



July 8, 2022

Mayor London Breed
 Supervisor Connie Chan
 Supervisor Catherine Stefani
 Supervisor Aaron Peskin
 Supervisor Gordon Mar
 Supervisor Dean Preston
 Supervisor Matt Dorsey
 Supervisor Myrna Melgar
 Supervisor Rafael Mandelman
 Supervisor Hillary Ronen
 Supervisor Shamann Walton
 Supervisor Ahsha Safai
 San Francisco Board of Supervisors
 City Hall, 1 Dr. Carlton B. Goodlett Place
 San Francisco, California

Re: Opposition to SFPD Proposal for Live Surveillance Using Private Cameras

Dear Members of the Board of Supervisors,

We are a coalition of community-based civil and human rights groups writing in opposition to the San Francisco Police Department’s (“SFPD”) proposed policy to expand surveillance through the exploitation of private, or non-city entity, cameras. We urge you to oppose or significantly amend this policy to prevent widespread surveillance of San Francisco residents based on the false premise that cameras increase public safety.

We are deeply concerned that SFPD’s proposal, if approved as written, threatens the privacy and safety of people going to work and school, accessing housing and seeking social services that make our city healthy and safe. **The majority of San Francisco residents agree — a recent**

independent poll shows 60% of likely November 2022 voters, across major demographic and partisan lines, oppose giving the SFPD live access to surveillance cameras at private businesses, in public streets and spaces, and people’s homes.¹ This includes a majority of voters in each of your districts.

If the SFPD asked the city to buy thousands of new cameras for live surveillance, residents and the Board would be rightly alarmed. SFPD’s proposal to exploit private surveillance cameras should be met with the same skepticism. It massively expands police surveillance, but instead of using city owned cameras, the SFPD can quickly appropriate thousands of private feeds focused on homes, medical clinics, non-profit groups, and even places of worship. The SFPD could also access the hundreds of networked cameras that are part of Business Improvement Districts across the city.

The City’s Surveillance Technology Ordinance states that the Board may approve a surveillance technology proposal only if its benefits outweigh its costs, if the proposed policy will safeguard civil liberties and civil rights, and if the technology’s use will not have a disparate impact on any community or protected class.² The SFPD’s proposal fails to meet this high standard, and we urge you to withhold approval for it unless it is significantly amended to prevent unprecedented live surveillance, protect free expression, limit access to and retention of camera footage, limit broad sharing of that footage, and clarify the process of how the SFPD accesses cameras.

1. The Board must prevent the SFPD from using private cameras to monitor people and stockpile footage of people going about their daily lives.

Our foremost concern is that the proposal would allow the SFPD to engage in unprecedented live surveillance of San Francisco residents and visitors engaged in everyday activities.

The proposal broadly permits SFPD to monitor people engaged in a wide array of peaceful activities. Specifically, because the proposal dramatically lowers the standard needed for live surveillance by permitting SFPD to tap into private cameras in response to any violation of criminal law, including misdemeanors. This would encourage SFPD to cast an extremely large surveillance net to monitor activities completely unrelated to public safety. For example, under the proposal SFPD could conduct sweeping surveillance for non-dangerous unlawful activities like railroad fare evasions,³ posting an advertisement on city or county property without

¹ Source: Tulchin Research poll, Recent Polling Finds Strong Majority of San Francisco Voters Opposes Expanding the SFPD’s Surveillance Powers, https://www.aclunc.org/sites/default/files/Tulchin_Poll_SF_Police_Surveillance_Powers.pdf.

² S.F. Admin Code §19.B4 (“Standard for Approval”).

³ Ca. Penal Code §587(c),

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=587c.

authorization,⁴ or disturbing a religious service with “rude or indecent behavior,”⁵ all of which are misdemeanors under California law. This broad authority invites the constant activation of live camera surveillance that will not only further criminalize Black and Brown people, activists, immigrants, LGBTQ people, Muslims, and other communities frequently targeted by the police and government, but will also expose thousands of San Franciscans to live camera surveillance as they commute to work and school, seek social services, and attend houses of worship.

The SFPD’s proposal would also permit the department to request camera footage from a private camera owner if the SFPD believes it to be relevant to a criminal investigation. However, the proposal places no limits on how much video the SFPD can obtain and allows the SFPD to retain it for two years. This incentivizes the SFPD to request and save large troves of footage, including of peaceful activity, as it did when it obtained 12 hours of video of the 2020 George Floyd protests.⁶

The Board must amend the proposed policy to a) limit live camera surveillance to situations involving a threat of injury or death, also known as exigent circumstances; b) ensure there is a meaningful time limitation on any live surveillance; and c) only allow the SFPD to access the specific portions of footage that contain evidence relevant to a criminal investigation, and if it ultimately does not, to delete it within 90 days.

2. The Board must prevent the SFPD from using private cameras to track people exercising First Amendment rights.

The SFPD’s proposal would allow officers to monitor in real-time any “significant event,” which is vaguely defined to include any “large or high-profile event[.]” Using this broad authority, the SFPD could surveil any large gathering of people in San Francisco, including the crowds that gather for the Pride Parade, street markets, and other political and civic events. This is not a hypothetical threat – the SFPD has a long history of spying on protests for justice and equality, including conducting live surveillance for 8 days during the George Floyd protests in 2020.⁷ While the proposed policy purports to limit surveillance of First Amendment activity, it does not actually do so, and would allow such surveillance wherever there are “redeployment needs” due to crowd size, a near certainty during any political protest or large civic event.

⁴ Ca. Penal Code §556, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=556.

⁵ Ca. Penal Code §302, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=302.

⁶ Dave Maass & Matthew Guariglia, “San Francisco Police Accessed Business District Camera Network to Spy on Protestors,” EFF Deeplinks (July 27, 2020), <https://www.eff.org/deeplinks/2020/07/san-francisco-police-accessed-business-district-camera-network-spy-protestors>.

⁷ *Id.*

Surveillance of protests increases the likelihood of police intimidation, suppression, and retaliation against organizers. It also threatens to chill the exercise of core First Amendment rights in San Francisco, a city with a celebrated decades-long history of protest. The Board must amend the policy to limit the SFPD from using live camera surveillance during First Amendment activities.

3. The Board must limit the SFPD's ability to share video footage with law enforcement agencies whose policies and laws are at odds with San Francisco's values.

The SFPD's proposal encourages entanglement with law enforcement agencies and prosecutors in other states by allowing the SFPD to share footage broadly. The proposal allows SFPD to share video footage with essentially any law enforcement agency or prosecutor, a particularly concerning prospect in a post-*Roe* landscape. The proposal would also allow SFPD to share footage with the federal government agencies seeking to surveil protesters or people seeking refuge in the city.

A person in San Francisco should not have to worry that SFPD will disclose video footage of them exercising fundamental rights in the city – whether they visit a medical clinic, a shelter, or a place of worship – to out-of-state or federal agencies for potential misuse. The SFPD's proposal presents a threat to people seeking refuge in the city. The Board must amend the proposal to allow the SFPD to strictly limit the sharing of camera footage with out-of-state and federal agencies.

4. The Board must clarify how the SFPD will request and access private cameras.

The SFPD's proposal does not define any process by which an officer will contact the camera owner, request access, provide the justification, or obtain meaningful consent on a case-by-case basis. Without any such process, the policy will incentivize arbitrary and potentially coercive requests, placing undue pressure on camera owners and leading to public confusion. Requiring the SFPD to clearly and consistently explain its requests will also avoid placing additional pressure on a camera owner, especially a homeowner with a doorbell camera, to consent.

Conclusion

We urge the Board to take seriously the opposition of San Francisco voters to increased live police surveillance, and we appreciate the Board's thoughtful consideration of our concerns as the City's Surveillance Technology Ordinance requires. At bottom, the SFPD's proposal is not a public safety solution, as the department claims, but an expansion of police power that history and common sense demonstrates will fuel inequality and criminalization without a justifiable

public safety benefit. The SFPD's proposal does not meet the high standard for approval required by the City's Surveillance Technology Ordinance, and the Board should not approve it without amendments that address the above concerns.

Signed,

ACLU of Northern California

All of Us or None

Asian Americans Advancing Justice-ALC

Council on American-Islamic Relations, San Francisco Bay Area

Dolores Street Community Services

Electronic Frontier Foundation

GLIDE

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

Legal Services for Children

Media Alliance

National Lawyers' Guild of the San Francisco Bay Area

Oakland Privacy

Racial Justice Committee

San Francisco Public Defender's Office

St. James's Infirmary

Support Life Foundation

United to Save The Mission

CC: City Administrator Carmen Chu, City Attorney David Chiu, Department of Technology Executive Director Linda Gerull, Office of the San Francisco Controller, Police Chief William Scott, San Francisco District Attorney's Office, San Francisco Public Defender Mano Raju