Submitted by: Assembly Vice Chair Zaletel
Assembly Member Rivera
Assembly Member Volland
Prepared by: Assembly Counsel's Office
For reading: July 16, 2024

ANCHORAGE, ALASKA
AO No. 2024-69, As Amended

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.102, *MUNICIPAL USE OF SURVEILLANCE TECHNOLOGIES*, TO ADD A REQUIREMENT FOR A BODY-WORN CAMERA POLICY AND TO REORGANIZE THE CHAPTER.

WHEREAS, in 2020 the Assembly approved AO 2020-116(S) submitting to the voters of the Municipality, a ballot proposition levying a special tax dedicated to fund the Anchorage Police Department's acquisition of computer aided dispatch, record management systems, in-car and body-worn cameras and related technologies; and

WHEREAS, at the regular election held April 6, 2021, voters approved the special levy put forth in AO 2020-116(S) to provide funds sufficient to the Anchorage Police Department to acquire body-worn cameras as well as other technologies; and

WHEREAS, on March 1, 2022, the Anchorage Assembly approved AR 2022-070 a ppropriating the sum of Eight Hundred Ninety Thousand Dollars ($890,000) granted from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance to the Federal Grants Fund (241900), Anchorage Police Department for the establishment of a lease agreement to implement a body-worn camera program; and

WHEREAS, at the end of March 2022, the Anchorage Police Department had completed an initial draft policy for the use and implementation of body-worn cameras; and

WHEREAS, in late May 2022, it was reported that the Municipality still had not begun negotiations with Anchorage Police Department Employees Association (APDEA), the union representing Anchorage police officers, regarding the drafted policies and procedures applicable to officers; and

WHEREAS, on October 5, 2022 more than nine months after the Assembly had appropriated money for the procurement of body-worn cameras, the Purchasing D epartment released a Request for Proposal, seeking bids to provide body-worn cameras for the Anchorage Police Department; and

WHEREAS, on November 2, 2022 the Anchorage Police Department reported at a meeting of the Public Safety Committee of the Anchorage Assembly that it was unable to resolve the issue of officer access to body-worn camera footage through negotiation with the union and it would have to be resolved through arbitration, a process requiring six to nine months; and

WHEREAS, on April 19, 2023, the Alaska Black Caucus filed suit against the Municipality of Anchorage, requesting the court issue an injunction requiring the Anchorage Police Department to begin equipping its officers with body-worn cameras; and

WHEREAS, on April 20, 2023 the Anchorage Police Department announced that it would move forward with its purchase of body-worn cameras, despite its ongoing arbitration with the union; and

WHEREAS, on May 24, 2023 the Anchorage Police Department announced that they had reached a resolution with APDEA regarding the draft body-worn camera policy disagreements that have contributed to delays in equipping officers with the technology; and

WHEREAS, the Anchorage Police Department announced it would begin deployment of body-worn cameras the week of November 13, 2023 with full implementation expected in March of 2024; and

WHEREAS, presently the Anchorage Police Department has completed its initial deployment of Body Worn Cameras, and yet the Anchorage Municipal Code does not contain any provision mandating or regulating their use, nor any acknowledgement of their existence; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 3.102, Municipal Use of Surveillance Technologies, is hereby amended to repeal current Section 3.102.030, Exceptions, attached hereto as Exhibit A, and add a new section to read as follows (*requiring no legislative formatting):*

3.102.030. Body-worn cameras.

A. There shall be a body-worn camera policy governing the employment and use of body-worn cameras, to include the standards for the storage, preservation, review, release and disposition of digital multimedia evidence by the Anchorage Police Department.

i. The policy shall contain a mandatory procedure and timeline for the review and release of body-worn camera footage of critical incidents. The policy may provide for

footage to be edited or redacted, but shall ensure that the footage released is a fair, accurate, and thorough depiction of the critical incident. A delay beyond the established release date shall constitute a denial of any pending public records request, upon which the requestor may, notwithstanding the provisions of section 3.90.060, immediately seek appropriate relief from the superior court.

ii. The policy shall be reviewed by the Municipal Attorney and approved by the Chief of Police.

B. Any use of body-worn cameras or digital multimedia evidence shall be in accordance with the approved body-worn camera policy. Failure to adhere to the policy may be considered grounds for corrective action or discipline under established police department policies and procedures.

(AO No. 2018-5, § 1, 2-13-18)

Section 2. Anchorage Municipal Code section 3.102.005 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out):*

3.102.005. Definitions

Body-Worn Camera System means a body-worn audio/video recording system primarily consisting of a camera and an internal battery pack.

Digital Multimedia Evidence (DME) means all digital recordings, including but not limited to audio, video, photographs, and their associated metadata. Metadata includes any digital identifiers that are captured as part of the actual recording, such as date/time, GPS coordinates, labeling, etc.

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(AO No. 2018-5, § 1, 2-13-18; AO 2023-35(S-1), § 1, 4-18-23)

Section 3. Anchorage Municipal Code section 3.102.020, is hereby amended to add back in the language from section 3.102.030, concerning exceptions to the restriction on the use of facial recognition technology, which is repealed below by Section 3 of this ordinance, as follows *(the remainder of section 3.102.020 is not affected and therefore not set out):*

3.102.020 Restrictions on the use of facial recognition technology.
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E. Exceptions.

1. Nothing in this chapter shall prevent the Municipality from:

a. Acquiring, obtaining, retaining, or accessing facial recognition technology on an electronic device intended for a single user, such as a mobile communication device, cellular phone or tablet, when the facial recognition technology is used solely for the purpose of the user;

b. Acquiring, obtaining, retaining, or accessing social media or communications software or applications intended for communication with the general public that include facial recognition technology, as long as the municipality does not intentionally use the facial recognition technology;

c. Having custody or control of electronic devices that include facial recognition technology when such electronic devices are held by the municipality solely for evidentiary purposes;

d. Acquiring, obtaining, retaining, or accessing facial recognition technology solely for the purpose of using automated or semiautomated redaction software;

e. Complying with the National Child Search Assistance Act, 34 U.S.C. §§ 41307-413087, or other federal statutes requiring cooperation in the search for missing or exploited children; or 6. Participate in, coordinate with, or otherwise be involved with multi-agency law enforcement investigations, working groups or task forces. Specifically, municipal law enforcement may intentionally work with third party agencies using Facial Recognition Technology to identify:

i. Human remains or suspected missing persons;

ii. Suspected victims of human trafficking; or

iii. Suspected victims of child abuse or exploitation.

2. It shall not be a violation of this chapter for the municipality to acquire, obtain, or retain facial recognition technology when all the following conditions exist:

a. The facial recognition technology is an integrated, off the shelf capability, bundled with software or stored on a product or device;

b. Other functions of the software, product, or device are necessary or beneficial to the performance of municipal functions;

c. The software, product, or device is not acquired for the purpose of performing facial recognition;

d. The facial recognition technology cannot be deleted from the software, product, or device;

e. The municipality does not use the facial recognition technology; and

f. The municipal department, agency or official seeking to acquire the software, product, or device discloses the integrated, off the shelf facial recognition technology that cannot be deleted to the Assembly when seeking to acquire the software, product, or device.

F. Recognizing that changes in technology and circumstances may require additional exceptions to the requirements of this section, the assembly may approve such additional exceptions by resolution, under the following conditions:

1. Any municipal department that requests an exception to the restrictions of section 3.102.020 shall include in its request to the assembly an explanation of the need for an exception, a description of how the technology or information will be used, and a plan for monitoring the technology or information to ensure that its use remains within the approved parameters.

2. The assembly may approve the proposed exception by resolution pursuant to a public hearing, with or without revisions and conditions, for a period of no longer than 90 days, if it finds that the exception is consistent with the stated goals of

preventing discrimination and promoting privacy, transparency, and the public trust.

3. Upon conclusion of the period of temporary exception, the department shall submit a report of its uses of the technology or information to the assembly. The department may at that time or subsequently request the assembly make the exception permanent by ordinance adding it under section 3.102.030D.

4. A department that has obtained a permanent exception shall submit an annual summary of its uses of the technology or information as part of the Annual Surveillance Report under Section 3.102.040 to the assembly. This summary shall not include personally identifiable information.

G. Additional permanent exceptions.

1. Reserved.

(AO No. 2018-5, § 1, 2-13-18; AO 2023-35(S-1), § 1, 4-18-23)

Section 4. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 30th day of July, 2024.

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Chair

ATTEST:

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Municipal Clerk