

Summary

Board Bill Number 95

Primary Sponsor: Alderwoman Annie Rice

July 10, 2020

This Board Bill sets forth regulations for the use of surveillance technology by the City of St. Louis containing a severability clause and emergency clause.

**BOARD BILL NUMBER 95 INTRODUCED BY: ALDERWOMAN ANNIE RICE/
ALDERMAN JOHN COLLINS-MUHAMMAD / ALDERMAN JESSE TODD /
ALDERMAN BRET NARAYAN / ALDERMAN/ ALDERWOMAN CARA SPENCER/
ALDERWOMAN CHRISTINE INGRASSIA/ ALDERWOMAN SARAH MARTIN/
ALDERWOMAN MEGAN GREEN/ ALDERMAN DAN GUENTHER/ ALDERMAN
SHANE COHN/ALDERWOMAN PAMELA BOYD**

1 An ordinance setting forth regulations for the use of surveillance technology by the City of St.
2 Louis; requiring surveillance technology usage, rules, regulations, specific technologies and
3 guidelines be established and approved by the Board of Aldermen, before any such surveillance
4 technology may be used and plans may be put into practice; and containing a severability clause
5 and emergency clause.

6 **WHEREAS**, the use of surveillance technology is becoming an increasingly common, and

7 **WHEREAS**, these technologies include various types and sizes of cameras, internet surveillance
8 programming, listening devices, phone monitoring systems and other technologies; and

9 **WHEREAS**, a number of studies have shown that surveillance technologies are developing
10 faster than the laws to govern them, resulting in an imbalance between governance and the use of
11 these technologies and causing numerous cities across the country to enact new and/or revised
12 statutes to ensure the civil rights and liberties of their citizens where the lawful use of
13 surveillance technology is approved by their local legislature.

14 BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

15 **SECTION ONE. Definitions.**

16 1. “City Entity” means any agency, department unit, commissions, or unit of the City of St. Louis
17 or any governmental unit operating within the City of St. Louis.

1 2. “Discrimination” means the disparate treatment or consideration of, or making a distinction in
2 favor or against a person based on the characteristics, real or perceived, for which discriminatory
3 treatment is prohibited under the laws and regulations of the United States, the State of Missouri,
4 and the Charter and ordinances of the City of St. Louis, which shall include the following
5 characteristics; race, religion, national origin, age, sex, sexual orientation, gender identity,
6 pregnancy, familial status, disability, veteran status and genetic status.

7 3. “Disparate Impact” means an adverse effect that that is disproportionately experienced by
8 individuals having traits, characteristics, or status as to which discrimination is prohibited under
9 the Constitution or any laws of the United States, under the constitution or any law of the state of
10 Missouri, or under the Charter or any ordinance of the City of St. Louis.

11 4. “Surveillance Data” means any information or data collected, captured, recorded, retained,
12 processed, intercepted, analyzed, or shared by surveillance technology.

13 5. “Surveillance Technology” shall mean any electronic or other device, system(s), vehicle or
14 software, that is capable of collecting, capturing, and recording and/or transmitting information,
15 or used for communicating information or sharing information captured while-live, or used for
16 the processing and analysis of information, whether audio, video or still imagery, thermal
17 imagery, genetic biometric data, or other data and information regardless of format, that may be
18 used for the purpose of monitoring activities, behavior, or changing conditions in order to
19 influence, manage, monitor, or protect the safety and welfare of individuals or groups, or to aid in
20 the prevention of criminal activity or the investigation of suspected criminal activity, or the data
21 therefrom used or made available to any City Entity for us, Surveillance Technology includes

1 hand held video or audio equipment, except when used for restricted-access crime scene analysis
2 and predictive policing algorithms. Surveillance Technology includes facial recognition
3 technology and software. “Surveillance Technology” does not include the following unless they
4 have been equipped with, or are modified to become or include, a surveillance technology as
5 defined herein:

6 a. Routine office hardware (such as televisions, computers, and printers) that are in
7 widespread public use and will not be used for any surveillance or surveillance related
8 functions;

9 b. Parking Ticket Devices (PTD);

10 c. Surveillance devices that cannot record or transmit audio or video or be remotely
11 accessed, such as image stabilizing binoculars, night vision goggles, or similar imaging
12 devices;

13 d. Municipal agency databases that do not and will not contain any data or other
14 information collected, captured, recorded, retained, processed, intercepted, or analyzed by
15 Surveillance Technology; and

16 e. Manually-operated technological devices that are not used primarily for internal
17 municipal entity communications and are not designed to surreptitiously collect
18 surveillance data, such as radios and email systems.

19 6. “Surveillance Technology Use” shall mean any physical or digital system, routine, practice or
20 process that uses Surveillance Technology. If a given tactic, such as mobile cameras placed in

1 alleys, is used repeatedly, the tactic as a whole shall be considered a Surveillance Technology
2 Use rather than individual instances of the tactic.

3 7. “Viewpoint-based” shall mean targeted at any community or group or their individual
4 members because of their exercise of rights protected under the First Amendment of the United
5 States Constitution.

6 **SECTION TWO. City of St. Louis Surveillance Technology Use Policy.**

7 A. Purpose. The purpose of this ordinance is to ensure that City Entities only use surveillance
8 technologies for the benefit of the public’s safety and welfare, and shall implement affirmative
9 measures to ensure such uses do not infringe upon the public’s or individuals’ civil rights and
10 liberties.

11 B. Promulgation of rules and regulations. The Director of the Civil Rights Enforcement Agency
12 shall promulgate and oversee the implementation of generally applicable rules and regulations to
13 govern City Entities’ uses of Surveillance Technology as provided in this ordinance and
14 consistent with applicable federal and state laws and regulations, and the Revised Code of the
15 City. Said rules and regulations shall be referred to as the City of St. Louis Surveillance
16 Technology Use Policy (the “Policy”). The Policy shall ensure that City Entities’ use of
17 Surveillance Technology is done solely for the benefit of the public’s safety and welfare and will
18 not result in discrimination or a Disparate Impact, or infringe upon the public’s or individuals’
19 civil rights or liberties, and comply with the Revised Code of the City of St. Louis and all
20 applicable federal and state laws and regulations.

21 C. Administration and oversight.

1 1. The Director of the Civil Rights Enforcement Agency shall assemble an advisory
2 committee to develop the Policy, to review Surveillance Technology Use Plans, and
3 assemble the Agency's annual report. This advisory committee shall be composed of at
4 least fifty percent residents of the City of St. Louis not employed by the City of St. Louis.

5 2. The Director of the Civil Rights Enforcement Agency shall be responsible for the
6 administration and implementation of the Policy, and shall monitor and oversee City
7 Entities' uses of Surveillance Technology to ensure their compliance with the Revised
8 Code of the City of St. Louis, and applicable federal and state laws and regulations.

9 3. If the Director of the Civil Rights Enforcement Agency determines that a City Entity's
10 use of Surveillance Technology is not in compliance with the Policy, or the applicable
11 Surveillance Technology Use Plan, the Revised Code of the City of St. Louis, applicable
12 federal and state laws and regulations, or such use is contrary to the spirit and intent of
13 this ordinance he or she shall report the violation to the Public Safety Committee of the
14 Board of Aldermen, post the violation publicly on the Director of the Civil Rights
15 Enforcement Agency's website, and may direct City Entities to make changes to their
16 uses of Surveillance Technology, and may suspend or cease such uses immediately upon
17 notice.

18 **SECTION THREE. Policy Development and Approval.**

19 A. Policy development and submission. Within one-hundred and twenty (120) days of the
20 effective date of this ordinance the Director of the Civil Rights Enforcement Agency shall submit

1 to the Clerk of the Board of Aldermen and Chairman of the Public Safety Committee a proposal
2 for the Policy rules and regulations to govern City Entities' use of Surveillance Technology.

3 B. Public hearing. Within sixty (60) days after receiving the Director of the Civil Rights
4 Enforcement Agency 's proposal for the Policy the Board of Aldermen Public Safety Committee
5 shall hold a hearing or series of hearings to receive public input on the proposal. Notice of the
6 initial hearing shall be published in the City Journal no less than thirty (30) days prior to the date
7 of the hearing, and notice of subsequent hearings on the matter shall be made in accordance with
8 the Revised Code of the City of St. Louis, and applicable state laws and regulations.

9 C. Publication of Policy proposal. Upon published notice for the public hearing(s), the Board of
10 Aldermen shall make the complete and unredacted Policy proposal publicly available on its
11 website.

12 D. Board of Aldermen approval. Following the aforementioned hearing(s) the Public Safety
13 Committee shall recommend to the Board of Aldermen that the proposed Policy be approved or
14 disapproved by the Board. The Board of Aldermen's approval or disapproval shall be made by
15 resolution. If the Board does not approve the proposal, the Director of the Civil Rights
16 Enforcement Agency shall have ten (10) days to submit a new Policy to the Board for its
17 approval or rejection following the procedures detailed in this section.

18 E. Publication of approved Policy. After approval of the Policy by the Board of Aldermen the
19 complete and unredacted Policy shall be published in its entirety on the Civil Rights
20 Enforcement Agency's website and copies shall be made available to the public at the Civil
21 Rights Enforcement Agency within five (5) business days of its approval, and updated copies of

1 the Policy shall be similarly posted and made available to the public within five (5) business days
2 of any change or modification to the Policy.

3 F. Policy changes and revisions. Any and all proposed changes, revisions or additions to the
4 Policy shall be submitted by the Director of the Civil Rights Enforcement Agency to the Clerk of
5 the Board of Aldermen and the Chairman of the Public Safety Committee. All proposed changes
6 shall not become effective until they are approved subject to the Policy approval process
7 provided in this section.

8 **SECTION FOUR. Surveillance Technology Use Plans.**

9 A. Plan submission. City Entities that desire to use a specific Surveillance Technology must
10 submit a Surveillance Technology Use Plan for that surveillance technology to the Director of the
11 Civil Rights Enforcement Agency for its review and receive approval from the Board of
12 Aldermen prior to engaging in any of the following:

13 1. Acquiring, using, expanding the use or capacity of, or expending funds for the use of a
14 Surveillance Technology where the acquisition, use, expansion, or expenditure has not
15 been previously approved by the Board of Aldermen.

16 2. Acquiring, borrowing, or using Surveillance Technology or surveillance data from
17 another person or entity, or providing or sharing City-owned or possessed Surveillance
18 Technology, or the use of any Surveillance Technology or data therefrom where the
19 acquisition, use, or sharing has not been previously approved by the Board of Aldermen.

20 B. Surveillance Technology Use Plan. All Surveillance Technology Use Plans shall be prepared
21 and submitted to the Director of the Civil Rights Enforcement Agency as follows:

- 1 1. Shall describe the general capabilities of the requested surveillance technology, the
2 need and justification for the technology and submitted Plan, the amount of the
3 technology to be acquired and deployed, the specific uses for which the technology is
4 being sought, the geographic location(s), by neighborhood or census tract, of proposed
5 deployments and the justifications for those geographic targets and the expected duration
6 of the Surveillance Technology use;
- 7 2. Shall detail the individual and organizational partnerships involved in using the
8 Surveillance Technology and the nature of any and all partnerships involved, including
9 but not limited to contractual relationships and MOUs;
- 10 3. Shall detail what measures will be used to avoid biases in data collection and targeting;
- 11 4. Shall detail where an application of Surveillance Technology requires a warrant;
- 12 5. Shall detail the rules that will govern the Surveillance Technology's data tracking, data
13 collection, data storage and security, data deletion, and data retrieval, including but not
14 limited to voluntary and mandatory data sharing and confidentiality, and data use;
- 15 6. Shall describe the potential adverse impacts of the Surveillance Technology on civil
16 rights and civil liberties and what proactive steps will be taken to avoid such adverse
17 impacts;
- 18 7. Shall ensure and detail how data is not retained beyond its needed usage and shall detail
19 the justification for data retention;

- 1 8. Shall detail how data collected not consistent with the proposed Surveillance
2 Technology Use Plan will be identified and destroyed;
- 3 9. Shall detail how access to the data collected will be authorized and monitored and what
4 database(s) will store the data;
- 5 10. Shall list all persons and entities, including local, state and federal partners, with
6 whom the city entity is seeking authorization to share data collected from this use of
7 surveillance technology and detail how data sharing beyond this list shall be prevented;
- 8 11. Shall detail funding source or sources for the Plan and the overall expected cost of the
9 proposal, including costs of technology acquisition, operation, maintenance, personnel
10 and data storage;
- 11 12. Shall address the proposal's chain-of-command, oversight, auditing procedures and
12 compliance measures, including what training procedures will be taken with staff to
13 ensure compliance in accordance with the Revised Code of the City of St. Louis and
14 applicable federal and state laws and regulations;
- 15 13. Shall detail categories of collected data, if any, that would be closed under the
16 Sunshine Law; and
- 17 14. Shall detail what limit, if any, will be placed on the quantity of the surveillance
18 technology that will be acquired and used, either in terms of total acquisition cost or total
19 units acquired.

1 C. Submission dates. All City Entities using Surveillance Technology at the time of the approval
2 of the Policy shall have one-hundred and eighty (180) days from the approval of the Policy to
3 submit, for each surveillance technology, their Surveillance Technology Use Plan(s) for review
4 and approval and may continue using Surveillance Technology while their Surveillance
5 Technology Use Plan is under review.

6 D. Initial Certification by the Director. All Surveillance Technology Use Plans or any proposed
7 changes, modifications or additions to Plans shall first be submitted to the Director of the Civil
8 Rights Enforcement Agency, who shall review and ensure their compliance with this ordinance,
9 the Policy, the Revised Code of the City of St. Louis, and applicable federal and state laws and
10 regulations.

11 E. Consideration by the Board of Aldermen.

12 1. Submission to Board of Aldermen:

13 (a) Once a Surveillance Technology Use Plan has been found compliant by the
14 Director of the Civil Rights Enforcement Agency, it shall be submitted by the
15 Director of the Civil Rights Enforcement Agency to the Board of Aldermen for its
16 approval or disapproval of the acquisition and/or use of the proposed surveillance
17 technology and its related Surveillance Technology Use Plan.

18 2. Board of Aldermen Public Hearing and Consideration.

19 (a) Within sixty (60) days after receiving notice of compliance from the Director
20 of the Civil Rights Enforcement Agency of a Surveillance Technology Use Plan,
21 the Public Safety Committee shall hold at least one public hearing to gather public

1 input through testimony and to consider the proposed acquisition and/or use of the
2 surveillance technology and its related Surveillance Technology Use Plan. Notice
3 of the initial hearing shall be published in the City Journal no less than thirty (30)
4 days prior to the date of the hearing, and notice of subsequent hearings on the
5 matter shall be made in accordance with the Revised Code of the City of St.
6 Louis, and applicable state laws and regulations.

7 (b) Subsequent to its public hearing, the Public Safety Committee shall vote by
8 resolution to either recommend or reject the proposed acquisition and/or use of
9 the surveillance technology and its related Surveillance Technology Use Plan.

10 (c) If the Public Safety Committee votes to recommend the proposed acquisition
11 and/or use of the surveillance technology and its related Surveillance Technology
12 Use Plan, the full Board of Aldermen shall then consider and vote to either
13 support or reject the proposed acquisition and/or use of the surveillance
14 technology and its related Surveillance Technology Use Plan.

15 (d) In the event of a rejection by the Public Safety Committee or the Board of
16 Aldermen, the Committee or Board may additionally vote to request a revised
17 Surveillance Technology Use Plan be submitted by the City Entity. Where a new
18 Surveillance Technology Use Plan is requested, the City Entity will have 10 days
19 to submit a revised Plan to the Director of the Civil Rights Enforcement Agency
20 for certification. Once certified, the Public Safety Committee shall recommence

1 the approval process by holding a public hearing to consider the revised Plan
2 pursuant to Section 4(E).

3 F. Open records. All complete and unredacted Surveillance Technology Use Plans shall be
4 considered “open records” under the Missouri Sunshine law. All submitted, amended, and
5 approved Surveillance Technology Use Plans shall be made publicly available within three (3)
6 days of their submission on the website of the Director of the Civil Rights Enforcement Agency.

7 G. Modification. Modifications to all Plans must be submitted to and be approved by the Director
8 of the Civil Rights Enforcement Agency and, if they effect a change enumerated in Section 4(A)
9 of this ordinance, the Board of Aldermen. Unless limitations are set forth in the Surveillance
10 Technology Use Plan, the acquisition of additional units of Surveillance Technology, or the
11 replacement of existing technology with like-kind units shall not be considered a modification to
12 a Plan requiring approval subject to the approval procedures of this ordinance.

13 **SECTION FIVE. Annual Reports.**

14 A. City Entities annual report. City Entities using Surveillance Technology pursuant to this
15 ordinance must submit an annual report detailing their use during the preceding calendar year to
16 the Director of the Civil Rights Enforcement Agency with a copy to the Clerk of the Board of
17 Aldermen and Chair of the Public Safety Committee on or before February 28th of each year.
18 Any City Entity’s complete and unredacted report shall be considered an “open record” under
19 Missouri Sunshine Law and shall be posted on the Director of the Civil Rights Enforcement
20 Agency ’s website within five (5) days of submission. The report shall be prepared in the
21 following manner:

- 1 1. Shall provide a summary of Surveillance Technology Usage, including but not limited
2 to frequency of usage, numbers deployed, geographic deployment locations by
3 neighborhood or census tract, duration of use, data disclosures, partners who received
4 data access, databases and programs impacted by collected data, and justifications derived
5 from legal-based adjudications;

- 6 2. Shall include a breakdown of how many Surveillance Technologies were used in
7 pursuit of a crime, with what frequency, if the crime was violent, and assessments of
8 whether surveillance technology was useful in deterring crime;

- 9 3. Shall include the number of times a warrant was used to collect or access data, how
10 many individuals were covered by said warrant and an estimate of how many individuals
11 were surveilled without a warrant;

- 12 4. Shall include a summary of any complaints received by the City Entity regarding the
13 use of its Surveillance Technology;

- 14 5. Shall include a summary of all Sunshine requests submitted and disposition of those
15 requests;

- 16 6. Shall include a summary of the results of any internal audits taken to assess the use of
17 Surveillance Technology;

- 18 7. Shall detail expenditures, deliverables, future funding needs and sources and the
19 Surveillance Technology Use plan's expected continued duration;

1 8. Shall analyze the success of the program as measured by a breakdown of alleged
2 crimes observed, subsequent arrests and charges, and crime reduction in specified
3 geographic areas or investigations into activities or patterns considered to be indicators of
4 potential future involvement in criminal activity;

5 9. Shall detail any and all discriminatory, disparate, and other adverse impacts the use of
6 the technology may have had on the public's civil rights and liberties, including but not
7 limited to inadvertent collection of data and any violations of the Policy, this ordinance
8 and those rights guaranteed by the Missouri Constitution and the First, Fourth, and
9 Fourteenth Amendment to the United States Constitution; and

10 10. Shall detail any recommendations for changes to the Policy and the plan(s) in
11 question.

12 B. Director of the Civil Rights Enforcement Agency Annual Report. On or before April 28 of
13 each year the Director of the Civil Rights Enforcement Agency shall submit to the Clerk of the
14 Board of Aldermen and the Chair of the Public Safety Committee an annual report on the use of
15 Surveillance Technology in Saint Louis during the previous calendar year. The Director's report
16 shall be a composite report based on the annual Surveillance Technology Use plan reports
17 submitted by the various City Entities. Each report shall:

18 1. Provide an executive summary and assessment of the Surveillance Technology Use
19 Plans, including but not limited to a breakdown of Plans submitted, Plans approved and
20 rejected, Plans implemented and discontinued and judgement of the corresponding results
21 thereof; and

1 2. Include complete and unredacted copies of all annual reports submitted on or before
2 February 28th of that year pertaining to Surveillance Technology Use Plans that are in
3 effect.

4 C. Unredacted Report Made Available. The Director of the Civil Rights Enforcement Agency
5 shall provide a complete and unredacted annual report on the Agency’s website making it
6 available to the public within three (3) business days following its submission to the Clerk of the
7 Board of Aldermen and the Chair of the Public Safety Committee.

8 D. Annual review and public hearing. The Board of Aldermen shall make an annual review of the
9 Director of the Civil Rights Enforcement Agency’s annual report and its attachments. The Public
10 Safety Committee shall hold at least one public hearing to receive public input on the annual
11 report. This hearing shall have a notice of no less than thirty (30) days and shall be at a time and
12 place convenient for the public. The Public Safety Committee may hold as many hearings as it
13 deems necessary as a part of this annual review.

14 E. Board of Aldermen Approval. Following the aforementioned hearing(s) the Public Safety
15 Committee shall recommend to the Board of Aldermen that each Surveillance Technology Use
16 Plan detailed in the annual report shall be continued or terminated. The Board of Aldermen’s
17 approval or disapproval of each plan shall be made by resolution. If the Board votes to terminate
18 a surveillance technology use plan, the city entity shall have ten (10) days to submit a new or
19 modified surveillance technology use plan to the Public Safety Committee and it shall follow the
20 approval process detailed in 4(E).

21 **SECTION SIX. Unlawful Use.**

1 A. It shall be unlawful for the City of St. Louis or any City Entity to enter into, or extend any
2 contract or other agreement that conflicts with the provisions of this ordinance. Contracts and
3 agreements, including but not limited to non-disclosure agreements, shall be considered in
4 conflict with this ordinance if in effect or intent they limit the ability of the public to understand
5 the use, capacity, funding, or purpose of a Surveillance Technology. Any conflicting provisions
6 in such contracts or agreements shall be deemed void and legally unenforceable to the extent
7 permitted by law.

8 B. Prohibition of certain contracts. It shall be unlawful for the City of St. Louis or any City Entity
9 to enter into any contract or other agreement that facilitates the receipt of surveillance data or
10 provision of surveillance data in exchange for any monetary or other form of consideration from
11 any source, including the assessment of any additional fees, interest, or surcharges on unpaid
12 fines or debts. Any contracts or agreements signed prior to the enactment of this ordinance that
13 violate this section shall be terminated as soon as is legally permissible.

14 C. Deletion of data. Surveillance data that has been collected and/or retained in violation of a
15 Surveillance Technology Use Plan or established Surveillance Policy, shall be immediately
16 deleted upon discovery and all copies shall be destroyed and shall not be used in court.

17 **SECTION SEVEN. Right of Appeal.**

18 A. Violations. In the event of an alleged violation of this ordinance, including but not limited to
19 funding, acquiring, or utilizing Surveillance Technology that has not been approved pursuant to
20 this ordinance or utilizing Surveillance Technology in a manner of for a purpose that has not been
21 approved pursuant to this ordinance, any person may submit a complaint in writing to the Civil

1 Rights Enforcement Agency for a decision. The complaint shall be treated as a contested case.
2 The Director of the Civil Rights Enforcement Agency shall have thirty (30) days to evaluate such
3 a complaint and render a decision regarding the validity of the complaint and if changes are
4 needed. The decision rendered by the Director shall constitute the final decision by the agency.
5 Any party aggrieved by a final decision of the Director shall have the right to seek judicial
6 review of such a decision, as in other cases, pursuant to provisions of Chapter 536 RSMO.

7 **SECTION EIGHT. Severability.** The provisions of this are severable. If any part of this
8 ordinance, or the application of this ordinance to any person or circumstance, is held invalid, the
9 remainder of this ordinance, including the application of such part or provisions to other persons
10 or circumstances, shall not be affected by such holding and shall continue to have force and
11 effect.

12 **SECTION NINE. Emergency clause.** This being an ordinance for the preservation of public
13 peace, health and safety, it is hereby declared to be an emergency measure within the meanings
14 of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall
15 become effective immediately upon its passage and approval by the Mayor.