarding Police Department operations; 2) require the Commission and Department to consider administrative burdens on staff before changing such policies or procedures, and to streamline reporting and recordkeeping procedures; 3) modify the Department's use of force and vehicle pursuit policies, and establish a technology policy, to allow officers to use body-worn cameras and drones under certain circumstances; 4) limit new restrictions on the Department's use of technology unless approved by the Board of Supervisors; 5) streamline the process for the Department to install community safety cameras; and 6) permit the Department to use Surveillance Technology for at least one year before the corresponding Surveillance Technology Policy may be disapproved by the Board of Supervisors.

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

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

Section 1. The Administrative Code is hereby amended by adding Chapter 96I, consisting of Sections 96I.1, 96I.2, 96I.3, and 96I.4, to read as follows:

CHAPTER 96I:

POLICE DEPARTMENT POLICIES AND PROCEDURES

SEC. 96I.1. COMMUNITY ENGAGEMENT STANDARDS.

(a) Community Engagement Process. Before agendizing any proposal to establish, modify, or abolish policies or procedures related to Police Department operations, the Police Commission shall first publish a notice regarding the proposal on its website. The Department shall then have 90 days to hold community meetings to solicit public feedback on any existing policies or procedures that may be affected, with at least one community meeting at each district station. Each community meeting shall have a neutral facilitator selected jointly by the Chief of Police and the Commission President. The facilitator shall chair the meetings, encourage dialogue between community members and the Department and Commission, and post written summaries online before any Commission meeting where any proposed change will be considered. The purpose of this community engagement shall be to describe the existing policies and procedures, solicit feedback on their implementation and impacts, and identify possible changes, rather than to consider specific draft proposals or to advocate for particular positions or changes. The Commission may begin holding public meetings on proposed changes only after the Commission President and Chief of Police have consulted each other, at the close of the 90-day community engagement period, on whether the community meetings are complete. If either the Commission or the Department convene a working group to consider a change to a policy or procedure, they may do so only after the consultation described in the foregoing sentence, and any working group should include subject matter experts, community members with experience in the criminal justice system, merchants, business owners, victims of crimes, and current or former police officers.

(b) Waiver by the Chief of Police. This Section 96I.1 is intended to help the Commission and Department receive public feedback on whether proposed changes to policies and procedures governing Department operations will impact the Department's ability to efficiently and effectively serve the community. The Chief of Police may waive the requirements of this section 96I.1 based on whether the proposed changes are unlikely to have a substantial impact on the Department's ability to serve the community, the amount of public feedback already received on the subject matter, the need for immediate action, and such other factors as the Chief may deem appropriate.

(c) Other Notice Requirements. This Section 96I is not intended to impair any other notice requirements that may apply to the Commission, such as the 10-day notice required under Charter Section 4.104(a).

SEC. 96I.2. IMPROVING THE EFFICIENCY AND EFFECTIVENESS OF THE DEPARTMENT.

(a) Administrative Time. It is essential that the Commission and Department maximize the time that officers can spend performing their core law enforcement and crime prevention functions, as opposed to administrative tasks. When adopting or revising policies governing the conduct of officers, the Commission and Department shall endeavor to minimize imposing administrative tasks on officers so that officers can primarily focus their time and efforts on law enforcement and crime prevention. It shall be City policy that patrol officers shall spend no more than 20% of their on-duty time conducting administrative tasks, except for tasks required by law, such as the completion of arrest reports and the booking of arrestees and property, and except for training and education.

(b) Recordkeeping and Reporting. To minimize redundancy and administrative tasks with respect to recordkeeping and reporting, the Commission and Department shall revise their existing policies and procedures to reduce all recordkeeping and reporting requirements to the extent allowed by law, and shall apply this rule to all future policies and procedures. Further, officers shall be

authorized to comply with recordkeeping and reporting requirements through the use of technologies such as body-worn cameras. This subsection (b) is intended to ensure accurate reporting and recordkeeping, promote trust in the Department, and maximize the ability of officers to focus their time and efforts on law enforcement and crime prevention as opposed to administrative tasks that remove officers from the field.

(c) **Use of Force Policy.** The Department's highest priority is to safeguard the life, dignity, and liberty of all persons. Consistent with this priority, in encounters with criminal suspects or others, it shall be Department policy when feasible for officers to use rapport-building communication, crisis intervention approaches, and de-escalation tactics before they resort to using force. Officers shall be required to provide a written report for uses of force only when (1) the use of force resulted in a physical injury, including where the officer believes the use of force is likely to have caused a physical injury or where a person has complained of a physical injury; or (2) an officer removed a firearm from a holster and pointed the firearm at a person or used it to compel a person to comply. In all other instances involving a reportable use of force, the officers shall satisfy these reporting requirements using body-worn cameras, to the maximum extent possible, consistent with subsection (b). The use of force policy shall also minimize duplicative reporting by multiple officers regarding the same incident.

(d) **Vehicle Pursuit Policy.** An officer may engage in a vehicle pursuit if the officer has reasonable suspicion or probable cause that a felony or violent misdemeanor crime has occurred, is occurring, or is about to occur. In evaluating whether to engage in a vehicle pursuit, the officer must weigh the seriousness of the crime and the likelihood that the pursuit will prevent the crime or lead to the apprehension of a suspect against the potential dangers to the community and officers; and to minimize the dangers from vehicle pursuits, officers shall be authorized to use unassisted aerial vehicles ("UAVs," also known as "drones") along with or in lieu of vehicle pursuits, consistent with all applicable City policies on data and privacy and subsection (e). The Department shall annually report to the Commission on the total number of vehicle pursuits; the reason(s) for the pursuits; the number of

pursuits that resulted in a collision; the number of pursuits that resulted in death or injury to an officer or member of the public; and the number of pursuits that were found to be within or outside of policy.

(e) **Technology Policy.** The Department shall use technology to the maximum extent possible to improve its efficiency and effectiveness in combatting crime, and to reduce dangers to the public, subject to the City's policies to protect privacy and civil liberties. Consistent with these principles:

_____ (1) officers shall be authorized to use technologies such as body-worn cameras to comply with recordkeeping and reporting requirements as set forth in subsections (b) and (c);

_____ (2) the Department shall have the authority to use UAVs along with or in lieu of vehicle pursuits as set forth in subsection (d), and to assist with active criminal investigations; and

_____ (3) the City may not adopt or impose any new restrictions on the use of technology by the Department, unless such restrictions are approved by the Board of Supervisors pursuant to Section 96I.4;

provided, however, that the Department must use technology for legitimate law enforcement purposes only, rather than for the purpose of infringing on the lawful exercise of rights protected by the First Amendment; must not retain any public footage for longer than 30 days unless a sworn member holding the rank of Captain or higher has determined that a longer retention period is necessary due to an open criminal investigation; and must not allow any Department staff to access any public footage unless a sworn member holding the rank of Captain or higher has determined that access is necessary for an open criminal investigation; and provided further, that the Department's use of UAVs under this subsection (e) shall not be subject to the requirements of Chapter 19B of the Administrative Code.

SEC. 96I.3. IMPLEMENTATION.

(a) The Commission and Department may adopt policies and procedures consistent with this Chapter 96I to implement this Chapter.

(b) This Chapter 96I shall override any conflicting provisions in ordinances, regardless of the effective date of any such ordinances. This Chapter 96I shall also override any conflicting provisions in Department General Orders, regardless of the effective date of any such orders, including without limitation Department General Orders 3.01 (Written Communication System), 5.01 (Use of Force), 5.03 (Investigative Detentions), 5.05 (Response and Pursuit Driving), and 5.06 (Citation Release); provided, however, that (1) conflicting provisions of Department General Orders shall remain operative until the Commission has revised them to comply with this Chapter, or until October 1, 2024, whichever is sooner, and (2) the community engagement process in Section 96I.1 will not be required with respect to these implementing revisions to existing Department General Orders.

(c) The Department shall provide appropriate training to officers on any revisions to the policies and procedures within six months after the revisions are adopted.

SEC. 96I.4. AMENDMENT BY THE BOARD OF SUPERVISORS.

Prior to January 1, 2027, the Board of Supervisors may by ordinance amend this Chapter 96I by supermajority of at least eight votes. Effective January 1, 2027, the Board of Supervisors may by ordinance amend this Chapter 96I by majority vote.

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Section 2. Chapter 19 of the Administrative Code is hereby amended by revising the title of the Chapter, revising Sections 19.1 through 19.6, adding Sections 19.7 and 19.8, and by revising and renumbering existing Section 19.7 as Section 19.9, to read as follows:

CHAPTER 19:

PUBLICCOMMUNITY SAFETY CAMERA ORDINANCE

SEC. 19.1. SHORT TITLE.

This ordinance shall be known and may be cited as the PublicCommunity Safety Camera Ordinance.

SEC. 19.2. DEFINITIONS.

—(a) PublicCommunity Safety Camera. For the purposes of this Chapter, the term "publiccommunity safety camera" means any digital recording surveillance system installed at fixed locations in an open and obvious manner by the City and County of San Francisco to film public streets, sidewalks, or common areas of public housing complexes *for the purpose of enhancing public safety*. It does not include surveillance cameras designed to record the regular and ongoing operations of City departments, including but not limited to mobile in-car video systems, jail observation and monitoring systems, traffic reporting cameras, and building security taping systems. In addition, it does not include surveillance cameras installed for security purposes at the San Francisco International Airport, the San Francisco Unified School District or in San Francisco Municipal Railway facilities or vehicles.

SEC. 19.3. LIMITATIONS ON PUBLICCOMMUNITY SAFETY CAMERAS.

The City and County of San Francisco may install publiccommunity safety cameras *for the purpose of enhancing public security only in locations experiencing substantial crime and where the potential to deter criminal activity outweighs any concerns asserted by the affected community as*

~~determined by the Police Commission only in locations where the Chief of Police has determined, following a public meeting held in accordance with subsection 19.4(b) of this Chapter, that installation would enhance public safety.~~ The cameras shall record areas perceptible to the human eye from public streets and sidewalks only. Images obtained by ~~the public~~ community safety cameras may be released only to the following:

(a) Sworn members of the ~~San Francisco~~ Police Department holding the rank of Sergeant Inspector or higher. Police shall limit review of images to investigation of specific crimes, active operations, and crimes in progress. A sworn member holding the rank of Captain or higher may approve live monitoring of these images/camera feeds; and

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SEC. 19.4. APPROVAL AND AUDITING OF ADDITIONAL PUBLICCOMMUNITY SAFETY CAMERAS.

(a) ~~Recommendation for Camera Installation by Director.~~ The Chief of Police may install a public safety camera in an area if the Chief of Police finds, after holding a community meeting as set forth below, that installing the camera is likely to improve public safety in that area. The Chief of Police may call a meeting to discuss installation of a public safety camera on the Chief's own initiative, or in response to a request from a member of the public (including but not limited to community and business organizations). ~~If the Director of the Mayor's Office of Criminal Justice ("MOCJ") finds that a particular location is experiencing substantial crime and that the potential to deter criminal activity outweighs any concerns asserted by the affected community, the Director may recommend approval of a new community safety camera in that location to the Police Commission. The Police Commission shall calendar consideration of the matter no sooner than 30 days and no later than 60 days from MOCJ's notification.~~

(b) **Public ~~Meeting~~Hearing Required.** A community meeting shall be held in the neighborhood(s) being considered for a public safety camera, prior to installation. The Chief of Police may require the attendance of the affected neighborhood's District Captain and/or a sworn member of the Police Department holding the rank of Captain or higher. The Police Commission shall conduct a public hearing to determine whether or not to install the camera. The MOCJ shall create and distribute to the Police Commission and the public a report justifying the camera at the particular location 20 days prior to the first public hearing on the proposed installation. The report shall include, for each proposed new camera location: (1) the reason for installing the camera at the particular location, including crime statistics for the area and (2) the proposed area/range to be covered. The Police Commission may continue its consideration of the proposal for up to 30 days in order to receive more information from the Director of the MOCJ, the Police Department, or community organizations or to further consider the proposal. The decision of the Police Commission shall be rendered within 30 days from the date of the first hearing.

(c) **Approval of Camera Installation by Chief of Police Commission.** After the community meeting(s) described in subsection (b), the Chief of Police shall review a summary of community feedback, including feedback provided at the community meeting, before making a decision regarding the installation and/or placement of the public safety camera. The Chief's decision shall be based on public safety considerations, including the nature and frequency of criminal activity in the area and information provided by members of the impacted community. The Department of Technology ("DT") shall be responsible for installing and maintaining any approved cameras. A camera installation approved by the Chief of Police under this subsection (c) is not subject to the requirements of Chapter 19B of the Administrative Code. The Police Commission may approve the camera's installation after a hearing, provided that the Commission finds that the proposed location is experiencing substantial crime, the potential to deter criminal activity outweighs any concerns asserted

~~by the affected community, and there exists significant support from the affected community for the camera.~~

(d) Annual Report to the Board of Supervisors and to the Police Commission.

The Police Department shall prepare an annual report on all publiccommunity safety cameras ~~that the City has installed under this Chapter 19located in the City and County of San Francisco~~. The report shall identify the camera locations, the crime statistics for the vicinity surrounding each camera both before and after the camera is installed, crime statistics from surrounding vicinities, the number of times the Police Department requested copies of the recorded images, the number of live monitoring operations, and the number of times the images were used to make an arrest bring criminal charges, the types of charges brought, and the results of the charges. The Department shall issue the first-reports during the first quarter of each calendar year, starting in 2025 no later than one year following the date of the first camera installation approval by the Police Commission and not less often than once yearly thereafter. Based upon information provided in the annual report, the Police Commission may direct the removal of any individual camera(s).

SEC. 19.5. NOTICE REQUIREMENTS.

(a) Public Notice of Proposed Camera~~l~~ Installation. At least 3020 days before a public meeting to consider a public safety camera at a new location, the Departmentthe Police Commission considers a recommendation to install a new community safety camera, the Department of Information and Telecommunications Services ("DTIS") shall post a minimum of four 4 signs, as set forth below, within a 100-foot radius of the location at which the camera is proposed. Signs shall remain posted through the date of approval or disapproval of the camera installation by the Police Commission.

~~—(1) Number of Signs. The Director of the MOCJ may approve additional signs if deemed necessary to provide adequate notice to the public.~~

~~—(2) Contents and Size of Signs. Each sign shall be at least thirty inches by thirty inches. The signs shall be entitled NOTICE OF INTENT TO INSTALLAPPROVE A PUBLICCOMMUNITY SAFETY CAMERA(S) AT THIS LOCATION. *The lettering of the title shall be at least 1¼ inch capital letters. All other letters shall be at least ¾ inch uppercase and ½ inch lowercase. Each sign and shall include the time, and date, and location of the public meeting regarding the camera installation, of the Police Commission's approval hearing, a Police Commission contact person, and contact information a telephone number* where members of the public may obtain additional information and/or submit comments. Signs shall be posted in languages appropriate to the specific neighborhood, and as required by the Language Access Ordinance, Chapter 91 of the Administrative Codeas determined by the Director of the MOCJ.~~

~~—(3) Production of Signs. The Director of the MOCJ shall develop a standardized sign that meets the requirements of this Section.~~

~~—(b) Additional Notice Provisions. In addition to the signposting requirements in Section 19.5(a), the Director of the MOCJ may use mailed notices. If the Director uses mailed notices, the Director shall send notices to:~~

~~—(1) The owner of each property within 300 feet of the proposed camera location as reflected on the latest Citywide Assessor roll.~~

~~—(2) Neighborhood associations and organizations listed with the Planning Department as representing businesses, owners or occupants located within 300 feet of the proposed camera location, and~~

~~—(3) To the extent practicable, the occupants of each property within 300 feet of the proposed camera location.~~

~~—The mailed notice shall include, at a minimum, all of the information required in Section 19.5(a)(ii). Mailed notice shall be sent at least 20 days prior to the Police Commission's consideration of approval to install a community safety camera.~~

~~(b)(e)~~ **Notice for Approved Cameras.** Upon approval by the Chief of Police Commission and installation of a new publiccommunity safety camera, the Department Director of the DTIS shall post a conspicuous sign within 25 feet of the location of the camera. ~~The sign shall state~~ that the area is under camera surveillance, unless the Chief of Police determines that the sign would reduce public safety or undermine the effectiveness of the camera in enhancing public safety. Additionally, ~~the Police Department shall publish on the Department's website the location of all cameras installed throughout the City. The Department shall update the site within 30 days of each new camera installation.~~

SEC. 19.6. PROTOCOLS FOR OVERSIGHT AND ACCESS TO SURVEILLANCE INFORMATION.

(a) Access to the recorders for publiccommunity safety cameras shall be limited to personnel from the DTIS for purposes of installation, repair, maintenance and upgrades, and to Custodian of Records staff from the Department of Emergency Management ("DEM"). DEM staff shall be responsible for proper release of the records.

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(c) ~~(1)~~ Members of the Police Department may obtain copies of the recordings or access to live-feeds by presenting a written request to DEM. The request shall be submitted by a sworn member of the Department holding the rank of Sergeant or higher ~~an Inspector of the SFPD~~, and approved by a Captain or higher-ranking officer ~~the Deputy Chief of Inspectors~~. In exigent circumstances only, DEM may release the recordings and/or live-feed access to the Sergeant or higher-ranking officer information to an Inspector prior to receipt of a written request, but in that circumstance the requesting officer Inspector must then provide DEM a written justification for the release, including specification of the exigent circumstances, approved by a sworn member holding the rank of Captain or higher. ~~Within 7seven days from the release under exigent~~

circumstances, the SFPD Inspector must submit, in writing, the supervisor's and captain's approval of the Inspector's initial request.

~~(d)~~—(2) The Public Defender, other criminal defense attorney, or an investigator appointed by the Court to assist a pro se criminal defendant may submit a written request to obtain copies of the recordings to DEM. A copy of the request shall be delivered concurrently to the Office of the District Attorney. The request shall include the name and court number of the charged criminal case, the time and place of the recordings, and a declaration under penalty of perjury verifying that the request is made in connection with the investigation or defense of a charged criminal case and further declaring under penalty of perjury that the attorney or investigator will use any publiccommunity safety camera recordings released by DEM only in connection with the charged criminal case. Upon receipt of the written request, DEM shall preserve for 180 days any recordings requested and deliver a copy of the recordings to the Office of the District Attorney. The District Attorney may review the recordings with members of the Police Department at the rank of SergeantInspector or higher in determining whether to seek a Ccourt order preventing disclosure. DEM shall deliver to the requesting individual a copy of the recordings within five ~~5~~ court days of the disclosure to the District Attorney, unless the District Attorney applies for a Ccourt order to prevent disclosure of the recordings pursuant to existing law. If the District Attorney applies for a Ccourt order to prevent disclosure, DEM shall not produce the recordings to the requesting individual until the court issues a decision regarding production.

~~(e)~~(d) DEM may only release records to agencies or individuals other than those specified in section 19.3 pursuant to a court order. DEM must notify the Board of Supervisors within seven days of any release pursuant to a court order.

~~(f)~~(e) Under no circumstances may recordings from publiccommunity safety cameras be used for personal purposes.

(g)(f) DTIS shall ensure that the publiccommunity safety cameras retain data for a period of ~~at least 30 days but not longer than 30 days~~, unless the Department advises that a longer retention period is required for an active investigation.

(h) DEM, through a written agreement, may delegate its authority and responsibility under this Chapter 19 to DT or another non-law enforcement department.

SEC 19.7 REMOVAL OF PUBLIC SAFETY CAMERA.

The Chief of Police, or the Board of Supervisors acting by ordinance to override this Chapter 19 pursuant to Section 19.8, may direct the removal of a public safety camera at a specific location.

SEC 19.8 AMENDMENT BY THE BOARD OF SUPERVISORS.

Prior to January 1, 2027, the Board of Supervisors may by ordinance amend this Chapter 19 by supermajority of at least eight votes. Effective January 1, 2027, the Board of Supervisors may by ordinance amend this Chapter 19 by majority vote.

SEC. 19.79. SEVERABILITY.

If any part or provision of this Chapter 19, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

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Section 3. Chapter 19B of the Administrative Code is hereby amended by revising Section 19B.2, to read as follows:

SEC. 19B.2. BOARD OF SUPERVISORS APPROVAL OF SURVEILLANCE TECHNOLOGY POLICY.

* * * *

(c) A Department is not required to obtain Board of Supervisors approval by ordinance of a Surveillance Technology Policy if the Department's acquisition or use of the Surveillance Technology complies with a Surveillance Technology Policy previously approved by the Board by ordinance. Additionally, (1) the Police Department may acquire and/or use a Surveillance Technology so long as it submits a Surveillance Technology Policy to the Board of Supervisors for approval by ordinance within one year of the use or acquisition, and may continue to use that Surveillance Technology after the end of that year unless the Board adopts an ordinance that disapproves the Policy; and (2) this Chapter 19B shall not apply to the Police Department's use of public safety cameras under Administrative Code Chapter 19, or unassisted aerial vehicles ("UAVs," also known as "drones") under Administrative Code Chapter 96I, so long as Chapters 19 and 96I expressly exempt public safety cameras and drones from this Chapter.

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Section 4. Scope of Ordinance. In enacting this ordinance, the People of the City and County of San Francisco intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions or deletions, in accordance with the "Note" that appears under the official title of the ordinance.

* * *

SUBMITTED.



LONDON BREED
Mayor, City and County of San
Francisco

Date:

10/17/23