

## ARTICLE 1 - PURPOSE AND INTENT

The Privacy Advisory Board (“Board”) was established by the Council of the City of San Diego (“Council”) in Ordinance O-21446, effective May 12, 2022, codified in San Diego Municipal Code (Municipal Code) Chapter 2, Article 6, Division 00, Sections 26.42 and 26.43 which states:

It is the purpose and intent of the Council to establish a Privacy Advisory Board to serve as an advisory body to the Mayor and Council on policies and issues related to privacy and surveillance. The Board will provide advice intended to ensure transparency, accountability, protection of rights, and public deliberation in the City’s acquisition and use of surveillance technology.

## ARTICLE 2 - DUTIES AND FUNCTIONS

The Privacy Advisory Board shall:

1. Provide advice and technical assistance to the City on best practices to protect resident and visitor privacy rights in connection with the City's acquisition and use of surveillance technology.
2. Conduct meetings and use other public forums, including but not limited to public surveys and polls, to collect and receive public input on the above subject matter.
3. Review Surveillance Impact Reports and Surveillance Use Policies for all new and existing surveillance technology and make recommendations prior to the City seeking solicitation of funds and proposals for surveillance technology.
4. Submit annual and, at the Board’s discretion, ad hoc written reports, and recommendations to the Council regarding:
  - (A) The City’s use of surveillance technology; and
  - (B) Whether new City surveillance technology privacy and data retention policies should be developed or existing policies should be amended.
5. Provide analysis to the Council of pending federal, state, and local legislation relevant to the City’s purchase and/or use of surveillance technology.

## ARTICLE 3 - ORGANIZATION AND MEETING

Under Municipal Code section 26.42 the Board shall consist of nine members, who shall serve without compensation. At least six of the members shall be residents of the City of San Diego. Members shall be appointed by the Mayor and confirmed by the Council.

### Section 1. Composition

- (A) All members of the Privacy Advisory Board shall be persons who have a demonstrated interest in privacy rights through work experience, civic participation, and/or political advocacy.
- (B) The Mayor shall appoint the nine members from the following representative areas of organizational interest, expertise, and background:
  - 1. At least one attorney or legal scholar with expertise in privacy or civil rights, or a representative of an organization with expertise in privacy or civil rights;
  - 2. One auditor or certified public accountant;
  - 3. One computer hardware, software, or encryption security professional;
  - 4. One member of an organization that focuses on open government and transparency or an individual, such as a university researcher, with experience working on open government and transparency; and
  - 5. At least four members from equity-focused organizations serving or protecting the rights of communities and groups historically subject to disproportionate surveillance, including communities of color, immigrant communities, religious minorities, and groups concerned with privacy and protest.
- (C) No member may have a state law prohibited financial interest, employment, or policy-making position in any commercial or for-profit facility, research center, or other organization that sells data products, surveillance equipment, or otherwise profits from recommendations made by the Privacy Advisory Board.

## Section 2. Appointment and Terms

- (A) Members shall serve two-year terms, and each member shall serve until a successor is duly appointed and confirmed. Members are limited to a maximum of eight consecutive years.
- (B) Initial members shall be appointed in staggered terms. For the initial appointments, five members shall be appointed to an initial term that will expire in 2023, and four members shall be appointed to an initial term that will expire in 2024. Initial appointments for less than the full term of two years shall not have the initial term count for purposes of the eight-year term limit.
- (C) All members' terms shall expire on March 15 in the year of termination. Any vacancy shall be filled for the remainder of the unexpired term.

## Section 3. Meetings

- (A) The Board will meet at least once a month at a place and time to be designated by the Chair. Special meetings and/or hearings may be called by the Chair or Vice Chair, provided a quorum of the Board is available and proper notice is provided pursuant to the Ralph M. Brown Act (Brown Act).

All meetings shall take place within the City of San Diego. All meetings of the Board shall be open to the public in accordance with the Brown Act. In all procedures not provided for by these bylaws, the Charter of the City of San Diego, or the Municipal Code, the Board shall be governed by Robert's Rules of Order, Newly Revised.

- (B) All regular meetings are mandatory for all Board Members. Virtual appearances are allowed under certain circumstances and with certain requirements, both as specified in the Brown Act.
- (C) Members who appear in person for a meeting may request that the City reimburse them for mileage and parking. For any Board meeting that is expected to last more than two hours, the Chair may request that the City make food available to Board Members who appear in person for a meeting. Any such reimbursement or providing of food is at the sole discretion of the City and shall be consistent with the City's rules and regulations for such reimbursements.

#### Section 4. Quorum

- (A) Under Municipal Code section 26.42(f)(1), a quorum of the Board is five members.
- (B) If a quorum is not established within thirty (30) minutes of the noticed start time of a meeting, the Chair, at their discretion, may cancel the meeting.
- (C) The Chair may, in their discretion, cancel a meeting in advance due to lack of quorum. Any meeting cancellations shall comply with the Brown Act.

#### Section 5. Agendas and Docketing of Items

- (A) The Chair shall prepare the agenda, with appropriate staff or legal review, and in accordance with the requirements of Municipal Code Chapter 2, Article 10, Division 1.
- (B) Any Board Member, City staff, or member of the public may request that an item be placed on the agenda by notifying the designated staff person (as defined in Article 9) or the Chair, in writing, prior to the first Thursday of each month.
- (C) If five (5) Board Members request to place an item on the agenda, the Chair shall place the requested item on a future meeting's agenda within three (3) meetings of the request or affirmative vote.
- (D) Except for items where docketing is required by law, including the Brown Act or the Municipal Code, or in these Bylaws, the Chair shall make final determinations regarding docketing of agenda items in consultation with the Vice Chair and designated staff person.
- (E) Nothing in this Section 5 shall change the requirements for agenda noticing and modification to the agenda, as required by the Brown Act or other applicable law.

## Section 6. Notice of Agenda, Time, and Place of Meetings

Agendas containing information as to time, place, and business of a regular Board meeting shall be provided to all Board members and posted at City Hall as well as on the Privacy Advisory Board website by Board Staff at least 72 hours prior to each meeting . Board members shall be given at least 24 hours' notice prior to any special meeting. However, the Board recommends notice be given 72 hours prior to any special meeting.

## Section 7. Absences and Vacancies; Suspension

- (A) The Chair, or the Vice Chair if the absent Member is the Chair, has the discretion to excuse the absence of a Board Member.
- (B) The Board shall notify designated staff in the event of:
  - (1) Receipt of a resignation in writing from one of its members;
  - (2) Death or incapacitation of one of its members;
  - (3) The second consecutive unexcused absence from the Board's regular meetings; or
  - (4) The third unexcused absence in the 12-month period of January through December of a member(s) from any of the Board's meetings.
- (C) Upon receipt of notice from the Board, the designated staff shall notify the Mayor.
- (D) A Member must immediately notify the designated City staff and cease any further participation on the Board, pending a vote by the Council to formally remove and replace the Member, if any of the following circumstances occur during the Member's term: (1) the Member is incarcerated in any jail or prison and unable to serve or (2) the Member is convicted of or found to be liable for (i) malfeasance in office; (ii) a felony; (iii) a felony or misdemeanor where they are required to register as a sex offender pursuant to California Penal Code section 290; (iv) criminal violation of state or local conflict of interest laws; (v) a violent crime against a government employee or official; or (vi) violations of laws of confidentiality or privacy.

## Section 8. Rules

- (A) Actions on recommendations to the Mayor and City Council related to technology reviews, Board governance, and membership and election of Board Officers may be taken only by 2/3 vote of all current appointees to the Board.
- (B) All other actions may be taken by a majority vote of the quorum present, unless otherwise specified in these Bylaws.
- (C) Public Input

(1) Public Input on All Items

At every public meeting, members of the public shall have an opportunity to address the Board on matters within the Board's subject matter jurisdiction. Public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for such public comment. Members of the public wishing to speak, and who have appropriately indicated their request to speak, shall be provided up to two (2) minutes to speak, unless the Chair otherwise limits the total amount of time allocated for public discussion on particular issues and/or the time allocated for each individual speaker.

(2) Public Input on Items Not Officially Noticed for the Agenda (Non-Agenda Public Comment)

The Board shall not act on or discuss matters brought before the Board at a meeting that were not on the agenda of the meeting unless action or discussion on such matters is permissible under the Brown Act. Those non-agenda items brought before the Board that the Board determines will require consideration and action and where action at that meeting is not so authorized may be placed on a future agenda.

(3) Identification of Speaker

At the beginning of each public comment session, the Board shall request persons addressing the Board to state their names and the organization they represent, if any. They shall be asked to confine their remarks to the subject under discussion, unless they speak during the Non-Agenda public comment portion of the agenda.

(D) Any dispute of procedure will be ruled on by the Parliamentarian using Brown Act, City Charter, Municipal Code, these Bylaws, and Robert's Rules of Order Newly Revised for guidance.

## ARTICLE 4 – OFFICERS

Officers shall be a Chair, Vice Chair, Parliamentarian, and Recorder chosen from among the confirmed appointees to the Privacy Advisory Board.

### Section 1. The Chair shall:

(A) Preside at all Privacy Advisory Board meetings and shall submit agenda, recommendations, and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the Privacy Advisory Board.

(B) Sign all documents necessary to carry out the business of the Privacy Advisory Board.

- (C) Serve as the official spokesperson for the Board.
- (D) Serve as the official Board liaison with the City.
- (E) Be responsible for all duties designated to the Chair in Municipal Code Chapter 2, Article 10, Division 1.

#### Section 2. The Vice Chair

The Vice Chair shall assist the Chair as directed by the Chair, and shall assume all the obligations and authority of the Chair in the absence or recusal of the Chair.

#### Section 3. Additional Officers

- (A) The Parliamentarian shall assist the Chair and Vice Chair in maintaining the Rules of Order and procedures for the meeting.
- (B) The Recorder shall assist the Chair and Vice Chair in taking and distributing meeting minutes, except when meetings are recorded; timekeeping; and summarizing the meeting and action items at the end of each meeting.
- (C) The Board may elect additional officers as 2/3 of the current members of the Board deems necessary, in accordance with the provisions of these Bylaws.

#### Section 4. Election of Officers

The Officers shall be elected by an affirmative vote of 2/3 of current members of the Board. At the first regular meeting, and subsequently at the first regular meeting of each year, members shall elect Officers.

#### Section 5. Removal of Officer Positions

An affirmative vote of 2/3 of current members can remove any Officer from office.

#### Section 6. Officers' Terms of Office

The Board shall elect a Chair, a Vice Chair, a Parliamentarian, and a Recorder on or after January 1. Officers shall be elected at the first Board meeting of the calendar year, for a term of one year. For 2023, Officers shall serve until new officers are elected in January 2024.

#### Section 7. Officer Vacancies

If the office of the Chair becomes vacant, the Vice Chair shall become Chair and serve for the remainder of the term of the office. If the office of the Vice Chair becomes vacant for any reason, the Board shall vote to elect a successor from among the confirmed appointees of the Privacy Advisory Board at the Board's

next regular meeting, and such office shall be held for the remainder of the term of the office.

## ARTICLE 5 – BOARD WORK; COMMITTEES

### Section 1. Technology Reviews and Reports

For each technology submitted for review by City departments:

- (A) The Board shall place the technology to be reviewed on the Board’s agenda for presentations and discussion;
- (B) After the City’s presentation, public comment, and discussion, the Chair shall assign Board Members to a subgroup to conduct such additional research community sessions as the Board sees fit and to propose a first draft of recommendations. All subgroup meetings must comply with Brown Act requirements for public notice and comment. The subgroup will provide a draft for consideration and action during a public meeting of the Board.
- (C) The Chair will provide the final report and votes to the designated City staff.

### Section 2. Ad Hoc Committees

The Chair may from time to time establish ad hoc committees to perform specific tasks. All committee members must be confirmed appointees to the Board. An ad hoc committee shall dissolve at the discretion of the Chair, or when the task is completed and the final report is given. No ad hoc committee will have more than 4 members. Subject Matter Experts The Board and subcommittees may utilize non-compensated subject matter experts, as needed. Advisors may not cast any votes.

## ARTICLE 6 - PARLIAMENTARY AUTHORITY

### Section 1. Robert’s Rules of Order

The business of the Board shall be conducted, to the extent possible, in accordance with parliamentary rules as contained in the most recent edition of Robert’s Rules of Order Newly Revised, except as modified by these rules and in accordance with State open meeting laws and local open meeting laws, including, without limitation, the Brown Act and the Municipal Code. Failure to comply with Robert’s Rules of Order shall not constitute cause for invalidation of any eligible Board action of which the Board clearly expressed approval.

### Section 2. Representation of the Privacy Advisory Board

Any official representations on behalf of the Board before the City Council or any other public body shall be made either by the Chair or by a member of the Board

that was specifically so designated by an affirmative vote of the majority of the Board.

#### ARTICLE 7 - COMMUNITY AND MEDIA RELATIONS; CITY RELATIONS

The Chair shall be the official spokesperson for the Board. The Chair shall be empowered to represent to the public any positions or views that have been decided upon by the Board. No other member of the Board shall speak for or on behalf of the Board, unless that member is first designated as an alternate spokesperson by a majority vote of the Board's confirmed appointees.

When circumstances require public comment from the Board on an issue or event about which the Board has not yet taken a position, the Chair may respond.

#### ARTICLE 8 - ORDER OF BUSINESS

The suggested order of business for regular Board meetings shall be as follows:

1. Call to Order/Roll Call.
2. Approval of Minutes.
3. Non-Agenda Public Comment. The Chair may exercise discretion to hear non-agenda public comment at the end of the meeting.
4. Chair's Report.
5. Information Items.
6. Action Items.
7. Board Comments/Announcements.
8. Proposed Agenda Items for Future Meetings/Board Member Agenda Requests.
9. Adjournment.

#### ARTICLE 9 - STAFF

The City shall provide to the Board necessary technical and administrative assistance as follows:

1. Preparation of and posting of public notices as required by the Ralph M. Brown Act;
2. Preparation and copies of any documentary meeting materials, such as meeting minutes, agendas, and reports;
3. Provision of video conferencing platforms and collaboration spaces and tools, including document sharing services; and
4. Retention of all Board records, and providing public access to such records.

#### ARTICLE 1 – ADOPTION



The Board adopts these Bylaws and may modify them by a vote of 2/3 of the current members of the Board.

Last updated: