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**BALTIMORE CITY COUNCIL  
HEALTH, ENVIRONMENT AND TECHNOLOGY  
COMMITTEE**

*Mission Statement*

On behalf of the Citizens of Baltimore City, the mission of the Health, Environment, and Technology (HET) Committee is to study, review, and recommend policies to improve overall public health and welfare, achieve environmental justice and sustainability, and promote the adoption of, and equitable access to, technology to better meet the needs of all City residents.

**The Honorable Danielle McCray  
Chair**

**PUBLIC HEARING**

**WEDNESDAY, NOVEMBER 15, 2023  
10:00 AM**

**COUNCIL CHAMBERS**

*Council Bill 23-0379*

**Facial Recognition Technology Regulations**

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## BILL SYNOPSIS

**Committee: Health, Environment, and Technology**

**Council Bill: 23-0379**

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### Facial Recognition Technology

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**Sponsor:** Councilmembers Burnett, Cohen et al.

**Introduced:** May 1, 2023

**Purpose:**

For the purpose of regulating the use of facial recognition technology; requiring possessors of data recovered from facial recognition technology to develop a certain policy regarding retention and destruction of data; establishing certain penalties; defining certain terms; and generally relating to the use of facial recognition technology.

**Effective:** The 30<sup>th</sup> day after the date it is enacted

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### Agency Reports

Office of Civil Rights and Wage Enforcement	None as of writing
City Solicitor	None as of writing
Police Department	None as of writing
Mayor's Office of Neighborhood Safety and Engagement	None as of writing
Department of Transportation	None as of writing
Office of the Comptroller	None as of writing
States Attorney's Office	None as of writing
Baltimore Development Corporation	None as of writing

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## Analysis

### Current Law

Article 19 – Police Ordinances. Baltimore City Revised Code (Edition 2000).

The bill introduces a new subtitle, "Subtitle 18: Facial Recognition Technology," to the existing Article 19 - Police Ordinances of the Baltimore City Code.

### Background

The bill defines terms such as "facial recognition," "facial recognition data," and "facial recognition technology" to provide a clear understanding of the subject matter. It emphasizes the importance of obtaining consent for the collection and use of facial recognition data and places limitations on the distribution of such data by private entities. Notably, it requires possessors of facial recognition data to develop policies for its retention and destruction, with exceptions for certain circumstances.

The legislation also delves into the use of facial recognition technology by the Baltimore Police Department. It establishes criteria for the evaluation of technology standards, vendor requirements, and limitations on the use of generated images for legal proceedings. Additionally, it prohibits the use of facial recognition searches at protected gatherings, mandates documentation of each search, and requires annual reports detailing the number and nature of searches performed by the department.

Furthermore, the bill introduces oversight and enforcement measures, including whistleblower protection and specific consequences for city employees found in violation of the legislation. The transparency of the Baltimore Police Department's use of facial recognition technology is emphasized through requirements for public disclosure of related contracts and the provision of annual reports accessible to the public.

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## Additional Information

**Fiscal Note:** None.

**Information Source(s):** Baltimore City Code, Bill 23-0379

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*Deontre Hayes*

Analysis by: Deontre Hayes  
Analysis Date: November 13, 2023

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**CITY OF BALTIMORE  
COUNCIL BILL 23-0379  
(First Reader)**

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Introduced by: Councilmembers Burnett, Cohen  
Introduced and read first time: May 1, 2023  
Assigned to: Health, Environment, and Technology Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Office of the Comptroller, Baltimore Development Corporation, Department of Transportation, Mayor’s Office of Neighborhood Safety and Engagement, Baltimore Police Department, Office of the State’s Attorney for Baltimore City

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A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Facial Recognition Technology**

3 FOR the purpose of regulating the use of facial recognition technology; requiring possessors of  
4 data recovered from facial recognition technology to develop a certain policy regarding  
5 retention and destruction of data; establishing certain penalties; defining certain terms; and  
6 generally relating to the use of facial recognition technology.

7 BY adding

8 Article 19 - Police Ordinances  
9 Sections 18-1 to 18-25, to be under the new subtitle designation  
10 “Subtitle 18. Facial Recognition Technology”  
11 Baltimore City Code  
12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
14 Laws of Baltimore City read as follows:

15 **Baltimore City Code**

16 **Article 19. Police Ordinances**

17 **SUBTITLE 18. FACIAL RECOGNITION TECHNOLOGY**

18 ***PART 1. DEFINITIONS; GENERAL PROVISIONS.***

19 **§ 18-1. DEFINITIONS.**

20 (A) *IN GENERAL.*

21 IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

**Council Bill 23-0379**

1 (B) *CONFIDENTIAL AND SENSITIVE INFORMATION.*

2 “CONFIDENTIAL AND SENSITIVE INFORMATION” MEANS INFORMATION THAT CAN BE USED  
3 TO UNIQUELY IDENTIFY AN INDIVIDUAL OR AN INDIVIDUAL’S ACCOUNT OR PROPERTY,  
4 INCLUDING:

- 5 (1) A GENETIC MARKER;
- 6 (2) GENETIC TESTING INFORMATION;
- 7 (3) A UNIQUE IDENTIFIER NUMBER TO LOCATE AN ACCOUNT OR PROPERTY;
- 8 (4) AN ACCOUNT NUMBER;
- 9 (5) A PERSONAL IDENTIFICATION NUMBER;
- 10 (6) A PASSCODE;
- 11 (7) A DRIVER’S LICENSE NUMBER;
- 12 (8) A SOCIAL SECURITY NUMBER;
- 13 (9) PERSONALLY IDENTIFIABLE INFORMATION; AND
- 14 (10) PROTECTED HEALTH INFORMATION.

15 (C) *CONSENT.*

16 “CONSENT” MEANS A SPECIFIC, DISCRETE, FREELY GIVEN, UNAMBIGUOUS, AND  
17 INFORMED AGREEMENT GIVEN BY AN INDIVIDUAL WHO IS NOT UNDER ANY DURESS OR  
18 UNDUE INFLUENCE FROM A PRIVATE ENTITY OR THIRD PARTY TO COLLECT, USE,  
19 DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE THE INDIVIDUAL’S FACIAL  
20 RECOGNITION DATA.

21 (D) *DEPARTMENT.*

22 “DEPARTMENT” MEANS THE BALTIMORE POLICE DEPARTMENT.

23 (E) *FACIAL RECOGNITION.*

24 “FACIAL RECOGNITION” MEANS AN AUTOMATED OR SEMI-AUTOMATED PROCESS THAT  
25 ASSISTS IN IDENTIFYING OR VERIFYING AN INDIVIDUAL BASED ON THE PHYSICAL  
26 CHARACTERISTICS OF THE INDIVIDUAL’S FACE.

27 (F) *FACIAL RECOGNITION DATA.*

28 “FACIAL RECOGNITION DATA” MEANS INFORMATION ABOUT AN INDIVIDUAL THAT IS  
29 COLLECTED, GENERATED, OR ANALYZED BY FACE RECOGNITION TECHNOLOGY,  
30 INCLUDING:

**Council Bill 23-0379**

- 1 (1) A SINGLE IMAGE;
- 2 (2) A VIDEO SEQUENCE;
- 3 (3) A VIEW CONSTRUCTED FROM MULTIPLE CAMERAS;
- 4 (4) 3 DIMENSIONAL DATA USED TO IDENTIFY AN INDIVIDUAL; AND
- 5 (5) INFORMATION GATHERED FROM THE SYSTEM’S ANALYSIS OF IMAGES.

6 (G) *FACIAL RECOGNITION SEARCH.*

7 “FACIAL RECOGNITION SEARCH” MEANS A COMPUTER SEARCH OF FACIAL RECOGNITION  
8 DATA TO ATTEMPT TO IDENTIFY AN UNIDENTIFIED PERSON BY COMPARING AN IMAGE  
9 CONTAINING THE FACE OF THE UNIDENTIFIED PERSON TO A SET OF IMAGES OF IDENTIFIED  
10 PERSONS.

11 (H) *FACIAL RECOGNITION TECHNOLOGY.*

12 “FACIAL RECOGNITION TECHNOLOGY” MEANS TECHNOLOGY THAT:

- 13 (1) ANALYZES FACIAL FEATURES IN STILL OR VIDEO IMAGES;
- 14 (2) IS USED TO ASSIGN A UNIQUE, PERSISTENT IDENTIFIER; OR
- 15 (3) IS USED FOR THE UNIQUE PERSONAL IDENTIFICATION OF A SPECIFIC INDIVIDUAL.

16 (I) *PROCESSOR.*

17 “PROCESSOR” MEANS A PERSON WHO PROCESSES, STORES, OR OTHERWISE USES FACIAL  
18 RECOGNITION DATA ON BEHALF OF ANOTHER PERSON.

19 (J) *SELL.*

20 (1) *IN GENERAL.*

21 “SELL” MEANS THE PROVISION OF FACIAL RECOGNITION DATA BY A PRIVATE ENTITY  
22 TO ANOTHER PERSON FOR MONETARY CONSIDERATION.

23 (2) *EXCLUSIONS.*

24 “SELL” DOES NOT INCLUDE THE PROVISION OF FACIAL RECOGNITION DATA:

- 25 (I) TO A PROCESSOR ON BEHALF OF THE PRIVATE ENTITY; OR
- 26 (II) TO A 3<sup>RD</sup> PARTY FOR THE PURPOSE OF PROVIDING A SERVICE OR PRODUCT  
27 REQUESTED BY A CONSUMER.

28 **§§ 18-2 TO 18-5. {RESERVED}**



**Council Bill 23-0379**

***PART 2. USE BY CITY AGENCIES AND PRIVATE ENTITIES***

**§ 18-6. RETENTION OF FACIAL RECOGNITION DATA.**

*(A) IN GENERAL.*

EACH PERSON IN POSSESSION OF FACIAL RECOGNITION DATA SHALL PERMANENTLY DESTROY ANY FACIAL RECOGNITION DATA WITHIN 3 YEARS OF THE DATE THE DATA WAS OBTAINED OR COLLECTED.

*(B) EXCEPTIONS.*

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, EACH PERSON IN POSSESSION OF FACIAL RECOGNITION DATA SHALL PERMANENTLY DESTROY ANY DATA UPON THE EARLIER OF:

- (1) THE DATE ON WHICH THE INITIAL PURPOSE FOR COLLECTING OR OBTAINING THE FACIAL RECOGNITION DATA HAS BEEN SATISFIED; OR
- (2) WITHIN 30 DAYS AFTER RECEIVING A SIGNED REQUEST TO DESTROY THE FACIAL RECOGNITION DATA SUBMITTED BY THE SUBJECT INDIVIDUAL OR THE SUBJECT INDIVIDUAL'S PERSONAL REPRESENTATIVE.

*(C) SECURITY OF DATA.*

EACH PERSON IN POSSESSION OF FACIAL RECOGNITION DATA SHALL STORE, TRANSMIT, AND PROTECT FROM DISCLOSURE ALL FACIAL RECOGNITION DATA:

- (1) USING A REASONABLE STANDARD OF CARE; AND
- (2) IN A MANNER THAT IS AS PROTECTIVE AS OR MORE PROTECTIVE THAN THE MANNER IN WHICH THE PERSON STORES, TRANSMITS, AND PROTECTS OTHER CONFIDENTIAL AND SENSITIVE INFORMATION.

**§ 18-7. DISTRIBUTION OF DATA.**

*(A) IN GENERAL.*

A PERSON WHO COLLECTS FACIAL RECOGNITION DATA MAY NOT SELL, LEASE, OR TRADE AN INDIVIDUAL'S FACIAL RECOGNITION DATA.

*(B) ADVERSE CONDITIONS PROHIBITED.*

- (1) A PERSON MAY NOT CONDITION THE PROVISION OF A SERVICE ON THE COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, OR PROCESSING OF FACIAL RECOGNITION DATA UNLESS FACIAL RECOGNITION DATA IS STRICTLY NECESSARY TO PROVIDE THE SERVICE.
- (2) A PERSON MAY NOT CHARGE DIFFERENT PRICES OR RATES FOR GOODS OR SERVICES OR PROVIDE A DIFFERENT LEVEL OR QUALITY OF A GOOD OR SERVICE TO AN INDIVIDUAL WHO EXERCISES THE INDIVIDUAL'S RIGHTS UNDER THIS SUBTITLE.

**Council Bill 23-0379**

1 (C) *PROCESSOR MAY NOT DISTRIBUTE.*

2 (1) A PERSON WHO CONTRACTS WITH A PROCESSOR TO PROCESS OR STORE FACIAL  
3 RECOGNITION DATA MAY NOT ALLOW THE PROCESSOR TO COLLECT, STORE, PROCESS,  
4 USE, DISCLOSE, OR TAKE ANY ACTION FOR MONETARY CONSIDERATION ON OR WITH  
5 THE FACIAL RECOGNITION DATA OF AN INDIVIDUAL, EXCEPT FOR THE PURPOSE FOR  
6 WHICH THE PERSON RECEIVED CONSENT FROM THE INDIVIDUAL.

7 (2) EXCEPT AS AUTHORIZED BY A CONTRACT WITH A PERSON WHO LEGALLY POSSESSES  
8 THE FACIAL RECOGNITION DATA, A PROCESSOR MAY NOT COLLECT, STORE, PROCESS,  
9 USE, DISCLOSE, OR TAKE ANY ACTION FOR MONETARY CONSIDERATION ON OR WITH  
10 THE FACIAL RECOGNITION DATA.

11 **§ 18-8. CONSENT FOR DISTRIBUTION.**

12 (A) *IN GENERAL.*

13 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO COLLECTS  
14 FACIAL RECOGNITION DATA MAY NOT COLLECT, USE, DISCLOSE, REDISCLOSE, OR  
15 OTHERWISE DISSEMINATE AN INDIVIDUAL'S FACIAL RECOGNITION DATA UNLESS:

16 (1) THE INDIVIDUAL OR THE INDIVIDUAL'S LEGALLY AUTHORIZED REPRESENTATIVE  
17 GIVES CONSENT TO THE COLLECTION, USE, DISCLOSURE, REDISCLOSURE, OR  
18 DISSEMINATION; OR

19 (2) THE DISCLOSURE OR REDISCLOSURE IS REQUIRED:

20 (I) BY A VALID WARRANT OR SUBPOENA;

21 (II) TO COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS, RULES, OR  
22 REGULATIONS; OR

23 (III) TO COOPERATE WITH LAW ENFORCEMENT CONCERNING CONDUCT OR  
24 ACTIVITY THAT THE PRIVATE ENTITY OR THE PROCESSOR REASONABLY AND  
25 IN GOOD FAITH BELIEVES VIOLATES A FEDERAL, STATE, OR LOCAL LAW,  
26 RULE, OR REGULATION.

27 (B) *EXCEPTIONS.*

28 A PERSON MAY COLLECT, USE, DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE AN  
29 INDIVIDUAL'S FACIAL RECOGNITION DATA WITHOUT COMPLYING WITH SUBSECTION (A) OF  
30 THIS SECTION IF THE PERSON:

31 (1) COLLECTS, USES, DISCLOSES, REDISCLOSES, OR OTHERWISE DISSEMINATES THE  
32 FACIAL RECOGNITION DATA FOR FRAUD PREVENTION OR THE PROTECTION OF AN  
33 INDIVIDUAL'S CONFIDENTIAL AND SENSITIVE DATA; AND

**Council Bill 23-0379**

1 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, POSTS CONSPICUOUS WRITTEN  
2 NOTICE OF THE COLLECTION OF FACIAL RECOGNITION DATA AT EACH POINT OF  
3 ENTRY OF THE AREA IN WHICH COLLECTION OF FACIAL RECOGNITION DATA WILL  
4 OCCUR.

5 (C) *FORM OF CONSENT.*

6 AN INDIVIDUAL MAY GIVE CONSENT FOR THE COLLECTION, USE, DISCLOSURE,  
7 REDISCLOSURE, OR DISSEMINATION OF THE INDIVIDUAL'S FACIAL RECOGNITION DATA  
8 THROUGH THE FOLLOWING MEANS:

9 (1) A WRITTEN STATEMENT;

10 (2) A WRITTEN STATEMENT BY ELECTRONIC MEANS; OR

11 (3) IN THE CONTEXT OF EMPLOYMENT, A RELEASE EXECUTED BY AN EMPLOYEE AS A  
12 CONDITION OF EMPLOYMENT.

13 (D) *CONTENTS OF NOTICE.*

14 THE NOTICE REQUIRED IN SUBSECTION (B)(2) OF THIS SECTION SHALL INFORM AN  
15 INDIVIDUAL OF:

16 (1) THE CATEGORIES OF FACIAL RECOGNITION DATA TO BE COLLECTED;

17 (2) THE PURPOSES FOR WHICH THE CATEGORIES OF FACIAL RECOGNITION DATA WILL  
18 BE USED; AND

19 (3) THE LENGTH OF TIME THE FACIAL RECOGNITION DATA WILL BE RETAINED.

20 (E) *USE TIED TO SERVICES.*

21 THE COLLECTION, USE, DISCLOSURE, REDISCLOSURE, OR OTHER DISSEMINATION OF FACIAL  
22 RECOGNITION DATA UNDER THIS SUBSECTION SHALL BE DIRECTLY TIED TO THE SERVICES  
23 BEING PROVIDED TO THE INDIVIDUAL.

24 **§ 18-9. REQUIRED DISCLOSURE.**

25 (A) *IN GENERAL.*

26 A PERSON WHO COLLECTS, USES, DISCLOSES, OR REDISCLOSES FACIAL RECOGNITION DATA  
27 OF AN INDIVIDUAL MUST, AT THE REQUEST OF THE INDIVIDUAL OR THE INDIVIDUAL'S  
28 LEGALLY AUTHORIZED AGENT, DISCLOSE, FREE OF CHARGE, THE FACIAL RECOGNITION  
29 DATA AND INFORMATION RELATED TO THE USE OF THE FACIAL RECOGNITION DATA TO THE  
30 INDIVIDUAL, INCLUDING:

31 (1) THE CATEGORIES OF FACIAL RECOGNITION DATA; AND

32 (2) THE PURPOSES FOR WHICH THE PERSON USED THE FACIAL RECOGNITION DATA.

**Council Bill 23-0379**

1 (B) *LIMITS ON DISCLOSURE.*

2 A PERSON MAY NOT BE REQUIRED TO DISCLOSE THE INFORMATION DESCRIBED IN  
3 SUBSECTION (A) OF THIS SECTION TO AN INDIVIDUAL OR THE INDIVIDUAL'S LEGALLY  
4 AUTHORIZED REPRESENTATIVE MORE THAN TWICE DURING ANY CONSECUTIVE 12-MONTH  
5 PERIOD.

6 **§§ 18-10 TO 18-15. {RESERVED}**

7 **PART 3. USE BY BALTIMORE POLICE DEPARTMENT**

8 **§ 18-16. USE BY POLICE.**

9 THIS SUBTITLE SHALL APPLY TO THE BALTIMORE POLICE DEPARTMENT.

10 **§ 18-17. REQUIRED EVALUATION OF TECHNOLOGY.**

11 (A) *TECHNOLOGY STANDARDS.*

12 ALL TECHNOLOGY USED BY THE DEPARTMENT TO CONDUCT A FACIAL RECOGNITION  
13 SEARCH MUST:

14 (1) BE EVALUATED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY;

15 (2) IN THE FACE RECOGNITION VENDOR TEST, MUST:

16 (I) RECEIVE AN ACCURACY SCORE OF 98% OR HIGHER FOR TRUE POSITIVES ACROSS  
17 ALL DEMOGRAPHIC GROUPS; AND

18 (II) DISPLAY MINIMAL PERFORMANCE VARIATIONS ACROSS DEMOGRAPHICS  
19 ASSOCIATED WITH:

20 (A) RACE;

21 (B) SKIN TONE;

22 (C) ETHNICITY; AND

23 (D) GENDER.

24 (B) *VENDOR REQUIREMENTS.*

25 THE DEPARTMENT MUST OBTAIN ALL TECHNOLOGY USED TO CONDUCT A FACIAL  
26 RECOGNITION SEARCH FROM A VENDOR THAT PROVIDES ANNUAL INDEPENDENT  
27 ASSESSMENTS AND BENCHMARKS FROM THE NATIONAL INSTITUTE OF STANDARDS AND  
28 TECHNOLOGY.

**Council Bill 23-0379**

1    **§ 18-18. USE OF GENERATED IMAGE.**

2           (A) *PROHIBITION.*

3           THE DEPARTMENT MAY NOT USE THE MATCH OF AN IMAGE GENERATED USING A FACIAL  
4           RECOGNITION SEARCH IN AN AFFIDAVIT TO CONSTITUTE PROBABLE CAUSE FOR THE  
5           ISSUANCE OF EITHER:

6                   (1) A SEARCH WARRANT; OR

7                   (2) AN ARREST WARRANT.

8           (B) *EXCULPATORY EVIDENCE.*

9           THE DEPARTMENT MAY USE THE MATCH OF AN IMAGE GENERATED USING A FACIAL  
10          RECOGNITION SEARCH AS EXCULPATORY EVIDENCE.

11    **§ 18-19. USE AT PROTESTS, RALLIES, ETC.**

12          THE DEPARTMENT MAY NOT CONDUCT FACIAL RECOGNITION SEARCHES AT:

13                   (1) A PROTEST;

14                   (2) A RALLY; OR

15                   (3) ANOTHER GATHERING THAT IS PROTECTED BY THE 1<sup>ST</sup> AMENDMENT TO THE UNITED  
16                   STATES CONSTITUTION.

17    **§ 18-20. DOCUMENTATION OF SEARCH.**

18          (A) *IN GENERAL.*

19          THE DEPARTMENT SHALL KEEP RECORD OF:

20                   (1) EACH FACIAL RECOGNITION SEARCH PERFORMED BY THE DEPARTMENT;

21                   (2) EACH REQUEST MADE TO THE DEPARTMENT BY A LAW ENFORCEMENT AGENCY OR  
22                   FEDERAL AGENCY FOR A FACIAL RECOGNITION SEARCH; AND

23                   (3) EACH REQUEST MADE BY THE DEPARTMENT TO THE FEDERAL BUREAU OF  
24                   INVESTIGATION FOR A FACIAL RECOGNITION SEARCH.

25          (B) *CONTENTS OF RECORD.*

26          THE DOCUMENTATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

27                   (1) THE DATE AND TIME OF THE SEARCH OR REQUEST;

28                   (2) THE RACE AND GENDER OF THE SUBJECT OF THE SEARCH OR REQUEST;

**Council Bill 23-0379**

- 1 (3) THE NUMBER OF MATCHES RETURNED, IF ANY;
- 2 (4) THE NAME AND POSITION OF THE REQUESTING INDIVIDUAL AND EMPLOYING LAW
- 3 ENFORCEMENT AGENCY;
- 4 (5) A COPY OF THE WARRANT, OR IN THE CASE OF AN EMERGENCY, A COPY OF THE
- 5 WRITTEN EMERGENCY REQUEST; AND
- 6 (6) DATA DETAILING ANY INDIVIDUAL CHARACTERISTICS INCLUDED IN THE FACIAL
- 7 RECOGNITION SEARCH OR REQUEST.

8 (C) *PUBLIC ACCESS TO RECORD.*

9 THE RECORDS DESCRIBED UNDER THIS SUBSECTION SHALL BE MADE PUBLICLY AVAILABLE.

10 **§ 18-21. REQUIRED NOTICE.**

11 (A) *IN GENERAL.*

12 AN INDIVIDUAL IDENTIFIED BY FACIAL RECOGNITION TECHNOLOGY UNDER THIS PART

13 SHALL BE PROVIDED NOTICE THAT THE INDIVIDUAL WAS SUBJECT TO A SEARCH WITHIN 7

14 DAYS AFTER THE DEPARTMENT RECEIVES RECORDS OR OTHER INFORMATION RESULTING

15 FROM THE SEARCH.

16 (B) *DELAYED NOTICE.*

17 THE DEPARTMENT MAY APPLY FOR A COURT ORDER TO EXTEND THE TIME PERIOD

18 BETWEEN THE FACIAL RECOGNITION SEARCH AND THE NOTIFICATION REQUIRED UNDER

19 SUBSECTION (A) OF THIS SECTION.

20 (C) *ISSUANCE OF DELAYED NOTICE.*

21 THE ORDER DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL BE ISSUED BY:

22 (1) THE COURT THAT ISSUED THE ORDER AUTHORIZING THE FACIAL RECOGNITION

23 SEARCH; OR

24 (2) IN THE CASE OF AN EMERGENCY SEARCH, THE COURT WHERE THE SWORN

25 STATEMENT SETTING FORTH THE GROUNDS FOR THE EMERGENCY SEARCH WAS

26 FILED.

27 (D) *CONTENTS OF ORDER FOR DELAYED NOTICE.*

28 THE ORDER FOR DELAYED NOTICE DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL

29 DETAIL, TO THE FULLEST EXTENT POSSIBLE WITHOUT ENDANGERING THE PUBLIC, THE

30 REASONS WHY PROVIDING NOTICE TO THE INDIVIDUAL SUBJECTED TO THE FACIAL

31 RECOGNITION SEARCH WOULD CONSTITUTE AN IMMEDIATE THREAT TO PUBLIC SAFETY.

**Council Bill 23-0379**

1 (E) *DURATION OF ORDER FOR DELAYED NOTICE.*

2 THE ORDER DESCRIBED IN SUBSECTION (B) OF THIS SECTION MAY NOT BE VALID FOR MORE  
3 THAN 7 DAYS WITHOUT AN ADDITIONAL ORDER FOR DELAYED NOTICE.

4 **§ 18-22. ANNUAL REPORT.**

5  
6 (A) *IN GENERAL.*

7 NO LATER THAN MARCH 31 OF EACH YEAR, THE DEPARTMENT SHALL PUBLISH ON ITS  
8 WEBSITE THE FOLLOWING DATA FOR THE PREVIOUS CALENDAR YEAR:

9 (1) THE TOTAL NUMBER OF FACIAL RECOGNITION SEARCHES PERFORMED BY THE  
10 DEPARTMENT, DIS-AGGREGATED BY THE LAW ENFORCEMENT AGENCY OR FEDERAL  
11 AGENCY ON WHOSE BEHALF THE SEARCH WAS PERFORMED; AND

12 (2) THE TOTAL NUMBER OF FACIAL RECOGNITION SEARCHES PERFORMED BY THE  
13 FEDERAL BUREAU OF INVESTIGATION ON BEHALF OF THE DEPARTMENT.

14 (B) *REQUIRED INFORMATION.*

15 FOR EACH CATEGORY OF DATA AND EACH LAW ENFORCEMENT AGENCY INCLUDED IN THE  
16 REPORT, THE PUBLISHED INFORMATION SHALL INCLUDE:

17 (1) THE NUMBER OF SEARCHES PERFORMED PURSUANT TO A WARRANT;

18 (2) THE ALLEGED OFFENSE BEING INVESTIGATED;

19 (3) THE NUMBER OF SEARCHES PERFORMED PURSUANT TO AN EMERGENCY; AND

20 (4) THE RACE AND GENDER OF THE SUBJECT OF THE SEARCH.

21 **§ 18-23. REQUIRED RETENTION OF INFORMATION.**

22 IN ADDITION TO THE REPORTING REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE, THE  
23 DEPARTMENT MUST COLLECT AND RETAIN THE FOLLOWING INFORMATION FOR FUTURE  
24 DISCLOSURE DURING THE COURSE OF CRIMINAL PROCEEDINGS AND POST-CONVICTION  
25 PROCEEDINGS:

26 (1) A COMPLETE HISTORY OF THE SEARCH QUERIES MADE BY EACH INDIVIDUAL THAT  
27 CONDUCTS A FACIAL RECOGNITIONS SEARCH;

28 (2) THE TOTAL NUMBER OF SEARCHES CONDUCTED USING THE FACE RECOGNITION  
29 TECHNOLOGY;

30 (3) THE NUMBER OF SEARCHES THAT RESULTED IN THE FACIAL RECOGNITION  
31 TECHNOLOGY OFFERING INDIVIDUALS MATCHING THE CHARACTERISTICS OF THE  
32 INDIVIDUAL IN THE IMAGE USED TO CONDUCT THE SEARCH;

**Council Bill 23-0379**

- 1 (4) THE NUMBER OF TIMES THAT THE USE OF THE FACIAL RECOGNITION TECHNOLOGY  
2 OFFERED AN INVESTIGATIVE LEAD;
- 3 (5) THE NUMBER OF CASES CLOSED BY ARREST WHERE AN INVESTIGATIVE LEAD OFFERED  
4 BY FACIAL RECOGNITION TECHNOLOGY WAS A CONTRIBUTING FACTOR;
- 5 (6) THE SUSPECTED CRIMINAL OFFENSE BEING INVESTIGATED FOR EACH SEARCH  
6 CONDUCTED;
- 7 (7) THE IMAGE REPOSITORY BEING COMPARED OR QUERIED TO CONDUCT A FACIAL  
8 RECOGNITION SEARCH;
- 9 (8) DEMOGRAPHIC INFORMATION ON INDIVIDUALS WHOSE IMAGES WERE SEARCHED; AND
- 10 (9) RECORDS DETAILING ANY OTHER ENTITIES THAT RECEIVED FACIAL RECOGNITION DATA  
11 SHARED BY THE DEPARTMENT.

12 **§ 18-24. OVERSIGHT AND ENFORCEMENT.**

13 (A) *IN GENERAL.*

14 ANY PERSON WHO IS SUBJECT TO A VIOLATION OF THIS SUBTITLE OR IS HARMED BY  
15 IMPROPER USE OF RECOGNITION TECHNOLOGY BY THE BALTIMORE POLICE DEPARTMENT  
16 MAY FILE FOR INJUNCTIVE RELIEF IN A COURT OF COMPETENT JURISDICTION.

17 (B) *VIOLATION BY CITY EMPLOYEE.*

18 ANY VIOLATION OF THIS SUBTITLE BY AN EMPLOYEE OF THE DEPARTMENT SHALL,  
19 SUBJECT TO DUE PROCESS REQUIREMENTS AND IN ACCORDANCE WITH ANY  
20 MEMORANDUMS OF UNDERSTANDING WITH EMPLOYEE BARGAINING UNITS, RESULT IN  
21 CONSEQUENCES THAT MAY INCLUDE:

- 22 (1) TRAINING REQUIREMENTS;
- 23 (2) SUSPENSION FROM EMPLOYMENT; AND
- 24 (3) TERMINATION OF EMPLOYMENT.

25 (C) *DISCLOSURE OF RECOGNITION TECHNOLOGY USE.*

26 TO THE EXTENT PERMITTED BY LAW, THE DEPARTMENT SHALL PUBLICLY DISCLOSE ALL OF  
27 ITS RECOGNITION TECHNOLOGY-RELATED CONTRACTS, INCLUDING ANY AND ALL  
28 NON-DISCLOSURE AGREEMENTS.



**Council Bill 23-0379**

**§ 18-25. WHISTLEBLOWER PROTECTION.**

*(A) IN GENERAL.*

NEITHER THE DEPARTMENT NOR ANY PERSON ACTING AS AN AGENT ON BEHALF OF THE DEPARTMENT MAY TAKE OR THREATEN TO TAKE A PERSONNEL ACTION WITH RESPECT TO ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE:

(1) THE EMPLOYEE OR APPLICANT FOR EMPLOYMENT WAS PERCEIVED TO, ABOUT TO, OR ASSISTED IN ANY LAWFUL DISCLOSURE OF INFORMATION CONCERNING THE FUNDING, ACQUISITION, OR USE OF A RECOGNITION TECHNOLOGY OR RECOGNITION DATA, IF THE EMPLOYEE OR APPLICANT HAD A GOOD FAITH BELIEF THAT THE DISCLOSURE EVIDENCED A VIOLATION OF THE SUBTITLE; OR

(2) THE EMPLOYEE OR APPLICANT WAS PERCEIVED TO, ABOUT TO, ASSISTED, OR PARTICIPATED IN ANY PROCEEDING OR ACTION TO CARRY OUT THE PURPOSES OF THIS SUBTITLE.

*(B) DISCIPLINARY ACTION.*

AN EMPLOYEE OR ANY PERSON ACTING ON BEHALF OF THE DEPARTMENT SHALL BE SUBJECT TO DISCIPLINARY ACTION FOR VIOLATING THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION.

*(C) RELIEF.*

ANY EMPLOYEE OR APPLICANT WHO IS INJURED BY A VIOLATION OF THIS SUBSECTION MAY FILE FOR INJUNCTIVE RELIEF IN ANY COURT OF COMPETENT JURISDICTION.

**SECTION 2. AND BE IT FURTHER ORDAINED,** That the enforceability of Part 3 {“Use by Baltimore Police Department”} of this Ordinance is contingent upon State action amending City Charter Article II, § 27 to strike certain language that prohibits any ordinance of the City or act of any municipal officer from conflicting, impeding, obstructing, hindering, or interfering with the powers of the Police Commissioner.

**SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 90<sup>th</sup> day after the date it is enacted.