




**COUNCILMEMBER CHRIS CATE  
CITY OF SAN DIEGO  
SIXTH DISTRICT**

**MEMORANDUM**

**DATE:** July 21, 2020

**TO:** Councilmember Monica Montgomery, Chair, Committee on Public Safety and Livable Neighborhoods

**FROM:** Councilmember Chris Cate 

**SUBJECT:** Surveillance Ordinance

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Thank you for your leadership and work with the TRUST SD Coalition to bring forward a comprehensive City-wide surveillance ordinance and the proposed Privacy Commission for consideration. As I mentioned earlier this year in January, I fully support a comprehensive surveillance policy that will provide City-wide guidance on the acquisition, use, and accountability of surveillance technologies. The proposed ordinance brought forward at the July 15, 2020 meeting of the Public Safety and Livable Neighborhoods Committee meeting provides a good framework that sets us on the path to a sound policy.

As I mentioned in my comments during committee discussion, I am submitting this memo to outline some of my thoughts, questions, and suggestions on the draft ordinance. I look forward to reviewing and providing additional questions regarding the proposed ordinances at a full City Council meeting following the City Attorney review process.

- Section 1(2)(F): Clarify who would field and review the community complaints or concerns about surveillance technology and whether it is adequate in protecting civil rights and liberties.
- Section 1(10): Does “surveillance technology,” defined here, only apply to surveillance technology owned and utilized by the San Diego Police Department (SDPD)? If not, do you intend to include other departments that own and use this type of technology?
- Section 2(1)(A): Clarify how individual departments shall notify the Chair of the Privacy Advisory Commission prior to City Solicitation of Funds and Proposals for Surveillance

Technology. Do the individual departments need to go through a single point-of-contact or department to handle these requests?

- Section 2(1)(A)(3): Clarify that “other entities” include other municipalities and governmental organizations and that “city entities” mean the various city departments and divisions within the City of San Diego.
- Section 2(C): Clarify what should happen if the Privacy Advisory Commission makes a recommendation pursuant to <§2.1.B>.
- Section 2(2)(B):
  - Clarify that City staff shall present any modifications proposed by the Privacy Advisory Commission to City Council when seeking Council approval, but that City staff may also present their own proposals concurrently to City Council for Council consideration and approval.
  - Clarify whether City staff can object to recommendations made by the Privacy Advisory Commission regarding Surveillance Use Policies.
  - Clarify if, or how, this section conflicts with the Mayor’s existing authority to enter into contracts under a certain dollar amount.
- Sections 2(3)(C): Clarify what and how the Privacy Advisory Commission shall rank the items in order of potential impact to civil liberties.
- Section 3: Does the process outlined for City Council approval for new and existing surveillance technologies conflict with City Charter Section 57 relating to the Police Department and police authority?
- Section 3(1)(C): Define the term “Using.”
- Section 3(2)(B): Clarify who is subsequently making a determination that the benefits to the community of the surveillance technology outweigh the costs. Would it be the City Council? If so, this should be specified.
- Section 3(2)(C): Consider revising (to more clearly state the process) when the Privacy Advisory Commission fails to make a recommendation.
- Section 5(1)(D): Since this seeks to address issues relating to employee disciplinary actions, would this section trigger the need for a meet and confer process?
- Under this proposed ordinance, is it feasible to have City staff seek City Council approval on all new and existing surveillance technology?
- Under this proposed ordinance, would all existing surveillance technologies currently being used by the City of San Diego be required to cease operations until a use policy goes through the process described in the proposed ordinance and is subsequently approved by City Council?
- If the prior bullet point is the case, there should be a grace period for surveillance technologies that are currently used by the City of San Diego that will allow those technologies to continue to be used for at least six months after the adoption of this ordinance. This would provide time for the new Privacy Advisory Commission to get appointed and for City staff to prepare proposed use policies. Without a grace period, major interruptions to City operations could result from abruptly ending their use.

cc: Honorable Mayor Kevin L. Faulconer  
Honorable City Attorney Mara Elliott