

**BOARD BILL NO. 219 INTRODUCED BY: ALDERMAN TERRY
KENNEDY/ALDERMAN JOHN COLLINS-MUHAMMAD/ALDERWOMAN MEGAN E.
GREEN**

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 and guidelines be
3 established and approved by the Board of Aldermen before any such surveillance technology
4 may be used and plans may be put into practice; and containing a severability clause and
5 emergency clause.

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7 **WHEREAS**, surveillance technology is becoming an increasingly common, supportive, and
8 helpful mechanism for maintaining the public safety, peace, and welfare; and

9

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

13

14 **WHEREAS**, a number of studies have shown that surveillance technologies are developing
15 faster than the laws to govern them, resulting in an imbalance between governance and the use
16 of these technologies and causing several cities across the country to enact new and/or revised
17 statutes to ensure the civil rights and liberties of their citizens while allowing lawful
18 surveillance as a viable safety option.

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

3 **SECTION ONE. Definitions.**

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

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

14

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

20

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

1 5. “Surveillance Technology” shall mean any electronic or other device, system, vehicle
2 or software, that is capable of collecting, capturing, and recording and/or transmitting
3 information, or used for communicating information or sharing information captured-
4 while-live, or used for the processing and analysis of information, whether audio,
5 video or still imagery, thermal imagery, genetic biometric data, or other data and
6 information regardless of format, that may be used for the purpose of monitoring
7 activities, behavior, or changing conditions in order to influence, manage, or protect
8 the safety and welfare of individuals or groups, or to aid in the prevention of criminal
9 activity or the investigation of suspected criminal activity, or the data therefrom used
10 or made available to any City Entity for use. Surveillance Technology includes hand-
11 held video or audio equipment, except when used for restricted-access crime scene
12 analysis, and predictive policing algorithms. “Surveillance Technology” does not
13 include the following unless they have been equipped with, or are modified to become
14 or include, a surveillance technology as defined herein:

- 15 a. Routine office hardware (such as televisions, computers, and printers) that
16 are in widespread public use and will not be used for any surveillance or
17 surveillance related functions;
- 18 b. Parking Ticket Devices (PTD);
- 19 c. Surveillance devices that cannot record or transmit audio or video or be
20 remotely accessed, such as image stabilizing binoculars, night vision
21 goggles, or similar imaging devices;

- 1 d. Municipal agency databases that do not and will not contain any data or
2 other information collected, captured, recorded, retained, processed,
3 intercepted, or analyzed by Surveillance Technology; and
- 4 e. Manually-operated technological devices that are not used primarily for
5 internal municipal entity communications and are not designed to
6 surreptitiously collect surveillance data, such as radios and email systems.
- 7 6. “Surveillance Technology Use” shall mean any physical or digital system, routine,
8 practice or process that uses Surveillance Technology. If a given tactic, such as
9 mobile cameras placed in alleys, is used repeatedly, the tactic as a whole shall be
10 considered a Surveillance Technology Use rather than individual instances of the
11 tactic.
- 12 7. “Viewpoint-based” shall mean targeted at any community or group or their individual
13 members because of their exercise of rights protected under the First Amendment of
14 the United States Constitution.

15

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

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

21

1 B. Promulgation of rules and regulations. The Director of Public Safety shall promulgate and
2 oversee the implementation of rules and regulations to govern City Entities’ uses of
3 Surveillance Technology as provided in this ordinance and consistent with applicable federal
4 and state laws and regulations, and the Revised Code of the City. Said rules and regulations
5 shall be referred to as the City of St. Louis Surveillance Technology Use Policy (the
6 “Policy”). The Policy shall ensure that City Entities’ use of Surveillance Technology is done
7 solely for the benefit of the public’s safety and welfare and will not result in discrimination or
8 a Disparate Impact, or infringe upon the public’s or individuals’ civil rights or liberties, and
9 comply with the Revised Code of the City of St. Louis and all applicable federal and state
10 laws and regulations.

11

12 C. Administration and oversight.

13 1. The Director of Public Safety shall be responsible for the administration and
14 implementation of the Policy, and shall monitor and oversee City Entities’ uses
15 of Surveillance Technology to ensure their compliance with the Revised Code
16 of the City of St. Louis, and applicable federal and state laws and regulations.

17

18 2. If the Director of Public Safety determines that a City Entity’s use of
19 Surveillance Technology is not in compliance with the Policy, or the
20 applicable Surveillance Technology Use plan, the Revised Code of the City of
21 St. Louis, applicable federal and state laws and regulations, or such use is
22 contrary to the spirit and intent of this ordinance he or she shall report the

1 violation to the Public Safety Committee of the Board of Aldermen, and may
2 direct City Entities to make changes to their uses of Surveillance Technology,
3 and may suspend or cease such uses immediately upon notice.

4

5 **SECTION FOUR. Policy Development and Approval.**

6 A. Policy development and submission. Within one-hundred and twenty (120) days of the
7 effective date of this ordinance the Director of Public Safety shall submit to the Clerk of the
8 Board of Aldermen and Chairman of the Public Safety Committee a proposal for the Policy
9 rules and regulations to govern City Entities' use of Surveillance Technology.

10

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

17

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

1 D. Board of Aldermen approval. Following the aforementioned hearing(s) the Public Safety
2 Committee shall recommend to the Board of Aldermen that the proposed Policy be approved
3 or disapproved by the Board. The Board of Aldermen’s recommendation for approval or
4 disapproval shall be made by resolution. If the Board does not approve the proposal, the
5 Public Safety Director shall have ten (10) days to submit a new Policy to the Board for its
6 approval or rejection.

7

8 E. Publication of approved Policy. After approval of the Policy by the Board of Aldermen
9 the complete and unredacted Policy shall be published in its entirety on the Department of
10 Public Safety websites and copies shall be made available to the public at the Department of
11 Public Safety within five (5) business days or its approval, and updated copies of the Policy
12 shall be similarly posted and made available to the public within five (5) business days or any
13 change or modification to the Policy.

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15 F. Policy changes and revisions. Any and all proposed changes, revisions or additions to the
16 Policy shall be submitted to the Director of Public Safety to the Clerk of the Board of
17 Aldermen and the Chairman of the Public Safety Committee. All proposed changes shall not
18 become effective until they are approved subject to the approval process provided in this
19 section.

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1 **SECTION FIVE. Surveillance Technology Use plan.**

2 A. Plan submission. City Entities that desire to use Surveillance Technology must submit a
3 Surveillance Technology Use plan to the Director of Public Safety for review and receive
4 approval prior to engaging in any of the following:

- 5 1. Acquiring, using, expanding the use or capacity of, or expending funds for the
6 use of a Surveillance Technology.
- 7 2. Acquiring, borrowing, or using Surveillance Technology or surveillance data
8 from another person or entity, or providing or sharing City-owned or possessed
9 Surveillance Technology, or the use of any Surveillance Technology or data
10 therefrom.

11
12 B. Surveillance Technology Use plan. All Surveillance Technology Use plans shall be
13 prepared and submitted to the Director of Public Safety as follows:

- 14 1. Shall describe the need and justification for the submitted plan, the geographic
15 location(s), by neighborhood or census tract, of proposed deployments and the
16 justifications for those geographic targets and the expected duration of the
17 Surveillance Technology use;
- 18 2. Shall detail the individual and organizational partnerships involved in using the
19 Surveillance Technology and the nature of any and all partnerships involved,
20 including but not limited to contractual relationships and MOUs;
- 21 3. Shall detail what measures will be used to avoid biases in data collection and
22 targeting;

- 1 4. Shall detail where an application of Surveillance Technology requires a
2 warrant;
- 3 5. Shall detail the rules that will govern the Surveillance Technology's data
4 tracking, data collection, data storage and security, data deletion, and data
5 retrieval, including but not limited to voluntary and mandatory data sharing
6 and confidentiality;
- 7 6. Shall describe the potential adverse impacts of the Surveillance Technology on
8 civil rights and civil liberties and what proactive steps will be taken to avoid
9 such adverse impacts;
- 10 7. Shall ensure and detail how data is not retained beyond its needed usage and
11 shall detail the justification for data retention;
- 12 8. Shall detail how data collected not consistent with the proposed Surveillance
13 Technology Use plan will be identified and destroyed;
- 14 9. Shall detail how access to the data collected will be authorized and monitored
15 and what database will store the data;
- 16 10. Shall list all persons and entities, including local, state and federal partners,
17 with whom data collected from this use of surveillance technology may be
18 shared and detail how data sharing beyond this list shall be prevented;
- 19 11. Shall detail funding source or sources for the plan and the overall expected cost
20 of the proposal, including costs of technology acquisition, operation,
21 maintenance, and data storage; and

1 12. Shall address the proposal’s chain-of-command, oversight, auditing procedures
2 and compliance measures, including what training procedures will be taken
3 with staff to ensure compliance in accordance with the Revised Code of the
4 City of St. Louis and applicable federal and state laws and regulations;

5 13. Detail categories of collected data, if any, that would be closed under the
6 Sunshine Law; and

7 14. What limit, if any, will be placed on the quantity of the surveillance technology
8 that will be acquired and used, either in terms of total acquisition cost or total
9 units acquired.

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11 C. Submission dates. All City Entities using Surveillance Technology at the time of the
12 effective date of this ordinance shall have one-hundred and eighty (180) days from the
13 effective date of this ordinance to submit their Surveillance Technology Use plans for review
14 and approval and may continue using Surveillance Technology while their Surveillance
15 Technology Use plan is under review.

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17 D. Approval by the Director. All Surveillance Technology Use plans or any proposed
18 changes, modifications or additions to plans shall be submitted to the Director of Public
19 Safety, who shall review and ensure their compliance with this ordinance, the Policy, the
20 Revised Code of the City of St. Louis, and applicable federal and state laws and regulations.

21

1 E. Approval by the Board of Aldermen Public Safety Committee. Once a Surveillance
2 Technology Use plan has been found compliant and approved by the Director of Public
3 Safety, it shall be submitted by the Director of Public Safety to the Public Safety Committee
4 for its approval in accordance with the same hearing process and timetable set forth for the
5 approval of the Policy in this ordinance. All complete and unredacted Surveillance
6 Technology Use plans shall be considered “open records” under the Missouri Sunshine law.
7 All submitted, amended, and approved Surveillance Technology Use plans shall be made
8 publicly available within three (3) days of their submission on the website of the Director of
9 Public Safety.

10

11 F. Modification. Modifications to all plans must be submitted to and be approved by the
12 Director of Public Safety. Unless limitations are set forth in the Surveillance Technology Use
13 plan, the acquisition of additional units of Surveillance Technology, or the replacement of
14 existing technology with like-kind units shall not be considered a modification to a plan
15 requiring approval subject to the approval procedures of this ordinance.

16

17 **SECTION SIX. Annual Reports.**

18 A. City Entities annual report. City Entities using Surveillance Technology pursuant to this
19 ordinance must submit an annual report detailing their use during the preceding calendar year
20 to the Director of Public Safety with a copy to the Clerk of the Board of Aldermen and
21 Chairman of the Public Safety Committee on or before February 28th of each year. Any City

1 Entity's complete and unredacted report shall be considered an "open record" under Missouri
2 Sunshine Law and shall be posted on the Director of Public Safety's website within five (5)
3 days of submission. The report shall be prepared in the following manner:

- 4 1. Shall provide a summary of Surveillance Technology Usage, including but not
5 limited to frequency of usage, numbers deployed, geographic deployment
6 locations by neighborhood or census tract, duration of use, data disclosures,
7 partners who received data access, databases impacted by collected data, and
8 justifications derived legal-based adjudications;
- 9 2. Shall include a breakdown of how many Surveillance Technologies were used
10 in pursuit of a crime, if the crime was violent and assessments of whether
11 surveillance technology was useful in deterring crime;
- 12 3. Shall include the number of times a warrant was used to access data, how
13 many individuals were covered by said warrant and an estimate of how many
14 individuals were surveilled without a warrant;
- 15 4. Shall include a summary of any complaints received by the City Entity
16 regarding the use of its Surveillance Technology;
- 17 5. Shall include a summary of all Sunshine requests submitted and deposition of
18 those requests;
- 19 6. Shall include a summary of any internal audits taken to assess the use of
20 Surveillance Technology;
- 21 7. Shall detail expenditures deliverables, future funding needs and sources and
22 the Surveillance Technology Use plan's expected continued duration;

- 1 8. Shall analyze the success of the program as measured by a breakdown of
2 arrests or crime reduction in specified geographic areas or investigations into
3 activities or patterns considered to be indicators of potential future
4 involvement in criminal activity;
- 5 9. Shall detail any and all discriminatory, disparate, and other adverse impacts the
6 use of the technology may have had on the public’s civil rights and liberties,
7 including but not limited to inadvertent collection of data and any violations of
8 the Policy, this ordinance and those rights guaranteed by the Missouri
9 Constitution and the First, Fourth, and Fourteenth Amendment to the United
10 States Constitution; and
- 11 10. Shall detail any recommendations for changes to the Policy and the plan(s) in
12 question.

13

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

- 20 1. Provide an executive summary and assessment of the Surveillance Technology
21 Use plans, including but not limited to a breakdown of plans submitted, plans

1 approved and rejected, plans implemented and discontinued and judgement of
2 the corresponding results thereof; and

3 2. Include complete and unredacted copies of all Surveillance Technology Use
4 plans in effect.

5
6 C. Unredacted Report Made Available. The Director of Public Safety shall provide a
7 complete and unredacted annual report on the Department of Public Safety's website making
8 it available to the public within three (3) business days following its submission to the Clerk
9 of the Board of Aldermen and Chairman of the Public Safety Committee.

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

17

18 E. Board of Aldermen recommendations. The Board of Aldermen Public Safety Committee
19 may make any recommendations it determines to the Director of Public Safety related to its
20 review of the Director's annual report and attachments. These recommendations shall be
21 made by resolution and can include but are not limited to the continued use of a plan or

1 aspects of the Policy, modifications, or termination of a plan. Recommendations to modify or
2 terminate a Surveillance Technology Use plan or amend the policy shall include reasons.

3

4 **SECTION SEVEN. Unlawful Use.**

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

12

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

20

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

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5 **SECTION EIGHT. Right of Appeal.**

6 A. Violations. In the event of an alleged violation of this ordinance, including but not limited
7 to funding, acquiring, or utilizing Surveillance Technology that has not been approved
8 pursuant to this ordinance or utilizing Surveillance Technology in a manner of for a purpose
9 that has not been approved pursuant to this ordinance, any person may submit a complaint in
10 writing to the Public Safety Director for a decision. The Public Safety Director shall have
11 thirty (30) days to evaluate such complaint and render a decision regarding the validity of the
12 complaint and if changes are needed.

13

14 B. Petitions. Any person jointly or severally aggrieved by any decision of the Public Safety
15 Director pursuant to this section, shall be entitled to petition for review by the circuit court.
16 Upon presentation of the petition, the court may allow a writ of certiorari directed toward the
17 Public Safety Director and prescribe therein the time within which a violation must be
18 addressed and if such complaint constitutes and injury to the complainant.

19

1 C. Costs. A court shall award costs and reasonable attorneys' fees to the plaintiff who is the
2 prevailing party in an action to enforce this ordinance.

3

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

9

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