Date: December 16, 2022

To: Mayor and Members of the City Council

From: Thomas B. Modica, City Manager

Subject: Technology and Innovation Commission and the Equity and Human Relations Commission Recommendations on Facial Recognition Technology and other Surveillance Technologies

Following the adoption of the Long Beach Framework for Racial Reconciliation in August 2020 (Framework), in January 2021, City of Long Beach (City) staff requested that the Long Beach Technology and Innovation Commission (TIC) support the Framework’s action to “explore the practice of facial recognition technology (FRT) and other predictive policing models and their disproportionate impacts on Black people and people of color by reviewing evidence-based practices.” (Goal 3, Strategy 3E)

The TIC formed a three-member ad hoc subcommittee to evaluate FRT broadly, and to research and analyze best practices in FRT use by law enforcement agencies in other U.S. jurisdictions, while considering racial equity impacts. The ad hoc subcommittee was also charged with drafting preliminary recommendations for the use of FRT in Long Beach. Between July and December 2021, the full TIC considered the findings presented by the ad hoc subcommittee. In addition, the TIC hosted presentations from stakeholders representing diverse points of view including: the Long Beach Police Department (LBPD), data privacy experts, an FRT database analyst, and officials who developed FRT-related policy in other cities and states. During public comment periods, community members and advocates for civil rights, budget reform, immigrant rights and racial justice shared their perspectives.

The TIC then formed a second three-member ad hoc committee, made up of different committee members, to draft a white paper regarding their work (Attachment B). On March 23, 2022, the TIC voted to approve the white paper, titled “Analysis and recommendations for regulating facial recognition technology and other “smart” devices and platforms.” This white paper includes several policies the TIC recommends that the City Council implement summarized below:

1) That Long Beach create an independent commission that possesses authority and oversight of algorithmic-and-surveillance-based technologies across City departments.

2) That the City Council implement a moratorium on any currently deployed technology, and that the City cease the adoption of any new permanent or pilot programs involving FRT.

3) That the City Council adopt a framework for vetting and continuously monitoring all surveillance technologies capable of collecting personally identifiable information.

On February 23, 2022, the TIC voted to send the draft white paper to the Equity and Human Relations Commission (EHRC) and requested the EHRC to apply a racial equity lens to the TIC’s research and recommendations. The EHRC reviewed the research and evidence-based practices compiled by the TIC, received a presentation from Just Futures Law, a nonprofit legal team that
works in partnership with immigrant and racial justice organizers, and received public testimony from community members and advocates for civil rights, immigrant rights and racial justice. The EHRC issued a letter (including a letter from ACLU – Attachment C) on June 1, 2022 which was subsequently amended on September 7, 2022 with their key findings and recommendations, which included the following:

1) Place a ban on the current and future use of Facial Recognition Technology (FRT) and other biometrics technology including the use of the Los Angeles County Regional Identification System (LACRIS) and any other FRT and biometric systems including ending access to FRT through any citywide cameras and footage acquired through private businesses.

2) Place a ban on the current and future use of Automated License Plate Readers (ALPR) and terminate the contract with the ALPR vendors SRA International/ General Dynamics and Vigilant Solutions.

3) Delete any stored data that has been collected through automated license plate readers and facial recognition technology.

4) Redirect the $7.3 million the City is spending on surveillance technology toward investments that are proven to prevent crime and promote safe communities such as youth development programs, workforce training programs that lead to stable, family-sustaining jobs, mental health services, and access to stable, affordable housing.

On July 6, 2022, the TIC voted to receive and file the original EHRC memo. During their discussion, the TIC generally concurred with the recommendations but clarified that their work had focused exclusively on FRT due to the language of Goal 3 Strategy 3E in the Framework. On September 28, 2022, the TIC discussed the revision to the EHRC memo.

This memo officially transmits both Commissions’ recommendations per the request of the TIC. Staff did not review each document to confirm the accuracy of all the information contained therein.

Additional Analysis by City Staff

In an internal City survey conducted in September 2021, staff from the Technology and Innovation Department (TID) found that two of 23 City Departments currently use or have access to FRT. TID issues mobile devices that may be unlocked by the user looking into the built-in camera. However, TID does not maintain record of the use of this technology. LBPD uses a facial recognition program database of mugshots dating back to the mid-1990s that is maintained by the Los Angeles County Regional Identification System (LACRIS), to generate investigative leads or crimes when security images are available. In addition to LACRIS, individual employees of LBPD have conducted limited trials of other FRT providers, such as Vigilant Solutions and Clearview AI. Neither of these platforms were acquired after the trial and currently, no FRT trials are being conducted. On March 18, 2021, LBPD issued a Special Order regarding the use of FRT, which currently serves as policy. Attachment C includes a memorandum which contains a detailed overview of LBPD’s current use of FRT. In addition, LBPD has existing policies prohibiting bias-based policing and mandating professional conduct to govern the use of any police system or service provided by LBPD.
The Public Safety Committee of the City Council received a presentation from LBPD on the use of current and emerging technology for Public Safety on June 25, 2021. On July 23, 2021, the Public Safety Committee received a presentation from LBPD on privacy considerations and best practices associated with the LACRIS Facial Recognition system. Then on October 1, 2021, the Public Safety Committee received a presentation on best practices with the use of automated license plate readers.

TID staff also led a multi-lingual community engagement campaign between November 2019 and January 2021 to assess Long Beach residents’ comfort levels with “smart” technologies, including the practice of law enforcement agencies’ use of personal data to predict future behaviors. About 42 percent of over 450 participants felt the practice should be permitted if they maintained control over how their data are used, while 34 percent of residents outright rejected the practice. Just 13 percent of those sampled agreed that public safety agencies should “automatically” be permitted to use personal data to prevent crime. In response to a separate question, over 80 percent of participants expressed concern that use of “smart” technologies could mean less privacy for Long Beach residents. However, many individuals are willing to trade some level of data privacy for perceived benefits of greater public safety and many cited improving safety as a benefit from living in a smart city. Additional concerns expressed by community members included the need for transparency about the City’s data collection and use practices, the need for accountability measures, and general concerns about FRT, particularly surrounding its uses for children and the immigrant and undocumented population.

On March 9, 2021, as part of the City’s Smart City Initiative, City Council adopted Data Privacy Guidelines that are intended to provide a framework to help incorporate privacy by design in the implementation and deployment of new technologies. City Staff has since worked to develop a Data Privacy Guidelines Implementation Plan (Implementation Plan) to operationalize the data privacy guidelines via City policies, educational campaigns, and procedures as appropriate. The Implementation Plan provides 13 tangible recommendations on how to build public trust through excellence in data privacy, data security, and community engagement. Policy recommendations are broken into four categories: capacity building, process, education, and communication and tools recommendations. The draft Implementation Plan was also reviewed by the TIC on March 23, 2022 and approved on July 6, 2022.

The Implementation Plan provides a structure to address the TIC’s and some of EHRC’s recommendations regarding FRT and other surveillance technologies. A recommendation includes exploring the feasibility of creating an External Privacy Advisory Commission, comprised of local community leaders from different industries, including technology, data, human rights, and other areas, made to reflect the diverse community of Long Beach. To establish the Commission, an Ordinance would need to be drafted and approved by the City Council, and funding for administrative staff support would need to be identified. There will also need to be support from TID staff to convene this group and present data privacy recommendations for their input and guidance. In other cities, a privacy analyst or program coordinator leads this effort. In lieu of a new Commission, an alternative Advisory structure could be explored.

Findings from both internal and external staff engagement efforts indicate that additional citywide policy measures are needed to ensure greater transparency and accountability and to build trust with the community regarding use of “smart” technologies.
Next Steps and Recommendations

LBPD is working to expand their FRT Special Order to establish a more comprehensive policy that will enhance supervisory oversight through a multi-level, scheduled review of any LBPD use of FRT, including LACRIS. Based on LBPD’s current use of FRT, the Special Order and protections in place, and the plans to expand the Special Order; as the City Manager, I do not recommend a moratorium or ban on the current use of Facial Recognition Technology or ALPR which is also governed through a Special Order. Staff also does not recommend deleting stored data which is being used to solve crimes, nor redirecting funding that is necessary to fund the tools used to solve crimes.

In addition to LBPD’s expanded policy, the Implementation Guide recommends City action to cover all potential current or future uses of FRT and other surveillance technologies. Surveillance technologies are defined as any software, electronic device, system utilizing an electronic device, or similar, that is used, designed, or primarily intended to collect, retain, analyze, process, or share audio, electronic, visual, location, thermal, olfactory, biometric, or similar information associated with, or capable of being associated with, any individual or group.

In line with the TIC’s recommendation, the Implementation Plan includes a recommendation to develop a Data Privacy Ordinance, which if implemented would provide a City standard for vetting, gathering public input, and monitoring all surveillance technologies capable of collecting personally identifiable information.

Another recommendation of the Implementation Plan is to conduct Privacy Impact Assessments. Privacy Impact Assessments (PIA) identify the anticipated impact technologies employed by the City will have on privacy. A PIA asks questions about the collection, use, sharing, security, governance, and access controls for data that is gathered when using a technology or program. It also requests information about policies, training, and documentation that govern the use of the technology. PIAs can include questions that assess a technology’s risk to racial equity. The results of a PIA are used to determine privacy risks associated with a project and suggest mitigations that may reduce some or all of those risks. In cases where risk cannot be appropriately mitigated, PIAs can disallow the technology altogether.

Developing Proposed Use Policies is also recommended in the Implementation Plan. Proposed Use Policies create a transparent guideline for how technologies can be used. Use policies can outline the purpose, authorized use, data collection, data access, data protection, data retention, public access, third-party data-sharing, training, auditing and oversight, and maintenance of technologies used by the City. Proposed Use Policies should be posted to a public-facing City website. In addition, Proposed Use Policies could accompany PIAs and clearly outline the uses of certain technologies.

Through the Implementation Plan, the City’s use of FRT and other surveillance technologies could be further evaluated by a PIA and proposed use policy which could be vetted through a yet to be created External Advisory Commission or alternative advisory structure. However, implementing the Data Privacy Guidelines is largely dependent on staff capacity. TID received the addition of a Data Privacy staff member in the Fiscal Year 2023 (FY 23) budget. Once filled, the addition of at
least one staff member dedicated to data privacy will add focused staff capacity and increase the feasibility of implementing these high-impact recommendations.

As mentioned above, the Public Safety Committee has already reviewed the use of these technologies and held several meetings to examine the subject and gather information; however, if the City Council decides to take up the TIC’s recommendation regarding a moratorium on FRT or the EHRC’s recommendation to ban FRT, it is recommended to consider the recommendation of the City Manager to not ban FRT use, and carefully consider input from LBPD and members of the Long Beach community impacted by crime in order to assess the impact of the proposed FRT moratorium on the City’s public safety efforts and ability to solve crime.

TID staff will continue to implement the Implementation Plan within existing resources and request additional resources in the FY 23 budget. In addition, LBPD will continue to follow the March 2021 LBPD FRT Special Order and will expand it to a comprehensive policy that will enhance supervisory oversight through a multi-level, scheduled review of any LBPD use of FRT, including LACRIS. As with all police systems, LBPD is committed to ensuring current and emerging technology, including LACRIS, is utilized in an ethical, lawful, and responsible manner.

If you have any questions, please contact Lea Eriksen, Director of the Technology and Innovation Department, at (562) 570-6234.

ATTACHMENTS – A – MEMO ON FRT
B – TIC WHITE PAPER
C – ACLU SoCal LETTER TO ERHC

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     MONIQUE DE LA GARZA, CITY CLERK
     DEPARTMENT HEADS
Date: December 16, 2022

To: Thomas B. Modica, City Manager

From: Wally Hebeish, Chief of Police

For: Mayor and Members of the City Council

Subject: Facial Recognition Technology Use and Policy

This memorandum provides an overview of the Long Beach Police Department’s (LBPD) use of Facial Recognition Technology (FRT). Based on increasing public interest in the policies and practices that govern the use of this technology within LBPD, representatives from our Command staff presented an overview of current practices to the Public Safety Committee on July 23, 2021, and the Technology and Innovation Commission (TIC) on July 28 and September 22, 2021.

FRT can provide an investigative lead after a crime has been committed. FRT does not represent a completely new practice within policing, but instead it increases the Department’s efficiency in identifying a potential suspect. Any identified investigative lead does not result in an arrest or a detention without additional investigation.

The Department utilizes the Los Angeles County Regional Identification System (LACRIS) and its Digital Mugshot System (DMS). Employees who are FRT certified can utilize FRT within LACRIS. In addition, LBPD employees also collaborate with a nonprofit organization to utilize a third-party FRT software system specialized in assisting in the identification of human trafficking or pandering and pimping victims. This tool is expressly used to rescue children and does not assist in the identification of suspects; LBPD employees only use it in their efforts to help victims escape sexual exploitation and abuse.

LBPD does not and will not utilize FRT for predictive policing, real-time surveillance, or as the sole basis of an arrest or a detention.

UTILIZING FRT IN LACRIS

LACRIS Overview

LACRIS and its DMS is the repository for criminal mugshots of all previously arrested individuals in Los Angeles County. The DMS contains only mugshots that are supported by a fingerprint comparison conducted by the California Department of Justice. Using LACRIS-DMS, LBPD can examine and compare facial characteristics from digital evidence associated with a crime to create investigative leads.

LACRIS FRT is utilized by more than 64 law enforcement agencies in Los Angeles County. LBPD began using LACRIS FRT for criminal investigations in January of 2010. The system
can only be used by certified employees who are trained in the proper use of and policies governing LACRIS, including California State Law, Los Angeles County Policy, and LBPD Policies and Procedures.

**LACRIS Use**

FRT in LACRIS is a tool that assists in the identification process during a criminal investigation. Only images from a criminal investigation are authorized for use in a LACRIS inquiry. LBPD makes inquiries in LACRIS by using electronic evidence obtained after a crime has occurred or when identifying a deceased or incapacitated individual. The electronic evidence may be in the form of still images captured from security or bystander video. After an image from a crime is input for a LACRIS inquiry, candidates from LACRIS-DMS are generated as a possible investigative lead. The certified examiners then review the candidates, and two independent-certified examiners must confirm the candidate before it is considered an investigative lead. Once the investigative lead is produced, the investigator must utilize other investigative resources to corroborate the LACRIS results including but not limited to: witness statements, open-source social media platforms, live media reports, and any other corroborating evidence.

**LACRIS Compliance and Accountability**

The proper and lawful use of LACRIS prioritizes individual privacy rights, while greatly enhancing our ability to protect our community and investigate criminal activity. Before using the system, all employees are required to successfully complete the LACRIS training course and must comply with LACRIS use policies and guidelines. The training course provided by LACRIS is based on the FBI training curriculum for the use of FRT. LBPD currently has 50 certified employees authorized to use the LACRIS system.

Employees are required to use all technology solutions, including LACRIS, in an ethical and lawful manner that upholds the rights of all people. User activity in LACRIS is audited internally by LBPD, and independently by both LACRIS and the California Department of Justice to ensure compliance with regulations and state guidelines of use.

**UTILIZING FRT IN LBPD VICE INVESTIGATIONS**

**LBPD Vice Section Third-Party FRT Use Overview**

Vice investigations, a section within LBPD, utilizes a FRT system which automates the review of escort advertisements to identify whether a person is suspected of being a victim of human trafficking or pimping and pandering. This tool enables LBPD employees to input a picture of a victim, and it searches the escort advertisements. It then provides an ordered list of potential candidates between the picture uploaded and the escort advertisements. This tool is used by over 12,000 law enforcement investigators nationwide and in Canada and has helped to find over 17,000 child victims of human trafficking.
LBPD Vice Section FRT Use

This third-party FRT tool assists in the identification process during a human trafficking or a pimping and pandering investigation. It is only used to identify potential victims of a relevant investigation. It is not used to assist in the identification of any human trafficking suspects.

Only LBPD employees assigned to the Vice Section who have been trained on the software have access to utilize the third-party FRT tool. Authorized LBPD employees make inquiries by using electronic evidence obtained during an investigation. The electronic evidence may be in the form of still images captured from security or bystander video. After an image is input for a FRT inquiry, the tool reviews advertisements for images with similar facial features and provides authorized users links to advertisements in the order of the system’s assessment of the likelihood of a match. The authorized user then reviews the candidates to determine if an investigative lead was produced from the search. Should a lead be produced, the user must utilize other investigative resources to corroborate the FRT results including but not limited to: witness statements, open-source social media platforms, live media reports, and any other corroborating evidence.

Vice FRT Use Compliance and Accountability

Only employees assigned to Vice who have been properly trained can utilize the system. These employees sign an agreement confirming that they shall only utilize the system in the effort to help victims of human trafficking or pandering and pimping investigations. The Investigations Bureau reviews and ensures proper utilization of the system.

LBPD POLICIES AND RESTRICTIONS REGARDING THE USE OF FRT

- FRT is not used for positive identification, and an arrest or detention cannot be made based solely on an investigative lead produced by a LACRIS inquiry.
- FRT is not used for predictive policing.
- State law and LBPD policy prohibit the use of any body-worn camera images with any FRT systems, including LACRIS.
- FRT is not embedded in City or LBPD security cameras, and the department does not use FRT to scan crowds or search live camera feeds.
- Only photographs associated with a criminal investigation are authorized for use in a LACRIS inquiry. The system is not used for racial profiling; searches in LACRIS are based on reasonable suspicion and are not conducted for purposes of randomly identifying individuals.
- Only photos associated with an individual being a victim of human trafficking or pandering and pimping investigation are authorized for use in the Vice FRT inquiry. No suspect photos are input into the system.

In March of 2021, the LBPD issued an FRT Special Order further governing the use of FRT by LBPD employees. The Special Order serves as policy and provides purpose and definitions
associated with FRT, while strictly prohibiting the use of FRT in a manner that would violate individuals' privacy rights outlined in the First, Fourth, and Fourteenth Amendments of the United States Constitution. Further, the Special Order reinforces the LBPD Immigration Enforcement policy and strictly prohibits the use of FRT to assess immigration status. LBPD is working to expand the FRT Special Order to establish a comprehensive policy that will enhance supervisory oversight through a multi-level, scheduled review of LBPD use of FRT, including LACRIS. In addition, the expanded Policy will include a prohibition of using the technology for predictive policing, racial profiling, or mass surveillance.

DATA PRIVACY AND FRT

In March of 2021, the City Council adopted the Data Privacy Guidelines (Guidelines) to help the City and its partners incorporate privacy by design as we deploy new technologies and new services in Long Beach. LBPD utilization of FRT is compliant with the Guidelines in the following manner:

- **Transparency:** LBPD publishes all policies for the public, so the public can better understand the rules surrounding utilization of certain technology. The FRT Special Order can be found here.

- **Participatory & Responsive Feedback Channels:** LBPD continuously improves all policy including Facial Recognition, and as a part of that process, the FRT policy has been reviewed by the Community Advisory Committee. During these meetings, the community identified areas where current policy could be adjusted to better allay any potential concerns of FRT use.

- **Advancing Digital Equity:** LBPD does not use FRT for proactive surveillance or as the sole reason for an arrest. Instead, FRT is only utilized to help solve cases to bring closure to victims and ensure that offenders cannot commit more crimes against the community.

- **Non-Discriminatory Manner:** In the Department’s current Special Order, LBPD policy explicitly prohibits the utilization of FRT searches on individuals or organizations based solely on the following:
  - Their religious, political, or social views or activities
  - Their participation in a noncriminal organization or lawful event
  - Their race, ethnicity, citizenship, place of origin, age, disability, gender, gender identification, sexual orientation, or other protected classification.

Many of the complaints surrounding FRT claim that there are higher false ‘matches’ amongst minority populations. This claim misunderstands the Department’s use of FRT. The Department does not utilize the software as a positive identification or match. FRT only prioritizes results of possible investigative leads for further review by the certified examiner.

- **Ethical Data Stewardship:** All images searched within the LACRIS system are stored in a manner that is compliant with all California Justice Information Services (CJIS) and other relevant State and federal regulations.
Summary

The LBPD is committed to ensuring its use of FRT remains constitutional and consistent with federal, State, and local standards. LBPD continues to meet with LACRIS FRT representatives to stay abreast of best practices, update any new changes in technology and adhere to any changes in FRT legislation.

The LACRIS system is not designed to make positive identification of individuals, but assesses similarities based on a subject’s unique biometric data. These similarities must then be independently reviewed by two certified LBPD staff who verify results with other investigative efforts. Additionally, the LACRIS system cannot be used in conjunction with any surveillance system or track real-time crowd monitoring. It cannot access the California DMV database and does not search the internet for images of individuals. Similarly, LBPD Vice only utilizes the third-party FRT system to assist in human trafficking or pandering and pimping investigations. Images uploaded by LBPD are only to produce an investigative lead of victims of those crimes.

The collection and evaluation of digital evidence is critical in the day-to-day operations of law enforcement. LBPD utilizes tools such as FRT to better serve our public by arresting individuals that choose to victimize and threaten the safety of our community and helping human trafficking or pimping and pandering victims escape the vicious cycle of violence they endure daily.

LBPD has used digital evidence to investigate violent crimes, crimes against businesses, and lower-level crimes that have had an emotional or traumatic impact on our community. These tools empower LBPD to identify and arrest the suspect bringing closure to the victims of these crimes. As with all police systems, we are committed to ensuring current and emerging technologies, including FRT, are utilized in an ethical, lawful, and responsible manner.

If you have any questions, please contact me or my Chief of Staff Michael Solomita at (562) 570-7301.

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DEPARTMENT HEADS
Analysis and Recommendations for Regulating Facial Recognition Technology and Other “Smart” Devices and Platforms

Submitted by:
The City of Long Beach Technology and Innovation Commission
March 23, 2022
In June 2020, in the wake of mass protests demanding racial equity and an end to systemic racism, Long Beach City Council unanimously adopted a sweeping Framework for Reconciliation meant to foster trust-building, as well as to mobilize community members and policymakers for action. In January 2021, the City of Long Beach requested that the Technology and Innovation Commission support the plan’s goal to "redesign police oversight and accountability." Specifically, the Commission was asked to: Explore the practice of facial recognition technology and other predictive technology models and their disproportionate impacts on Black people and people of color by reviewing evidence-based practices.

The Commission formed a 3-member ad hoc subcommittee to evaluate facial recognition technology (FRT), broadly, and to research and analyze best practices in FRT use by law enforcement agencies in other U.S. jurisdictions while considering racial equity impacts. The ad hoc subcommittee was also charged with drafting preliminary recommendations for the use of FRT in the City of Long Beach. Between July 2021 and December 2021, the full Commission considered the findings presented by ad hoc subcommittee members. In addition, the Commission hosted presentations from stakeholders representing diverse points of view: the Long Beach Police Department, data privacy experts, an FRT database analyst and officials who developed FRT-related policy in other cities and states. During public comment periods, community members and advocates for civil rights, budget reform, immigrant rights and racial justice shared their perspectives.

Additional research informing this white paper includes findings from a data privacy survey completed by nearly 500 Long Beach residents, which Technology and Innovation Department (TID) staff and Commission members disseminated between November 2019 and August 2020. During this same time period, Commissioners and TID staff facilitated about a dozen focus group discussions with diverse community members.

The Commission is pleased to submit this white paper regarding Long Beach’s use of FRT and the implications for City use of the technology. The Commission’s findings, analysis and policy recommendations reflect the broad range of research described above. Thank you for your support of the Commission’s work and for the invitation to contribute to this critical topic—which involves concerns relevant to public safety, data privacy and racial equity. The City of Long Beach is obligated to implement technology with transparency and accountability, and the Commission exists to assist in any way possible.

Sincerely,

Gwen Shaffer, PhD, Chair

DW Ferrell, Vice Chair

Lisa Mae Brunson, Commissioner

Justin Hectus, Commissioner

Robb Korinke, Commissioner

Andrea White-Kjoss, Commissioner

Parisa Vinzant, Commissioner
# Analysis and Recommendations for Regulating Facial Recognition Technology and Other “Smart” Devices and Platforms

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Executive Summary

The Technology and Innovation Commission formed a 3-member ad hoc subcommittee to evaluate FRT, broadly, and to research and analyze best practices in FRT use by law enforcement agencies in other U.S. jurisdictions, while considering racial equity impacts. The ad hoc subcommittee was also charged with drafting preliminary recommendations for the use of FRT in the City of Long Beach. Between July 2021 and December 2021, the full Commission considered the findings presented by ad hoc subcommittee members.

The Long Beach Police Department (LBPD) currently uses facial recognition technology (FRT) to generate leads in criminal investigations. Specifically, the Department relies on a database of mugshots dating back to the mid-1990s, maintained by the Los Angeles County Regional Identification System (LACRIS). Critics of FRT cite threats to privacy, human rights violations, possible data theft and racial profiling among their concerns. Significantly, civil rights advocates assert that algorithmic bias leads to false identifications, wrongful arrests and disproportionate harm to members of the BIPOC community (Black, Indigenous and People of Color) and women. Further, media reports chronicle the wrongful arrests and incarcerations of Black men misidentified through FRT.

Despite these downsides, facial recognition does offer societal benefits. It is credited with preventing crimes—including sex trafficking—supporting medical treatments and locating missing persons. Notably, facial recognition has improved dramatically in recent years. As of April 2020, the best face identification algorithm has an error rate of just 0.08 percent and, as of 2018, more than 30 algorithms had achieved accuracies surpassing the best performance achieved in 2014. Additionally, Americans report general support for police use of surveillance technologies, including FRT.

The bedrock of good governance is transparency and accountability, which in turn helps increase public trust and confidence. The recommendations of the Commission reflect this and center the voices of the community members most negatively affected by this technology. The research, expert presentations and community input presented in this white paper inform several policy recommendations that the Commission urges City Council to implement:

1) The Commission concludes it is imperative that Long Beach create an independent commission that possesses authority and oversight of algorithmic-and-surveillance-based technologies across City departments.

2) In light of underlying civil rights, racial equity and justice, and privacy concerns associated with the FRT, the Commission recommends that City Council implement a moratorium on any currently deployed technology, and that the City cease the adoption of any new permanent or pilot programs involving FRT.

3) The Commission recommends that City Council adopt a framework for vetting and continuously monitoring all surveillance technologies capable of collecting personally identifiable information.
Introduction
What is Facial Recognition Technology (FRT)?

Scientific research finds that when we look at faces, we actually process them as a sum of separate parts—such as skin color, the shape of a mouth, or the spacing between someone’s eyes and nose.\(^1\)\(^2\) Similarly, facial recognition systems (such as those used by law enforcement) rely on algorithms to analyze biometric data. A database of facial markers is created, and an image of a face that shares significant similarities from that database indicates a possible match. This same principle applies to FRT used for everything from unlocking a mobile phone, to allowing employees entrance to secure office buildings, to verifying a patient prior to dispensing medicine.

As the accuracy of FRT improves, corporations and government agencies are increasingly adopting it. Half of all American adults have their images stored in at least one facial recognition database searchable by law enforcement agencies, according to a Georgetown University study.\(^3\) In May 2018, the FBI reported having access to 412 million facial images for searches. The use of FRT is, arguably, pervasive within the federal government. The General Accounting Office recently audited 24 federal agencies; 19 of them reported one or more FRT-related activities during fiscal year 2020 (digital access and domestic law enforcement were among the most common uses of the technology).\(^4\)

The City of Long Beach’s Uses of FRT

By contrast, FRT use is limited at the local level. In fact, just two of 23 City departments currently use it. Specifically, the Technology and Innovation Department issues mobile devices that may be unlocked by looking into the built-in camera. More consequentially, for the past decade, the Long Beach Police Department (LBPD) has used a database of mugshots dating back to the mid-1990s. Officers rely on the database, which is maintained by the Los Angeles County Regional Identification System (LACRIS), to generate investigative leads. According to LBPD, officers then conduct “morphological analyses” on all suspects identified through FRT searches. This involves a systematic method of facial comparison in which a trained police officer describes and compares the features of the face in order to confirm the algorithm’s accuracy. An LBPD representative told the Commission in July 2021 that the Department currently uses only LACRIS’ FRT system. However, the Department previously participated in a 30-month free trial of Vigilant Solutions’ facial recognition system (beginning April 17, 2018 and ending Sept. 28, 2020), according to public records.\(^5\)\(^6\)\(^7\) LBPD also acknowledges using Clearview AI. LBPD adopted a Special Order

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6 Profile: Greg Buhl, CheckLBPD.org. MuckRock. https://www.muckrock.com/accounts/profile/CheckLBPD.org/?gclid=CjwKCAiAz--OBhBIEiwAG1rOt0mpc9jFF8Fdi137hURTnoY9-yHnYUY1mY6W4AooXCeV1uQ0t54nRoC0kQAvD_BW
regulating departmental use of FRT in March 2021.\(^8\) The Department publicly shared this order on July 27, 2021.

The number of LACRIS database searches conducted by the LBPD jumped during the second part of 2020, as the department investigated about 200 property crimes committed during political demonstrations primarily in downtown Long Beach. From Jan. 1 to May 31, 2020, LBPD detectives made 621 inquiries into the LACRIS system. By comparison, from June 1, 2020 to Dec. 31, 2020 detectives made about 2,700 inquiries into the LACRIS system. The Looting Task Force accounted for 75% of inquiries during that 7-month period. From Jan. 1 to May 31, 2021, the LBPD made about 760 inquiries into LACRIS system—more consistent with the number of searches occurring prior to investigations into looting.\(^9\) Of the 148 searches conducted using Vigilant Solution’s FaceSearch FRT system in 2020, 102 of them were made after May 31, 2020.\(^10\) This usage reflects an uptick in reliance on FRT, compared to previous years; specifically, officers conducted 53 searches in 2019 and 89 searches in 2018.\(^11\)

While current public sector use of FRT in Long Beach exclusively involves law enforcement, new implementations of the technology are inevitable. For instance, Delta Airlines, which flies out of the Long Beach Airport, recently launched a program in Detroit and Atlanta enabling passengers to stare into a camera, and then use their “digital identity” to check bags, pass through TSA PreCheck security and board flights without showing a boarding pass or government-issued ID.\(^12\) The Long Beach Water Department has also expressed interest in adopting FRT to “enhance security,” according to an internal City survey.\(^13\)

### Criticism of FRT

The use of facial recognition, like all technologies that collect personally identifiable information, is accompanied by potential drawbacks. Frequently-voiced concerns include threats to privacy, human rights violations, possible data theft and racial profiling.

Significantly, civil rights advocates condemn the use of FRT. They assert that algorithmic bias leads to false identifications, wrongful arrests and disproportionate harm to members of the BIPOC community (Black, Indigenous and People of Color) and women. In 2018, MIT Media Lab researcher Joy Buolamwini found racial and gender disparities in commercially offered facial recognition technologies. Her research concluded that these systems failed up to 1 in 3 times when classifying the faces of Black women.\(^14\) Similarly, the National Institute of Standards and Technology (NIST) conducted a Facial Recognition Vendor Test that found the error rate for one algorithm exceeded 9 percent when subjects did not look directly at the

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\(^9\) LBPD Assistant Chief Wally Hebeish, personal communication, Sept. 29, 2021 Commission meeting


camera, or when shadows or objects obscured their faces.\textsuperscript{15} Further, a 2020 \textit{New York Times} article chronicles the wrongful arrests and incarcerations of three Black men misidentified through FRT.\textsuperscript{16} Georgetown Law’s Clare Garvie asserts that use of FRT potentially leads to more wrongful arrests. Neither arrested individuals nor the public will likely be aware of this due to the “sheer scope of face recognition in this county,” as well the secrecy surrounding law enforcement use of this technology, Garvie concludes.\textsuperscript{17}

Both lawmakers and corporations have responded to these concerns. Specifically, Facebook announced plans in November 2021 to discontinue using FRT to automatically tag photos and videos uploaded to the platform. Facebook is also deleting data—collected since 2010—on 1 billion people. Previously, both Amazon and Microsoft suspended sales of facial recognition technology due to concerns over accuracy and bias. More than a dozen U.S. cities ranging from Boston to Portland have banned municipal government use of FRT. In California, the cities of Alameda, Berkeley and San Francisco ban local government use of FRT; Santa Clara County and Davis require transparency and accountability surrounding public agency use of the technology.\textsuperscript{18}

**Support for FRT**

Despite these downsides, facial recognition does offer societal benefits. It is credited with preventing crimes—including sex trafficking—supporting medical treatments and locating missing persons.\textsuperscript{19}

Notably, facial recognition has improved dramatically in recent years. As of April 2020, the best face identification algorithm has an error rate of just 0.08 percent,\textsuperscript{20} compared to 4.1 percent for the leading algorithm in 2014, according to tests conducted by NIST. The Institute also found that, as of 2018, more than 30 algorithms had achieved accuracies surpassing the best performance achieved in 2014.\textsuperscript{21}

Additionally, Americans report general support for police use of surveillance technologies. For example, according to a 2019 Pew Research Center study:\textsuperscript{22}

\begin{itemize}
\item[\textsuperscript{15}] Grother, Ngan & Hanaoka (March 27, 2020). \textit{FRVT Part 2: Identification}. \url{https://pages.nist.gov/frvt/reports/1N/frvt_1N_report.pdf}
\item[\textsuperscript{17}] Garvie, C. (2020, June 24). \textit{The untold number of people implicated in crimes they didn’t commit because of face recognition}. ACLU. \url{https://www.aclu.org/news/privacy-technology/the-untold-number-of-people-implicated-in-crimes-they-didnt-commit-because-of-face-recognition}
\item[\textsuperscript{18}] Chivukula & Takemoto (February 2021). \textit{Local surveillance oversight ordinances}. Berkeley Samuelson School of Law, Technology & Public Policy Clinic. \url{https://www.law.berkeley.edu/wp-content/uploads/2021/02/Local-Surveillance-Ordinances-White-Paper.pdf}
\item[\textsuperscript{20}] Grother, Ngan & Hanaoka (March 27, 2020). \textit{FRVT Part 2: Identification}. \url{https://pages.nist.gov/frvt/reports/1N/frvt_1N_report.pdf}
\end{itemize}
Other Surveillance Technologies

Of course, FRT is not the only technology adopted by the City of Long Beach that collects personally identifiable information about residents or conducts surveillance on residents. For instance, in February 2020 Long Beach began contracting with ZenCity, a platform that uses artificial intelligence to aggregate social media posts and related comments about controversial things happening in the community (i.e., Covid restrictions, zoning changes, tax increases, homelessness). The company then produces reports for City officials that analyze the discourse on a particular topic, and the City uses the information to shape its official communications and relevant policies. 23

In addition, automated license plate readers are mounted on each LBPD patrol vehicle. In November 2020, Long Beach City Council approved a Parking Enforcement Division request for a $400,000 purchase of 17 automated license plate readers. Scanned images of license plates are uploaded, along with GPS and time-date information, to a searchable database. LBPD shares this data with more than 1,000 agencies, according to public records. 24 And the police department acknowledges it inadvertently shared data from automatic license plate readers with Immigration and Customs Enforcement for a 10-month span in 2020—despite a 2018 ordinance barring city agencies from providing information to federal immigration officials. 25 In April 2021, the ACLU of Southern California sent the City a cease-and-desist letter, and the City agreed to stop the practice in June 2021. 26

Other surveillance technologies are common, as well. U.S law enforcement agencies routinely rely on drones equipped with cameras. While LBPD created a drone program in 2017, the Department is just now developing a policy for drone use. 27 Many police departments also use cell-site simulators—which mimic cell phone towers and emit signals to trick nearby mobile devices into transmitting their locations and identifying information.

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26 ACLU of Southern California (2021, April 19). Re: Long Beach Police Department’s violations of state law for sharing license plate reader data. https://forthe.org/journalism/aclu-lbpd-alpr/
History of Racist Patterns in U.S. Policing

U.S. municipal police departments were first established on the East Coast in the 1830s, beginning in Boston and New York City. By the close of the 19th Century, all major American cities operated a police force. However, in the Southern United States, so-called “slave patrols” formed the basis for organizing police departments. The first slave patrols, created in the Carolina colonies in 1704, primarily existed to deter slave revolts through terror and to discipline slaves who violated plantation rules or attempted to run away. Following the Civil War, these vigilante-style organizations evolved into official police departments that controlled freed slaves. Police enforced “Jim Crow” segregation laws designed to block freed slaves from exercising equal rights and deny them access to the political system.

Two centuries later, systemic racism continues to pervade the U.S. criminal justice system. As noted by Khalil Muhammad—a professor of history, race, and public policy at Harvard Kennedy School—people of color “are assigned the label of criminal, whether they are guilty or not.” Muhammad explains how this process jump starts a vicious cycle: police arrest Black people without justification, then classify Black people as dangerous because of their high arrest rates, which further deprives them of their rights.

Numerous social policies are equally to blame for incarceration and violent crime in communities of color—in both Long Beach and nationwide. For instance, between the mid-1980s and mid-1990s, the federal government’s War on Drugs, the dismantling of mental health services and harsh prison sentencing guidelines all disproportionately harmed communities of color. In one clear example of systemic racism, Stanford University researchers analyzed data collected between 2011 and 2017 from nearly 100 million traffic stops. They found that police were more likely to pull over Black drivers and to search their cars, compared to white drivers.

Outrage over this type of racial profiling and over police killings ignited the Black Lives Matter movement in the summer of 2020. But long before the death of George Floyd, friction existed between communities of color and law enforcement. For instance, protests erupted in Ferguson, Mo., in 2014, after a police officer shot unarmed 18-year-old Michael Brown. Closer to home, riots broke out in Los Angeles after the 1992 acquittal of police officers who beat Rodney King. Those demonstrators took to the streets nearly three decades after the 1965 Watts riots—which were a response to California Highway Patrol officers pulling over an African American for suspected drunk driving and striking him with a baton.

Long Beach officials acknowledge that a history of police brutality and racial bias, coupled with a lack of diversity in policing, has fomented public cynicism of local law enforcement. When accepting his appointment as incoming Police Chief, Wally Hebeish referenced the need to strengthen “public trust” and demonstrate “accountability and transparency.” Currently, LBPD is implementing an Early Intervention Program to identify potential personnel issues before they become larger problems. Further, LBPD plans to expand officer training to address community concerns, as well as review and improve police department hiring practices. The City of Long Beach is also attempting to address racial inequities in public safety through strategies and goals laid out in its Framework for Reconciliation. The document commits the City to “systemically look[ing] at the social and economic barriers which perpetuate violence in communities.”

Clearly, disparities in policing are ingrained in society and extend far beyond the use of FRT. This sentiment is reflected in public comments made during Commission meetings focused on FRT. As detailed later in this white paper, community members brought up the need to build trust between Long Beach residents and the police department. They also expressed concerns about various surveillance technologies, including automated license plate readers and drones.

The Technology and Innovation Commission’s Role in FRT Policy

This Framework for Reconciliation is meant to foster trust-building, as well as to mobilize community members and policymakers for action. The City enlisted the Commission to support the plan’s goal to “redesign police oversight and accountability.” Specifically, the Commission was asked to: Explore the practice of facial recognition technology and other predictive technology models and their disproportionate impacts on Black people and people of color by reviewing evidence-based practices.

The Commission formed a 3-member ad hoc subcommittee to evaluate FRT, broadly, and to research and analyze best practices in FRT use by law enforcement agencies in other U.S. jurisdictions, while considering racial equity impacts. The ad hoc subcommittee was also charged with drafting preliminary recommendations for the use of FRT in the City of Long Beach. Between July 2021 and December 2021, the full Commission considered the findings presented by ad hoc subcommittee members.

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Commission Ad Hoc Subcommittee on FRT: Findings
SWOT (Strengths - Weaknesses - Opportunities - Threats) Findings Overview

To evaluate facial recognition technology overall, the Commission ad hoc subcommittee on FRT conducted research and analysis covering the strengths, weaknesses, opportunities, and threats (SWOT) on FRT in early 2021. In the following four sections, a high-level summary is provided covering the results of the SWOT analysis. Detailed information can be found in documents provided by the subcommittee.37 38 39

FRT: Strengths

Legitimate uses of FRT in policing exist when strong privacy, civil rights, and civil liberties safeguards are established and followed. FRT assists police in identifying or eliminating potential criminal suspects.40 Further, use of FRT along with other electronic tools can help police respond quickly to complex events such as terrorism.41 FRT is credited with preventing human trafficking, as well as with identifying and reuniting missing children and their families.42 FRT also helps speed up the identification process for deceased people while ensuring bodies are treated with dignity and respect.43

FRT: Weaknesses

Studies conducted by academics, public interest groups and governmental agencies highlight concerns with FRT:44 45

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40 IJIS Institute & International Association of Chiefs of Police. (2019, March). Law Enforcement Facial Recognition Use Case Catalog. IACOP. https://www.theiACP.org/sites/default/files/2019-
10/IJIS_IACP%20WP_LEITTF_Facial%20Recognition%20UseCasesRpt_20190322.pdf
41 Ibid.
• A 2019 study by NIST⁴⁶ found demographic differences in accuracy rates; specifically, that there was a higher chance of false positives in running one-to-one verification FRT searches by factors of 10 to beyond 100 times for Black and African Americans, Native American, American Indian, Alaskan Indian, and Pacific Islanders. This trend affects women more than men, and young and older adults compared to middle-aged adults.

• Over the last two years, at least three Black men have sued police departments after mistakenly being identified by FRT.⁴⁷ The number of wrongful arrests may be higher due to the scope of FRT use within the United States and the secrecy around its use.⁴⁸

FRT reliability been questioned by stakeholders ranging from police chiefs to ACLU lawyers, a concern compounded by commercial FRT vendors’ norm of withholding accuracy data.⁴⁹ ⁵⁰ In addition, reviewers may make technical errors using FRT, and reviewers’ personal biases may impact FRT use and outcomes.⁵¹ ⁵² Finally, in general, local governments lack sufficient multi-level review and human backup identification and mitigation policies that rigorously address data, civil liberties, and privacy protections related to FRT.⁵³ ⁵⁴

FRT: Opportunities

There are no easy wins or opportunities when it comes to FRT. However, if identified gaps or issues related to the technology are addressed—and new policies, technologies, and resources are implemented—police departments can create ecosystems necessary to support their ethical, equitable, and legal use of surveillance technologies.⁵⁵ ⁵⁶ This requires budget allocations for training and resources.

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Building public trust in police’s use of surveillance technology through “communication and transparency” is considered a crucial step. Cities should consider formal accountability and transparency systems and processes, such as a surveillance transparency ordinance. (A later section of this paper examines approaches taken by several U.S. cities to incorporate accountability and transparency systems.)

FRT: Threats

Failure to address issues related to FRT can erode public trust and spur claims that a city or police department is using racially biased and harmful technology. Accountability remains a chief concern for civil rights and community activists with FRT, including:

- lack of reporting accountability of sources and methods used by commercial FRT vendors to build their databases (e.g., Clearview AI).
- lack of transparency around police use and inadequate independent auditing.

Even when FRT use incorporates best practices and robust community input, police departments must provide rigorous and ongoing bias trainings to

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avoid unintended negative consequences—including claims of biased policing.68 69 Additionally, if a city fails to follow best practices, including limiting FRT deployment to the most serious or violent crimes,70 that city may face lawsuits like one filed against the City of Detroit.71 If police use of FRT leads to a mistaken arrest or if the public perceives police failed to fully consider privacy concerns, police-public relations may worsen.72

The findings in this SWOT analysis lead the Commission subcommittee to propose that the City of Long Beach ban local government use of FRT, as discussed in the Recommendations section of this paper.

Best Practices Research Findings: Multiple Jurisdictions

In the absence of either statewide or federal policy on FRT, U.S cities—including several in California—have led efforts to evaluate the risk-benefit profile of this emerging technology. Of note, California has enacted policies related to other surveillance technologies such as cell site simulators and automated license plate readers.73 However, the only restriction state lawmakers have adopted around FRT is a temporary prohibition integrating the technology into body-worn police cameras.74

Policy approaches on FRT by local governments are largely split between bans of FRT and surveillance ordinances.75 76 From a high level, that breakdown is as follows:

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• Roughly 17 bans against FRT that are mainly focused on police and government use with several in tandem with surveillance ordinances.

• About 19 surveillance ordinances in place that are technology-neutral frameworks based on expected privacy review, focused on government use (Note: All of these surveillance ordinances were based on the ACLU’s program, Community Control Over Police Surveillance [CCOPS] guiding principles).

Though not as widely done, several cities have created advisory groups and task forces, or studied FRT use. Additionally, the Commission’s ad hoc subcommittee members researched other cities about their approach to FRT and spoke with municipal officials to clarify and argument that research:

• **Seattle** adopted a surveillance ordinance with comprehensive staffing to support it, but is moving toward a ban on FRT


79 City of Seattle (2021). City of Seattle Privacy Program: FPF Overview. [https://drive.google.com/file/d/1MQCTAGI2tZdDGzd7rKU9nRBTKCWods/view](https://drive.google.com/file/d/1MQCTAGI2tZdDGzd7rKU9nRBTKCWods/view)

80 Facial Recognition Technology Ban Passed by King County Council - King County. (2021, June 1). King County. [https://kingcounty.gov/council/mainnews/2021/June/6-01-facial-recognition.aspx](https://kingcounty.gov/council/mainnews/2021/June/6-01-facial-recognition.aspx)

• **Portland (OR)** banned FRT with some exceptions due to bias inherent within this technology and the lack of independent entities to certify algorithms and the technology as bias-free. 81


82 Ordinance Amending Oakland Municipal Code chapter 9.64, which Regulates the City’s Acquisition and Use of Surveillance Technology (2018). Oakland City Council. [https://static1.squarespace.com/static/5edeeebc3032af28b09b6644/t/60021ee43aed6408e7ddac3/1610751716723/View+Legislation.PDF](https://static1.squarespace.com/static/5edeeebc3032af28b09b6644/t/60021ee43aed6408e7ddac3/1610751716723/View+Legislation.PDF)


A references document created by the ad hoc subcommittee explains how other U.S. cities implement and regulate their use of FRT. These efforts can inform Long Beach’s approach to regulating the technology. But best practices outlined by Georgetown Law’s Center on Privacy & Technology warrant deeper exploration in the following section.

Best Practices Research Findings: Georgetown Law

One in two U.S. adults are entered into a law enforcement FRT network. Yet few people know very little about these systems or possess protections for privacy and civil liberties. Georgetown University School of Law researchers seeking to close these gaps conducted a year-long investigation that included more than 100 records requests and interviews with police departments nationwide. Ultimately, they published a comprehensive FRT study, the Perpetual Line-Up, in 2016 that included 30 recommendations by stakeholder groups.

Below are the aspects most relevant to Long Beach’s effort to regulate FRT. A September 2021 ad hoc subcommittee presentation provides greater detail. A September 2021 ad hoc subcommittee presentation provides greater detail.

Exclude innocent people.

- Recommends following Michigan’s lead requiring the destruction of biometric data from people arrested but later deemed innocent, or who had charges against them dropped or dismissed.

Limit the use of real-time video surveillance to life-threatening public emergencies under a court order backed by probable cause.

- Real-time, continuous face recognition from street public surveillance footage or potential police-worn body cameras would enable police to secretly locate people and track their movements.

Prohibit use of FRT by statute to track down people on the basis of their race, ethnicity, religious or political views.

- Without such prohibitions, the danger exists that FRT could chill free speech or endanger access to education or public health.

Create public reporting requirements and rigorous internal audits for all police use of FRT, including:

- The number of FRT searches run
- The nature of those searches by type of deployment

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87 Ibid.
As part of its report, Georgetown Law developed a risk framework that helps police departments access, categorize and calculate the risk of various FRT searches by the most common types of deployment: 1) stop and identify; 2) arrest and identify; and 3) investigate and identify.

Ad Hoc Subcommittee on FRT Findings

• The crimes that those searches were used to investigate
• The arrests and convictions that resulted from those searches
• The databases that those searches accessed
• Any other information that the jurisdiction deems appropriate
Adopting new transparency processes may be viewed internally as burdensome. However, the following case study clarifies how the city of Oakland and 20 other jurisdictions, including Bay Area Rapid Transit (BART), have implemented by ordinance a surveillance technology vetting framework for FRT.90

As first debuted in Oakland, for each piece of surveillance technology, the relevant department must provide for public review and input on an Impact Review and a proposed Use Policy—a process that requires a mindfulness in thinking about and researching the potential impact from use of a technology before its implementation.93

- **Impact Review.** During the analysis of the technology, any privacy, civil liberties/civil rights, racial bias, and/or accuracy concerns are identified.

- **Proposed Use Policy.** Any concerns identified in the impact review process are specifically addressed and/or mitigated.

After public review and input, the department submits its Impact Review and a proposed Use Policy for approval by relevant elected body and/or civilian board. If the technology use policy is approved, then the vetting framework ordinance requires an ongoing annual report for that specific technology.

The **annual review** requires the department to demonstrate how the technology has been used, whether public safety goals are being met, how much it has cost the taxpayer, the results of audits, and the answers to two key questions:

- Does the technology work in a cost-effective manner at achieving the purported goals?

- Do the benefits of using this technology according to its (proposed) use policy outweigh the potential costs to civil liberties and the taxpayer?

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89 Surveillance Technology Reports. Bay Area Rapid Transit. https://www.bart.gov/about/reports/surveillance


For BART’s first cycle of annual reporting of seven technologies under this surveillance
technology vetting framework ordinance, staff from relevant departments collectively rated the
administrative burden in producing these reports as a “4” (scale of 1 to 10). Further, staff
estimated they collectively spent 100 hours on these seven annual reports, which included
building new processes and templates for first-time reports. Research has shown that the lower
the administrative burden associated with implementing new systems or processes, the lower
the resistance by public servants to that change.

An external organization, Secure Justice, rated BART’s annual reporting under this ordinance as
an “A” and said it was leading the way in exemplifying transparency. Encouragingly, this group
found that BART supplied sufficient specificity and information that the public should have
confidence that its use of surveillance technologies “appears responsible, that certain
technology is proven to be effective, and where other technologies have not met the standard,
BART is ceasing such use so as not to cause taxpayers an undue burden or negatively impact
civil liberties.”

97 Ibid.
Summary of Presentations Given to TIC Members
Summary of Presentations Given to TIC  

Future of Privacy Forum Senior Counsel Kelsey Finch

Future of Privacy Forum Senior Counsel Kelsey Finch presented on April 28, 2021, on “Privacy, Local Governments, & Facial Recognition Technologies.” She provided an overview of the types of facial detection, characterization, and recognition technologies as well as the internet privacy concerns. When FRT is used for identification purposes in a one-to-many search, she provided the following privacy concerns: possibility of user tracking or profiling across contexts; possibility of false matches, resulting in false suspicions or accusations; and unexpected use and/or sharing. When assessing the policy approaches taken by local governments, it is primarily split between prohibitions on FRT and surveillance ordinances, although some jurisdictions are enacting internal and technology neutral polices for governmental use of data. Finch said assessing the administrative burden associated with any new FRT policy was key to being able to effectively implement and enforce the policy.

Finch highlighted the following considerations when seeking to develop a policy response to FRT: 1) ensuring that community is engaged and their perspectives and priorities are included; 2) tailoring potential exceptions to FRT use by the nature of the use and the sensitivity of the data; 3) weighing possible unintended consequences; 4) considering accuracy in that while FRT systems are increasingly becoming more effective across all demographic groups, this fact does not necessarily fully address civil rights and equity issues; 5) addressing the scope of application and its impact; 6) allocating needed resources to better ensure enforceability and implementation of the new policy; and 7) monitoring whether there is any complementary or conflicting efforts at the state level.

LBPD Assistant Chief Wally Hebeish

LBPD Assistant Chief Wally Hebeish presented on July 28, 2021. He also attended the September 29, 2021 meeting to field questions, but did not formally present. Hebeish told the Commission that the department uses FRT software exclusively to generate investigative leads in violent crimes “based on reasonable suspicion, not predictive policing or mass surveillance.” He said that LBPD officers use FRT to compare a photo of a video frame of a suspect they are trying to identify with images in a digital database—maintained by the Los Angeles County Regional Identification System (LACRIS)—containing about 9 million booking photos (aka, mugshots). After FRT software makes a match, trained detectives must confirm the suspect’s identity through “traditional means” before arresting or charging the person, Hebeish reported. He stressed that the technology boosts the efficiency of investigations and that it is not employed for “random surveillance,” nor for “scanning crowds” during political demonstrations or other large-scale public events. Hebeish also noted that the LBPD was in the process of revising its FRT policy when he spoke to the Commission, and that the policy is posted on the Department’s website. Hebeish said that FRT is not “baked into” any city-owned security cameras, and LBPD is not currently participating in any FRT trials or pilot projects.

In response to questioning on the rationale for reserving the right to deploy FRT on the City’s public safety surveillance, which opened the door to concerns of mass surveillance, Hebeish said this provision would be removed from the department’s final FRT policy. Hebeish said FRT searches should not be limited to investigating violent crimes or other felonies, as the importance of solving certain misdemeanors justify FRT searches.

UCLA Law Professor Alex Alben

Alex Alben, an attorney who co-authored the Washington State FRT law (effective July 2021) and teaches at UCLA Law School, presented to the Commission on September 22, 2021. He articulated four principles for guiding any FRT policy:

1. **Notice**: While there exists a reasonable expectation that a person will be video recorded in a public space, most people do not expect that the government is “layering on” FRT. Therefore, public notice is appropriate. However, it is difficult to give effective notice at an intersection or on a police bodycam. But can post notice on a website or signage at the entrance of a building that directs people to a website.

2. **Transparency**: FRT has been criticized, justifiably, for sometimes relying on poor data so that the results are skewed or inaccurate. Therefore, it is important for people to understand which databases or inputs the FRT is drawing on and, to the extent possible, to expose the algorithm used. Although some jurisdictions have enacted outright bans on FRT, Alben believes this fails to solve the problem. Tech that is fair; accurate; transparent; and can be independently tested and verified is a better solution, he said.

3. **Training**: Ongoing training for personnel using FRT properly is especially important.

4. **Meaningful human review**: Whether an algorithm is used for hiring, for public housing, for public benefits, for law enforcement or for another reason, those decisions should be reviewed by humans—who can identify discriminatory impacts. “Meaningful human review” lacks a specific legal definition but Alben believes it is a workable concept. Can’t rely exclusively on computers to flag information.

Alben also stressed the importance of requiring all City agencies using FRT to routinely file accountability reports detailing how they use the technology and the sources of “data inputs.” He advocated for implementing a data management policy, including a complaint mechanism (timelines for responding to complaints, an appeal process, etc.). Requiring law enforcement officers to obtain a warrant in order to use FRT can help protect civil rights, he noted.

Alben said that, although some jurisdictions have imposed moratoriums on the use of FRT, he is skeptical of this approach because of the difficulty of determining when to lift a moratorium and because it might just “buy time.” It is preferable for stakeholders to actively work on ensuring technology is implemented “in the most fair and sensible way,” he said. Alben said he advocates for policymakers to adopt a law with lead time built in. For instance, legislative bodies can delay enforcement for a year while relevant agencies prepare and budget for implementing transparency and accountability measures.

In response to questioning about the level of community support that the bill received, Alben acknowledged that industry and law enforcement supported the passage of Washington State’s recently adopted FRT law, while civil right advocates opposed it. He said that passing the legislation required compromises—including nixing an accountability measure that would have created a task force with seats for community representatives.
LACRIS Analyst Mark Dolfi

LACRIS (Los Angeles County Regional Identification System) analyst Mark Dolfi said that 64 Los Angeles County law enforcement agencies—including the LBPD—search images with similar biometric data “as an investigative lead.” He compared it to how, in the past, detectives used physical mugshot books to create line-ups of suspects. The LACRIS database is simply a new tool for performing that same function, he said. LACRIS is not used for surveillance; the system does not accept drivers' license photos; and it does not scrape the internet for images, Dolfi said. NIST independently tests the FRT algorithm for accuracy, and those findings are public. Dolfi characterized error rates as “minor.”

Dolfi described the process for using the LACRIS database and its FRT. First, detectives capture information provided by the arrestee, in the police report, fingerprints and photos. Once investigators are ready to search, they upload the photo and the system creates “template,” based on the quality of the image. After the template is created, it is uploaded to the database and an algorithm search for matches. The algorithm does not see race, gender, age, hair color or eye color. First, the template finds the eyes; it then uses a mathematical equation to find the nose, mouth, and other features. Ultimately, the match is based on similarities between the templates. The officers conduct a “morphological analysis,” or one-to-one comparison, of the “candidate” and the match. Only trained officers have access to LACRIS’ FRT. The organization follows the same FRT standards and best practices developed for the FBI, and training methods adhere to a California Department of Justice user agreement for accessing all criminal data. In addition, Dolfi said, local police departments enforce their own facial recognition policies.

LACRIS does not store data used for each search—the database contains only booking photos (mugshots). However, photos of people who were arrested but never convicted of a crime or who were subsequently exonerated, remain in the database. LACRIS only removes photos in response to court orders, and no statute requires the database to be scrubbed. Additionally, when mugshots are taken, arrestees are not notified that their image will be stored in the LACRIS database, which contains images dating back to “1996 or 1998,” Dolfi said. Furthermore, the onus is on the arrested person to hire a lawyer to get a court order from a judge to expunge that person’s mugshot from LACRIS.
Community Input
Community Voices on FRT and Related Surveillance Technologies

Through a total of six public meetings on FRT held in April, July, August, September, and October 2021, the Commission has heard from about 24 members of the Long Beach community. The Commission’s ad hoc subcommittee on FRT reached out to community-based organizations to share meeting details and encourage participation. As a result, community leaders consistently attended these meetings, including from Long Beach Forward, Black Lives Matter Long Beach, the People’s Budget Coalition, and the Long Beach Immigrant Rights Coalition. Having the city’s diverse communities who are also most negatively impacted by FRT take part in these public discussions offered the Commission invaluable expertise. Additionally, representatives from the ACLU of Southern California and the Center for Human Rights and Privacy attended commission meetings that addressed the City’s use of FRT.

Since April 2021, the Commission has received 36 public comments on facial recognition and related surveillance technologies. Of this, six were received in written form. Of the 30 verbal testimony given by community members, seven were provided in Spanish and interpreted live during the meeting.

While community members expressed a range of concerns related to FRT, all were against the use of FRT by the City and called for either a ban or moratorium on its use. Some of those concerns focused on racial discrimination and bias; civil rights; privacy; and distrust of the Long Beach Police Department. Multiple commenters pointed to research demonstrating that FRT is more likely to misidentify people of color, resulting in “racist impacts” and the “criminalization” of BIPOC (Black, Indigenous, and People of Color) community members.

Several public comments characterized FRT as a threat to civil rights, particularly for residents of BIPOC communities subject to excessive policing and “invasive surveillance technology.” During the September 22, 2021 Commission meeting, a community member spoke out about the “deep distrust of the police” that residents feel, particularly since law enforcement increasingly relies on “advanced technology. Other comments suggested that an FRT ban would demonstrate Long Beach’s commitment to “centering the Black community.”

Several comments made during the July 28, 2021 Commission meeting echoed this sentiment. One speaker accused the City of ignoring “best practices others have developed to reduce the racial bias still present in facial recognition algorithms.” Another member of the public characterized FRT as “anti-Black” and “prone to abuse.” Calling for a ban on FRT, this person added, “You can’t reform a racist software.”

Some public comments addressed privacy-invasive technologies used by the city, including automated license plate readers and drones. “We want to ban surveillance technologies...that are laden with racial bias, often used against black people and incorrectly identifying black faces like mine, especially those of black women like me,” a resident commented on Aug. 18, 2021. During the July 28, 2021 Commission meeting, a resident expressed concern over a “lack of accountability and the need for real safeguards” in relation to the LBPD’s use of “surveillance technologies.”

Other public comments reflect distrust of local law enforcement, with several pointing to a 2020 revelation that the LBPD inadvertently shared scanned license plates with federal immigration officials, a practice that continued until June 2021. “How can we trust them to not abuse their power over and over again?” one resident asked. On
July 28, a commenter said, “...we can’t trust the police or trust the City unless they protect us...we can’t walk safely through the city or drive in the city without [our] information being tracked.”

Members of the public also questioned why the City budgets millions of dollars for “surveillance technology,” rather than investing in community-building and education. During the July 28, 2021 meeting, Commissioners heard from residents who said: “We demand respect, funding for programs that helps us rather than criminalizing us even more such as this invasive technology,” and “Spending money and resources on face recognition...is a waste of resources that can be better spent reinvesting precious dollars into supportive and community affirming services needed by this City.”

Survey Methodology on Data Privacy

In addition, the Commission considered Long Beach community members’ comfort levels with smart technologies that collect personally identifiable data. Between November 1, 2019 and August 5, 2020, about 460 people who live, work or attend school in Long Beach completed a data privacy survey printed in English, Spanish, Khmer and Tagalog. A digital version of the survey was also available on the City of Long Beach website in English and Spanish. The questionnaire is modeled after a “smart cities and data privacy” survey Bannerman and Orasch (2020) administered to Canadian residents during 2018. It is designed to gauge respondents’ attitudes toward smart technologies—including those used by law enforcement—and data sharing. Prior to the COVID-19 pandemic, staff with the City’s Technology and Innovation Department and Commissioners disseminated the paper survey during community events, focus group discussions on data privacy, and neighborhood association meetings. Smart Cities Manager Ryan Kurtzman coordinated these efforts.

While the survey findings shed light on public attitudes toward technologies that collect personally identifiable information, the Commission acknowledges this sample fails to reflect Long Beach’s diverse population—despite efforts to reach a demographically representative sample.

One survey question set asked respondents how they felt about local government using their personal information in varied contexts, including to bolster public safety. If respondents indicated support for the practice “only if the city allows me to control how these data are used,” they were prompted to identify the terms of that use. Options ranged from “I can opt in” to “I can delete my data” and “My data is aggregated with other data or masked such that my identity is concealed.”

Another section of the survey directly asked respondents how concerned they were about the prospect of smart technologies violating their privacy rights.

Focus Group Methodology

The interview protocol presented “vignettes” related to the three smart technologies previously described. Smart Cities Manager Ryan Kurtzman and a Commissioner co-facilitated seven focus group discussions with 82 residents who are demographically diverse in terms of age, ethnicity, race, education level and political ideology. A partial list of organizations that participated in data collection efforts is contained in the Appendix.
Virtual Community Meeting on the City’s Data Privacy Guidelines

On Jan. 20, 2021, Smart Cities Manager Ryan Kurtzman facilitated an hour-long discussion on Zoom to obtain feedback on Long Beach’s Data Privacy Guidelines. The City used social media and emails to promote the virtual community meeting to:

- Smart Cities Initiative community stakeholders
- Digital Inclusion community stakeholders
- City Councilmember newsletters and distribution groups
- Community groups via Commissioners

Fifteen community members, three city staff and one Commissioner participated in the meeting.

Community Engagement Findings and Analysis

The most contested survey question asked whether law enforcement agencies should be allowed to use personal data collected via the internet, smartphone apps or social media activity to predict future behaviors and take action to prevent crime or emergencies. About 42 percent of Long Beach respondents felt the practice should be permitted if they maintained control over how data are used, while 34 percent of residents outright rejected the practice. Just 13 percent of people sampled agreed that public safety agencies should “automatically” be permitted to use personal data to prevent crime. These findings reflect the qualitative responses voiced during focus group discussions. Specifically, study participants’ comfort levels varied depending on the context in which data are collected and used (i.e., to improve public safety, generally, or to target a specific individual). Focus group participants’ attitudes toward the primary actors—the LBPD—also influenced how likely they were to support the idea of law enforcement using privacy-invasive technologies. Also, residents ages 40 and older were more likely to express “somewhat” or “strong” concern about police use of their data.

Unprompted, several focus group participants brought up the issue of law enforcement agencies relying on biometric data “to catch bad guys.” “What about [the facial recognition software] Clearview and its ability to recognize anyone? We’re getting into an awful 1984 situation,” commented a member of the Gray Panthers. Another participant in this same focus group agreed that facial recognition and misidentification—“picking the wrong person”—is a legitimate concern. A Smart City Fest attendee asserted that biometrics exemplify the fact that neither private companies nor the government operate in the public interest.

Although, overall, a majority of survey respondents reported that law enforcement agencies should have access to personal data, the high percentage of those who completely disagreed with the practice suggests that Long Beach residents tend to distrust local police. Similar concerns were briefly raised during the Jan. 20, 2021 community meeting focused on Long Beach’s Data Privacy Guidelines. “We need transparency about the digital tools the city is using,” said a participant who specified automated license plate readers, FRT and geolocation collection as concerning. “Many people don’t understand how these technologies are being used or what is done with the data.” Other participants in this conversation focused on data privacy guidelines urged City officials to provide more robust training for employees, as well as to educate residents on digital literacy and the use of algorithms. “How can we hold the City accountable?” one person wondered aloud.

More than 80 percent of survey participants reported feeling “strongly concerned” or “somewhat concerned” that the use of technologies that collect personal information “could mean less privacy for Long Beach residents.” Another
15 percent of participants said they were “slightly concerned” about their privacy, while 5 percent reported feeling “not concerned” about a potential loss of privacy.

“Earn public trust” is among the four principles meant to provide a framework for Long Beach’s Smart City Initiative. Therefore, it is significant that 24 percent of survey respondents identified sharing data with residents as their top smart city goal. Similarly, 23 percent of respondents identified “including all Long Beach communities in decision-making” as a top smart city goal. The qualitative and quantitative findings strongly suggest that, as Long Beach increasingly uses privacy-invasive devices and platforms, the City must put equal effort into fostering trust, practicing transparency and engaging the public. Afterall, if residents lack confidence in public officials—particularly law enforcement—they will reject technologies that further empower these officials.

In sum, the qualitative and quantitative findings from multiple community outreach efforts underscore the need for policy frameworks that incorporate transparency. Such measures would eliminate the need for residents to guess how the City is sharing, storing and analyzing their data. Residents are particularly concerned about who has access to their personal information and the potential for it to be used in unanticipated ways.
Application and Analysis of Racial Equity and Related Lenses
The Technology and Innovation Commission was tasked with supporting implementation of the FRT aspect from the City’s Racial Equity and Reconciliation Initiative, thus using an explicit racial equity lens in the commission’s evaluation of FRT is not only appropriate, but essential. In keeping with the spirit of what this racial equity and reconciliation effort is meant to reflect, the TIC Ad Hoc Subcommittee on FRT applied a racial equity lens at all stages of its work, including research, analysis, discussion, and formulation of suggested recommendations.

The Long Beach Equity Toolkit\textsuperscript{100} is a clear authority to guide this commission’s application of racial equity analysis in this whitepaper. The toolkit emphasizes the focus on the burdens and benefits of decisions, policies, and proposals as the first of seven basic questions that public servants within Long Beach must consider when applying equity lenses in their work:

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\textit{Who would benefit or be burdened by this proposal? Would low-income households or communities of color experience a disproportionate burden?}\textsuperscript{101}
\end{quote}

The TIC ad hoc subcommittee on FRT found that current “face recognition technologies are not only insufficiently accurate but pose substantive and unequal risk to Black residents and residents of color due to inherent algorithmic biases that have not been effectively addressed in software design.”\textsuperscript{102} When the Burdens and Benefits question from the Equity Toolkit is considered, it becomes evident that Long Beach’s communities of color experience a disproportionate burden by the City’s use of FRT. Further, the information that the Commission learned from the LACRIS FRT specialist at the September 22 public meeting provided new information about how LBPD’s current FRT tool potentially violates the civil rights of Long Beach residents in these additional ways:\textsuperscript{103}

- Los Angeles County Sheriff’s Department (LASD) does not notify arrested individuals upon booking that their face will become a permanent part of their FRT mugshot database, LACRIS, which searchable again and again, a “perpetual lineup.”

- LASD’s management of LACRIS does not include any routine scrubbing of its mugshot databases to remove photos of exonerated persons or those not charged or convicted of a crime, although routine scrubbing is an established best practice.

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\textsuperscript{100} Long Beach Office of Equity (October 2019). \textit{Long beach equity toolkit for city leaders and staff}. City of Long Beach. \url{https://longbeach.gov/globalassets/health/medi-library/documents/healthy-living/office-of-equity/city-of-long-beach-office-of-equity-toolkit}

\textsuperscript{101} Ibid.


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\textsuperscript{103} Ibid.


• The onus is on the arrested person to hire a lawyer to get a court order from a judge to expunge that person’s mugshot from LACRIS. From a racial equity and justice as well as civil rights and civil liberties perspective, this situation is unacceptable, particularly since arrest data in Los Angeles County/Long Beach is disproportionately made up of BIPOC because they are more frequently targeted in policing than White residents.

This information informs the recommendations made by the Commission for a 1) moratorium on FRT, 2) the creation of an independent commission to provide oversight on the city’s use of FRT and other surveillance technologies, and 3) the passage of an ordinance-based transparency and accountability process for vetting and potentially approving all surveillance technologies.

While some populations are being harmed by this technology at higher rates than others, all residents lose when government deploys emerging technology in an indiscriminate and secretive manner.

Further, the subcommittee considered six topics from the Equity Toolkit for using an equity lens: understanding data; community engagement; decision-making; implementation; unintended consequences; and accountability and communications (pg. 8).

The ad hoc subcommittee applied other applicable lenses—civil rights, civil liberties, ethics, and privacy—in its analysis and recommendations, as well as in the development of this white paper.

Also, community members repeatedly raised racial basis, civil rights, civil liberties, accountability, and privacy concerns during Commission meetings.

“There really is no set of regulations or limits that will mitigate the serious privacy and civil rights and social risks associated with the technology.”

—Mohammad Tajsar, ACLU of Southern California (9/22/21)
Recommendations
The research, expert presentations and community input presented in this white paper inform all three of the distinct actions we recommend City Council take. The bedrock of good governance is transparency and accountability, which in turn helps increase public trust and confidence. The recommendations of the Commission reflect this and center the voices of the community members most negatively affected by this technology.

The Commission urges City Council to implement all three policy recommendations described below:

**Policy Recommendation 1: Creation of a Data Privacy Commission**

It is imperative that Long Beach create an independent commission that possesses authority and oversight of algorithmic-and-surveillance-based technologies across city departments.

**Policy Recommendation 2: Moratorium on FRT**

Underlying civil rights, racial equity and justice, and privacy concerns associated with FRT persist. Therefore, the City must pause its use of this technology and ban new or pilot FRT technologies until it can demonstrate that use of this technology poses a favorable enough benefit-to-risk profile to be an asset rather than a liability to City efforts.

And as it relates to the police department’s potential use of the LACRIS FRT, the LBPD must demonstrate it is serious about mitigating the clear civil rights and racial equity concerns. For example, while the police department lacks control over the LACRIS FRT because this system is managed by the Los Angeles County Sheriff’s Department, LBPD does control whether its policies limit use of FRT to only felonies or serious violent crime as a proactive action to demonstrate the department is not using it as a tool of mass incarceration.

**Policy Recommendation 3: Adoption of a Surveillance Technology Vetting Framework and Ongoing Monitoring of These Technologies**

Despite its drawbacks, FRT is used for legitimate purposes—such as aiding law enforcement in solving criminal investigations, identifying missing persons and disrupting sex trafficking operations. Furthermore, criticisms surrounding civil rights violations and discriminatory impacts are not isolated to FRT. In fact, both community members and expert witnesses voiced concerns about Long Beach’s use of automated license plate readers, drones with cameras and cell site simulators.

Therefore, the Commission proposes that City Council adopt a vetting and monitoring framework that would apply to all surveillance technologies capable of collecting personally identifiable information. For guidance, City Council members can look to the nearly 20 municipal surveillance ordinances already being enforced. (The FRT case study found on page 17 provides an overview of this policy approach, including an externally conducted audit.)
The ACLU also provides model language. Key provisions would mandate that each Long Beach department obtain approval from City Council prior to purchasing/adopting a surveillance technology, or contracting with a third-party vendor that uses surveillance technology and shares data. The ACLU model language would also require that the City department seeking approval must present both an impact report and a use policy to the public and City Council. Council could approve a request to fund, acquire, or use a surveillance technology only if members determine that the benefits of the proposed surveillance technology outweigh its costs, and that the surveillance use policy will safeguard civil rights and avoid disparate impacts on any one group.

Finally, based on language drafted by the ACLU, each department would need to provide City Council and the public with an annual report for each surveillance technology used. City Council would hold a public hearing to review information in the annual surveillance report and reassess whether the technology as implemented continues to meet City standards. This requires ongoing monitoring of surveillance technologies.

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104 ACLU (2022). Model legislation for a surveillance technology and community safety ordinance. [https://www.aclunc.org/sites/default/files/13.0MODELEGISLATION%20FOR%20A%20SURVEILLANCE%20TECHNOLOGY%20%26%20COMMUNITY%20SAFETY%20ORDERINANCE_1.pdf](https://www.aclunc.org/sites/default/files/13.0MODELEGISLATION%20FOR%20A%20SURVEILLANCE%20TECHNOLOGY%20%26%20COMMUNITY%20SAFETY%20ORDERINANCE_1.pdf)
APPENDIX: Focus Group Participation Information
Smart City Manager Ryan Kurtzman, Commission Chair Gwen Shaffer, and Commissioner Justin Hectus co-facilitated seven focus group discussions with 82 residents who are demographically diverse in terms of age, ethnicity, race, education level, and political ideology:

**Technology Industry Workers**

This focus group discussion was held in-person on Nov. 7, 2019 during the Long Beach Smart City Fest. Five event attendees participated.

**Older Adults**

Two focus groups were held in-person on March 7, 2020 during a regular meeting of the Long Beach Gray Panthers, an alliance that provides education and advocacy on social justice and policy issues affecting older adults. Twenty-eight attendees participated.

**Downtown Residents**

This focus group discussion was facilitated in-person on March 14, 2020. Eleven neighbors, all working professionals who own units in the same downtown condominium building, participated.

**Business Leaders**

This focus group discussion was facilitated via Zoom on April 29, 2020 during a meeting hosted by the Long Beach chapter of Rotary International, a network that brings together business leaders for social action and community-building activities. Twenty-three members participated.

**Latinx Young Adults**

This focus group discussion was facilitated via Zoom on May 21, 2020. Seven young adults (between the ages of 15 and 25) who aged-out of a DAYS Long Beach program for low-income kids but continue to meet weekly, participated, along with one adult advisor.

**Teens**

This focus group discussion was facilitated via Zoom on July 17, 2020. Seven high school students working at a YMCA summer program participated.
Acknowledgements

The Commission thanks city staff and community for their participation and contributions to the development of this white paper.
VIA EMAIL

July 6, 2022

Alyssa Gutierrez, Chair
Equity and Human Relations Commission
City of Long Beach

Re: ACLU of Southern California Comment on LBPD Surveillance Technology Acquisition

Dear Members of the Equity and Human Relations Commission,

We understand this Commission is currently assessing the process by which the Long Beach Police Department acquires surveillance technology, and has expressed interest in the ACLU-developed Community Control Over Police Surveillance (“CCOPS”) model. If this Commission truly seeks to respond to the community’s consistent demands, it will urge the City to bar LBPD from expanding its surveillance arsenal and end its existing surveillance systems. Creating a new approval process or approval criteria for acquiring surveillance contradicts the Long Beach community’s demands, and we oppose any efforts by this Commission to enact such a process or criteria in light of LBPD’s history of surveillance abuse and police violence. Instead, we commend the Commission for taking up LBPD’s widespread use of Automatic License Plate Reader technology and face recognition services, and urge the Commission to recommend that the City ban the use of both citywide.

Fundamentally, the CCOPS model is about community control. Its purpose is to put the community in control of surveillance decisions, which requires that decisionmakers center and address community concerns about surveillance technology. To operate as intended, oversight entities must have the authority—and be willing—to say “No” when police seek to acquire or use surveillance technologies that the public opposes.

The history of LBPD’s surreptitious acquisitions and use of such technology—and the Long Beach City Council’s refusal to heed community calls to end such use—demonstrate that neither can be trusted to listen to the community’s voices, particularly Black and Latinx community members most directly impacted by unjust surveillance practices. For instance, LBPD’s well-documented decision to surreptitiously disclose sensitive ALPR data to federal immigration enforcement authorities in violation of state law and after committing to end the practice calls into question its ability to abide by any mechanisms for community control over its surveillance acquisition practices.\(^1\) LBPD has also exploited its surveillance arsenal to target

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\(^1\) Kevin Flores, “City Council to Decide Whether to Buy Controversial License Plate Readers,” Forthe (last updated November 21, 2020), [https://forthe.org/journalism/license-plate-readers/](https://forthe.org/journalism/license-plate-readers/); Suhaina Hussain and Johana Bhuiyan, “Police in Pasadena, Long Beach pledged not to

EXECUTIVE DIRECTOR Hector O. Villagra
protestors of police brutality and misconduct through the ill-supported use of ALPR technology and through the legally suspect use of face recognition (despite refusing to release public records about its use of this technology). In neither case did City Council meaningfully investigate or reprimand the Department for these abuses.

Further, LBPD has a long and sordid history of rampant police violence, consistently ranking among the most deadly departments in the state. Invasive surveillance technologies like face recognition and ALPRs in the hands of a department with this history poses a serious danger to Black and Latinx communities historically targeted by policing in Southern California—irrespective of the constraints that may be imposed upon it through strict use policies that, as history has shown, may not to be complied with at all.

This background demonstrates both that LBPD should not be trusted to create rules to regulate its own use of surveillance technologies, and that the City Council should not be empowered at the community’s expense to oversee LBPD’s acquisitions of surveillance technology. The ACLU of Southern California opposes any effort to exploit the CCOPS model to sanction the adoption of new surveillance technologies by LBPD and undermine its purpose to put the community in control of surveillance decisions. Accordingly, ACLU SoCal believes that the only way to protect the community from the unfettered use of surveillance that will inevitably be used to disproportionately target Black and Latinx people is to prohibit LBPD from obtaining these surveillance systems in the first instance.

We would welcome the opportunity to address the Commission concerning the above during its August 3, 2022 meeting.

Regards,

Mohammad Tajsar
Senior Staff Attorney


4 See, e.g., Police Scorecard: Long Beach, https://policescorecard.org/ca/police-department/long-beach (last visited July 2, 2022) (noting that LBPD has more police shootings than 85% of California departments for which data exists, and uses more force per arrest than 96% of departments); Jeremiah Dobruck, “Statistics show LBPD seriously injures people at high rate, but police say database is flawed,” Long Beach Post (August 3, 2020), https://lbpost.com/news/lbpd-use-force-hurt-seriously-kill-ursus-doj-database (noting that data shows LBPD kills and seriously injures individuals at a rate “more than twice as high as Fresno and Sacramento, cities roughly the same size as Long Beach” and has a per-capita violence rate “almost triple the LAPD’s and more than five times as high as San Francisco police”).