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7 CITY AND COUNTY OF SAN FRANCISCO

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County of San Francisco

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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 UNLIMITED JURISDICTION

12 HOPE WILLIAMS, NATHAN SHEARD, and
13 NESTOR REYES,

14 Plaintiffs,

15 vs.

16 CITY AND COUNTY OF SAN
FRANCISCO,

17 Defendant.

Case No. CGC-20-587008

**DEFENDANT CITY AND COUNTY OF SAN
FRANCISCO'S SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Hearing Date: December 17, 2021
Time: 9:30 a.m.
Place: Dept. 302

Date Action Filed: October 7, 2020
Trial Date: February 22, 2022

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
1. 4 5 6 7 8 9	<p>The City and County of San Francisco (“CCSF”) is a charter city and county, existing pursuant to the California Constitution and state laws and its own municipal charter. CCSF can be sued in its own name.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 1 [Compendium of Evidence in Support of Plaintiffs’ Motion for Summary Judgment (“Compendium”), Exhibit N] 	Undisputed.
2. 10 11 12 13 14	<p>The San Francisco Police Department (“SFPD”) is a department of CCSF. CCSF operates, governs, and is responsible for the SFPD pursuant to the laws of the State of California and San Francisco.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 2 [Compendium, Exhibit N] 	Undisputed.
3. 15 16 17 18 19 20 21 22	<p>The SFPD employs 19 different surveillance technologies involving software for which the SFPD pays third-party vendors for use licenses and maintenance, and the vendor owns the source code.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Defendant’s Responses to Plaintiffs’ First Set of Special Interrogatories at No. 7 [Compendium, Exhibit K] • Defendant’s Responses to Plaintiffs’ Second Set of Special Interrogatories at No. 18 [Compendium, Exhibit M] 	Undisputed.
4. 23 24 25 26 27	<p>San Francisco’s Acquisition of Surveillance Technology Ordinance (“the Ordinance”) went into effect in July 2019.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 6 [Compendium, Exhibit N] • Acquisition of Surveillance Technology Ordinance [Compendium, Exhibit V] 	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
5.	<p>Findings contained in the Ordinance include:</p> <p>(a) “It is essential to have an informed public debate as early as possible about decisions related to surveillance technology.”</p> <p>(c) “While surveillance technology may threaten the privacy of all of us, surveillance efforts have historically been used to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective.”</p> <p>(e) “Whenever possible, decisions regarding if and how surveillance technologies should be funded, acquired, or used . . . should be made only after meaningful public input has been solicited and given significant weight.”</p> <p>(f) “Legally enforceable safeguards, including robust transparency, oversight, and accountability measures, must be in place to protect civil rights and civil liberties before any surveillance technology is deployed.”</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Acquisition of Surveillance Technology Ordinance [Compendium, Exhibit V] 	Undisputed.
6.	<p>Supervisor Aaron Peskin made the following statement during the April 15, 2019 Board of Supervisors Rules Committee meeting, one of the meetings that led up to the Ordinance’s approval: “If you take even a cursory look at some historical uses of surveillance technologies it is often times these marginalized groups, artists, and political dissidents who are disproportionately subject to the abuses of this technology.”</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Joint Stip. ¶ 7 [Compendium, Exhibit N] 	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
7.	<p>Supervisor Aaron Peskin, during the May 6, 2019 Board of Supervisors Rules Committee meeting, one of the meetings that led up to the Ordinance’s approval, emphasized the need for “oversight into a category of technology that historically has often been used in abusive ways against marginalized communities.” He continued: “I could regale you with some of the things that have happened in this city in the late 60s, early 70s, again with surveillance of Act Up during the AIDS crisis, with surveillance of the Black Lives Matter movement.”</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 8 [Compendium, Exhibit N] 	Undisputed.
8.	<p>At the May 14, 2019 Board of Supervisors meeting, Supervisor Aaron Peskin referred to the Black Lives Matter protests when describing the need for the Ordinance.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 9 [Compendium, Exhibit N] 	Undisputed.
9.	<p>Business improvement districts (“BIDs”)—also called community benefit districts—are non-city entities formed by a majority of property owners within a certain geographic area, with approval from the Board of Supervisors and in accordance with state and local law.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 10 [Compendium, Exhibit N] 	Undisputed.
10.	<p>The Union Square Business Improvement District (“USBID”) is a business improvement district in San Francisco. It is a California nonprofit corporation. It is bound on the north by Bush Street, on the east by Kearny Street, on the south by Market Street, and on the west by Taylor and Mason Streets.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 11 [Compendium, Exhibit N] 	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
11.	<p>The USBID operates a network of video surveillance cameras. These cameras are high definition, allow remote control of zoom and focus capabilities, and are linked to a software system that can automatically analyze content, including distinguishing between when a car or a person passes within the frame.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 12 [Compendium, Exhibit N] 	Undisputed.
12.	<p>Paragraph 23 of Plaintiffs’ Complaint includes the map of the USBID’s camera network.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 12 [Compendium, Exhibit N] • Compl. at ¶ 23 [Compendium, Exhibit F] 	Undisputed.
13.	<p>“Surveillance technology,” as that term is used in the Ordinance, includes surveillance cameras.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 6 [Compendium, Exhibit N] 	Undisputed.
14.	<p>The USBID had over 300 video cameras in their network of video surveillance cameras in May and June 2020.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Exhibits 1 and 2 to Request for Judicial Notice [Compendium, Exhibit W] 	Undisputed.
15.	<p>Following the police killing of George Floyd on May 25, 2020, in Minneapolis, Minnesota, protests against police violence spread throughout the country, including in San Francisco. Thousands of people participated in protests in San Francisco during the end of May and early June 2020.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Joint Stip. ¶ 13 [Compendium, Exhibit N] 	Undisputed.

	PLAINTIFFS' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF'S RESPONSE AND SUPPORTING EVIDENCE:
16.	<p>On May 31, 2020, the SFPD activated its Department Operations Center activation room.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Gunter Deposition at 33:17-20 [Compendium, Exhibit B] 	Undisputed.
17.	<p>The SFPD obtained and accessed a remote, real-time link to the USBID camera network between May 31 and June 7, 2020.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Defendant's Responses to Plaintiffs' Second Request for Admissions at No. 12 [Compendium, Exhibit O] • Defendant's Responses to Plaintiffs' First Request for Admissions at No. 1 [Compendium, Exhibit J] 	Undisputed.
18.	<p>On the morning of May 31, 2020, an officer from the SFPD's Homeland Security Unit, Officer Oliver Lim, sent an email to the USBID Director of Services, Chris Boss, requesting live access to the USBID's surveillance cameras.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • CCSF 000013 (email of May 31, 2020, from Lim to Boss) [Compendium, Exhibit P] • Plaintiffs' First Request for Admissions at Exh. 2 (this email) [Compendium, Exhibit H] • Defendant's Responses to Plaintiffs' First Request for Admissions at No. 6 (admitting the genuineness of this email) [Compendium, Exhibit J] 	Undisputed.
19.	<p>19. Officer Lim sent the May 31 email at the direction of a commanding officer.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • CCSF 000013 (email of May 31, 2020, from Lim to Boss) [Compendium, Exhibit P] • Gunter Deposition at 38:24-39:1, 27:20-28:5 [Compendium, Exhibit B] 	Undisputed.

	PLAINTIFFS' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF'S RESPONSE AND SUPPORTING EVIDENCE:
20.	<p>20. In an email response that same morning, Mr. Boss granted the SFPD 48-hour remote access to the USBID's cameras.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • CCSF 000013 (email of May 31, 2020, from Boss to Shimolin) [Compendium, Exhibit P] • Plaintiffs' First Request for Admissions at Exh. 3 (this email) [Compendium, Exhibit H] • Defendant's Responses to Plaintiffs' First Request for Admissions at No. 7 (admitting the genuineness of this email) [Compendium, Exhibit J] 	Undisputed.
21.	<p>Later on May 31, 2020, the USBID set up a remote, real-time link on a laptop at the SFPD's Department Operations Center through which the SFPD could access the USBID camera network.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> • Gunter Deposition at 45:11-46:3 [Compendium, Exhibit B] • Defendant's Responses to Plaintiffs' First Set of Special Interrogatories at No. 2 [Compendium, Exhibit K] • Defendant's Responses to Plaintiffs' Second Set of Special Interrogatories at No. 14 [Compendium, Exhibit M] 	Undisputed.
22.	<p>To access the remote, real-time link, the SFPD installed a software program called Avigilon onto a laptop located in the Department Operations Center activation room.</p> <p>Supporting evidence:</p> <ul style="list-style-type: none"> • Defendant's Responses to Plaintiff's First Set of Special Interrogatories at No. 2 [Compendium, Exhibit K] • Gunter Deposition at 32:7-33:6 [Compendium, Exhibit B] 	Undisputed.
23.	The remote, real-time link included access to the entire USBID camera network.	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
	Supporting Evidence: <ul style="list-style-type: none"> • CCSF 000013 (email of May 31, 2020, from Boss to Shimolin) [Compendium, Exhibit P] • CCSF 000204 (May 31 email from Shimolin to Gunter) [Compendium, Exhibit T] • Gunter Deposition at 40:15-22 (admitting genuineness of email) [Compendium, Exhibit B] 	
24.	On May 31, 2020, after the remote, real-time link was set up, an officer from the SFPD’s Homeland Security Unit, Officer Tiffany Gunter, viewed the camera feed twice. Supporting Evidence: <ul style="list-style-type: none"> • Gunter Deposition at 51:24-52:1, 52:14-16, 60:7-8 [Compendium, Exhibit B] 	Undisputed.
25.	On June 2, 2020, Officer Gunter sent an email to Mr. Boss requesting an extension for remote live access of the USBID’s cameras for five more days, through June 7, 2020. Supporting Evidence: <ul style="list-style-type: none"> • CCSF 0000250 (email of June 2, 2020, from Gunter to Boss) [Compendium, Exhibit U] • Plaintiffs’ First Request for Admissions at Exh. 4 (this email) [Compendium, Exhibit H] • Defendant’s Responses to Plaintiffs’ First Request for Admissions at No. 8 (admitting the genuineness of this email) [Compendium, Exhibit J] 	Undisputed.
26.	The USBID provided this extension of remote live access to its camera network. Supporting Evidence: <ul style="list-style-type: none"> • Gunter Deposition at 64:22-25 [Compendium, Exhibit B] 	Undisputed.
27.	Officer Gunter admitted that she viewed the USBID’s camera feed “intermittently” during the week that SFPD had access. Supporting Evidence:	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
3	<ul style="list-style-type: none"> Gunter Deposition at 65:18-22 [Compendium, Exhibit B] 	
5	<p>28. For the week that the SFPD had access to the remote, real-time link, the camera feed was running continuously on the SFPD laptop where the USBID set up access.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 50:21-51:4 [Compendium, Exhibit B] 	<p>Undisputed that the Avigilon program was running on the laptop continuously. Disputed that the camera feed was running continuously on the laptop, because the program “was minimized on the screen,” and was not open on the screen.</p> <p>Supporting Evidence: Gunter Deposition at 50:25-51:4 [Compendium, Exhibit B]</p>
11	<p>29. The SFPD does not require officers to document when they look at a camera feed from a BID camera network.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 79:16-80:1 [Compendium, Exhibit B] Plaintiffs’ First Set of Special Interrogatories at Definitions ¶ 2 [Compendium, Exhibit I] Defendant’s Responses to Plaintiffs’ First Set of Special Interrogatories at No. 6 [Compendium, Exhibit K] 	Undisputed.
19	<p>30. Officer Gunter testified that because the SFPD does not require officers to document when they look at a camera feed from a BID camera network, it is possible that other SFPD officers viewed the USBID camera feed during the week that the SFPD had access to it.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 79:20-80:1 [Compendium, Exhibit B] 	Undisputed.
25	<p>31. On June 10, 2020, Officer Gunter sent an email to Mr. Boss thanking him “for the use of your cameras,” and stating that the cameras “were extremely helpful in giving us situational awareness and ensuring public safety during the multiple demos that came through the area.”</p>	Undisputed.

	PLAINTIFFS' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF'S RESPONSE AND SUPPORTING EVIDENCE:
	Supporting Evidence: <ul style="list-style-type: none"> • CCSF 000045 (email of June 10, 2020, from Gunter to Boss) [Compendium, Exhibit S] • Plaintiffs' First Request for Admissions at Exh. 6 (this email) [Compendium, Exhibit H] • Defendant's Responses to Plaintiffs' First Request for Admissions at No. 10 (admitting the genuineness of this email) [Compendium, Exhibit J] 	
32.	The SFPD did not seek, nor did they receive, approval from the Board of Supervisors, pursuant to the Ordinance, prior to obtaining a remote, real-time link to the USBID camera network from May 31 to June 7, 2020. Supporting Evidence: <ul style="list-style-type: none"> • Defendant's Responses to Plaintiffs' First Request for Admissions at No. 2 [Compendium, Exhibit J] 	Undisputed.
33.	Property damage occurred in the Union Square area on May 30, 2020. Supporting Evidence: <ul style="list-style-type: none"> • CCSF 000018, 000035–000036 [Compendium, Exhibits Q & R] • Defendant's Responses to Plaintiffs' First Set of Special Interrogatories at Nos. 10, 11, & 12 [Compendium, Exhibit K] 	Undisputed that there was extensive looting, vandalism, and rioting in the Union Square area on the night of May 30, 2020, which included acts of violence which resulted in injuries to multiple persons such as store employees. Disputed to the extent that it is implied that "property damage" captures the civil unrest that occurred in the Union Square area on May 30, 2020. Supporting Evidence: Defendant's Responses to Plaintiffs' First Set of Special Interrogatories at Nos. 10, 11, & 12 [Compendium, Exhibit K]
34.	There was no property damage in Union Square after the early morning hours of May 31, 2020. Supporting Evidence:	Undisputed.

	PLAINTIFFS' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF'S RESPONSE AND SUPPORTING EVIDENCE:
3 4 5	<ul style="list-style-type: none"> Defendant's Responses to Plaintiffs' First Set of Special Interrogatories at No. 11 & 12 [Compendium, Exhibit K] Gunter Deposition at 60:14-23 [Compendium, Exhibit B] 	
6 7 8 9 10 11 12	<p>35. In his email request on May 31, 2020 for access to the USBID camera network, Officer Lim did not state any specific facts referring to or describing an imminent danger of death or serious physical injury to any person.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> CCSF 000013 [Compendium, Exhibit P] Defendant's Responses to Plaintiffs' First Request for Admissions at No. 6 (admitting the email is genuine) [Compendium, Exhibit J] 	Undisputed that Officer Lim's May 31, 2020 email request referred to "the potential violence today" in Union Square without further elaboration.
13 14 15 16 17 18 19	<p>36. In her email request on June 2, 2020, for access to the USBID camera network, Officer Gunter did not state any specific facts referring to or describing an imminent danger of death or serious physical injury to any person.</p> <p>Supporting evidence:</p> <ul style="list-style-type: none"> CCSF 000250 [Compendium, Exhibit U] Defendant's Responses to Plaintiffs' First Request for Admissions at No. 8 (admitting the email is genuine) [Compendium, Exhibit J] 	Undisputed that Officer Gunter's June 2, 2020 email request referred to "several planned demos all week and we anticipate several more over the weekend which are the ones we worry will turn violent again" without further elaboration.
20 21 22 23 24	<p>37. Officer Gunter testified that she did not remember there being any civil unrest in Union Square beyond Saturday, May 30, 2020.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 60:14-23 [Compendium, Exhibit B] 	Undisputed.
25 26 27	<p>38. There were no deaths relating to protest activity in San Francisco between May 25 and June 7, 2020.</p> <p>Supporting evidence:</p>	Undisputed that the City is unaware of any such deaths during that time period.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
3	<ul style="list-style-type: none"> Defendant’s Responses to Plaintiffs’ Second Set of Special Interrogatories at No. 15 [Compendium, Exhibit M] 	
5 6 7 8 9 10	<p>39. Plaintiffs Hope Williams, Nathan Sheard, and Nestor Reyes are activists.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Williams Decl. ¶ 1 [Compendium, Exhibit C] Sheard Decl. ¶ 1 [Compendium, Exhibit D] Reyes Decl. ¶ 1 [Compendium, Exhibit E] 	Undisputed.
11 12 13 14 15	<p>40. Plaintiffs Williams and Sheard are Black, and Plaintiff Reyes is Latinx.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Williams Decl. ¶ 1 [Compendium, Exhibit C] Sheard Decl. ¶ 1 [Compendium, Exhibit D] Reyes Decl. ¶ 1 [Compendium, Exhibit E] 	Undisputed.
16 17 18 19 20 21 22	<p>41. All three Plaintiffs helped organize, and participated in, the protest movement against police violence and racism in San Francisco in May and June 2020.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Williams Decl. ¶ 4 [Compendium, Exhibit C] Sheard Decl. ¶ 5 [Compendium, Exhibit D] Reyes Decl. ¶ 3 [Compendium, Exhibit E] 	Undisputed.
23 24 25 26 27 28	<p>42. The SFPD’s actions in obtaining and using a remote, real-time link to the USBID camera network, and the risk these actions may recur, make Plaintiffs afraid to participate in future protests and chill their free expression.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Williams Decl. ¶ 11 [Compendium, Exhibit C] 	Undisputed that each plaintiff declares that learning about SFPD’s actions with respect to the USBID camera network in May and June 2020 makes him or her “worried about my privacy and freedom from police surveillance if I attend or organize future protests.” Disputed that any plaintiff declares that his or her free expression is chilled.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
	<ul style="list-style-type: none"> • Sheard Decl. ¶ 9 [Compendium, Exhibit D] • Reyes Decl. ¶ 7 [Compendium, Exhibit E] 	Supporting Evidence: <ul style="list-style-type: none"> • Williams Decl. ¶ 9 [Compendium, Exhibit C] • Sheard Decl. ¶ 9 [Compendium, Exhibit D] • Reyes Decl. ¶ 9 [Compendium, Exhibit E]
43.	The SFPD actions challenged in this suit, and the risk they may recur, makes it harder for Plaintiffs to organize and recruit people to participate in future protests. Supporting Evidence: <ul style="list-style-type: none"> • Williams Decl. ¶ 11 [Compendium, Exhibit C] • Sheard Decl. ¶ 10 [Compendium, Exhibit D] • Reyes Decl. ¶ 8 [Compendium, Exhibit E] 	Undisputed.
44.	On May 31, 2020, Plaintiff Reyes walked east on Market Street in the vicinity of Union Square, later walked in and around Union Square, and subsequently walked west on Market Street in the vicinity of Union Square. Supporting Evidence: <ul style="list-style-type: none"> • Reyes Decl. ¶ 4 [Compendium, Exhibit E] 	Undisputed.
45.	In 2019, Plaintiff Sheard advocated in support of the Ordinance, including providing public comment several times before the Rules Committee of the Board of Supervisors. Supporting Evidence: <ul style="list-style-type: none"> • Sheard Decl. ¶ 3 [Compendium, Exhibit D] 	Undisputed.
46.	In 2018, 2019, and 2020, Plaintiff Sheard provided public comment on similar ordinances in Oakland and Berkeley that require public input before acquisition or use of surveillance technologies.	Undisputed.

	PLAINTIFFS’ UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF’S RESPONSE AND SUPPORTING EVIDENCE:
3 4	Supporting Evidence: • Sheard Decl. ¶ 4 [Compendium, Exhibit D]	
5 6 7 8 9	47. In 2020, Plaintiff Williams participated in debates in San Francisco over surveillance technology, advocating against the installation of security cameras in the Castro/Upper Market Community Benefit District. Supporting Evidence: Williams Decl. ¶ 11 [Compendium, Exhibit C]	Undisputed.
10 11 12 13 14 15 16 17 18	48. Plaintiffs Williams and Sheard would like to participate in the implementation of the Ordinance by providing public comment before the San Francisco Committee on Information Technology about city departments’ requests to acquire or use new surveillance technologies, including requests made by the SFPD. Supporting Evidence: • Williams Decl. ¶ 12 [Compendium, Exhibit C] • Sheard Decl. ¶ 11 [Compendium, Exhibit D]	Undisputed that plaintiffs Williams and Sheard would like to participate in the implementation of the Ordinance by providing public comment before the San Francisco Committee on Information Technology about city departments’ requests to acquire or use new surveillance technologies, <i>presumably</i> including requests made by the SFPD (although neither plaintiff so declares specifically). Supporting Evidence: • Williams Decl. ¶ 12 [Compendium, Exhibit C] • Sheard Decl. ¶ 12 [Compendium, Exhibit D]
19 20 21 22 23 24 25 26 27	49. The SFPD obtained a remote, real-time link to the USBID camera network on three occasions other than during the George Floyd protests in May and June 2020: (1) for the 2019 Pride Parade, (2) for anticipated 2020 Super Bowl celebrations on Market Street, and (3) for the 2020 Fourth of July celebrations. Supporting Evidence: • Defendant’s Supplemental Responses to Plaintiffs’ Special Interrogatories 4 & 5 at No. 4 [Compendium, Exhibit L]	Undisputed that SFPD obtained such a link on the three referenced occasions. Disputed to the extent it is implied that SFPD accessed or used that link during the 2020 Super Bowl celebrations on Market Street or during the 2020 Fourth of July celebrations, beyond simply looking at the screen to verify that the link worked. Supporting Evidence: • Defendant’s Supplemental Responses to Plaintiffs’ Special Interrogatories 4 & 5 at No. 4 [Compendium, Exhibit L]

	PLAINTIFFS' UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE:	CCSF'S RESPONSE AND SUPPORTING EVIDENCE:
50.	<p>The SFPD obtained the remote, real-time link for anticipated 2020 Super Bowl celebrations and the 2020 Fourth of July celebrations after the enactment of the Ordinance. The SFPD did not receive approval from the Board of Supervisors prior to obtaining the link on either of those occasions.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Defendant's Supplemental Responses to Plaintiffs' Special Interrogatories 4 & 5 at No. 4 [Compendium, Exhibit L] Defendant's Responses to Plaintiffs' Second Set of Special Interrogatories at No. 16 [Compendium, Exhibit M] 	<p>Undisputed that SFPD obtained such a link on the two referenced occasions after the enactment of the Ordinance, and did not receive approval from the Board of Supervisors prior to doing so. Disputed to the extent it is implied that SFPD accessed or used that link on either of the two referenced occasions, beyond simply looking at the screen to verify that the link worked.</p> <p>Supporting Evidence: Defendant's Supplemental Responses to Plaintiffs' Special Interrogatories 4 & 5 at No. 4 [Compendium, Exhibit L]</p>
51.	<p>The SFPD did not know of any exigent circumstances that existed at the time it requested access to the USBID camera network during the 2019 Pride Parade, 2020 Super Bowl celebrations, and the 2020 Fourth of July celebrations.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Defendant's Responses to Plaintiffs' Second Set of Special Interrogatories at No. 16 [Compendium, Exhibit M] 	Undisputed.
52.	<p>An SFPD officer can only initiate a request to access a BID camera network upon the order of an SFPD captain or lieutenant.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 27:20-28:1 [Compendium, Exhibit B] 	Undisputed.
53.	<p>During the course of the SFPD's response to the protests in May and June of 2020, Officer Gunter never heard any of her colleagues discuss the Ordinance.</p> <p>Supporting Evidence:</p> <ul style="list-style-type: none"> Gunter Deposition at 81:12-19 [Compendium, Exhibit B] 	Undisputed.

DEFENDANT’S ADDITIONAL UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE

	CCSF’S UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	
54.	<p>The 2019 San Francisco Pride celebration took place on June 29, 2019 and June 30, 2019.</p> <p>Supporting Evidence: Declaration of Oliver Lim in Support of Defendant’s Motion for Summary Judgment, filed on September 16, 2021 (“Lim Decl.”), at ¶ 3.</p>	
55.	<p>Shortly before the start of the 2019 Pride celebration, San Francisco Police Department (“SFPD”) Officer Oliver Lim, at the direction of his commanding officer, contacted Chris Boss, a representative of USBID, and requested that USBID allow the SFPD to have access to cameras in USBID’s surveillance camera network during the 2019 Pride celebration.</p> <p>Supporting Evidence: Lim Decl., at ¶ 4.</p>	
56.	<p>USBID agreed to give SFPD access to cameras in USBID’s surveillance camera network during the 2019 Pride celebration.</p> <p>Supporting Evidence: Lim Decl., at ¶ 5.</p>	
57.	<p>USBID provided SFPD with log-in credentials to commercial software which SFPD used to access cameras in USBID’s surveillance camera network for a period of up to 24 hours during the 2019 Pride celebration.</p> <p>Supporting Evidence: Lim Decl., at ¶ 5.</p>	
58.	<p>The City’s Acquisition of Surveillance Technology Ordinance (Administrative Code Chapter 19B), the ordinance that plaintiffs allege the City violated through SFPD’s conduct in May-June 2020, states at Section 19B.5(d) that “[e]ach Department possessing or using Surveillance Technology before the effective date</p>	

	CCSF’S UNDISPUTED MATERIAL FACTS AND SUPPORTING EVIDENCE	
2 3 4 5 6 7 8 9	<p>of this Chapter 19B may continue its use of the Surveillance Technology and the sharing of data from the Surveillance Technology until such time as the Board enacts an ordinance regarding the Department’s Surveillance Technology Policy and such ordinance becomes effective under Charter Section 2.105.”</p> <p>Supporting Evidence: Declaration of Wayne Snodgrass in Support of Defendant’s Motion for Summary Judgment, filed on September 16, 2021 (“Snodgrass Decl.”), Ex. A, at p. 5.</p>	
10 11 12 13 14 15 16	<p>59. The City’s Acquisition of Surveillance Technology Ordinance (Administrative Code Chapter 19B), the ordinance that plaintiffs allege the City violated through SFPD’s conduct in May-June 2020, took effect in July 2019.</p> <p>Supporting Evidence:</p> <p>Joint Stip. ¶ 6 [Compendium of Evidence in Support of Plaintiffs’ Motion for Summary Judgment (“Compendium”), Exhibit N]; Plaintiff’s Complaint, ¶ 18.</p>	
17 18 19 20 21 22 23	<p>60. To date, the City’s Board of Supervisors has not enacted any ordinance regarding SFPD’s surveillance technology policies with respect to surveillance cameras owned by non-City entities, such as USBID.</p> <p>Supporting Evidence: Declaration of Asja Steeves in Support of Defendant’s Motion for Summary Judgment, filed on September 16, 2021 (“Steeves Decl.”), at ¶ 5.</p>	

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Dated: October 22, 2021

DENNIS J. HERRERA
City Attorney
WAYNE K. SNODGRASS
Deputy City Attorney

By: s/Wayne K. Snodgrass
WAYNE K. SNODGRASS

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CITY AND COUNTY OF SAN FRANCISCO