



BALTIMORE POLICE DEPARTMENT



BERNARD C. "JACK" YOUNG
Mayor

MICHAEL S. HARRISON
Police Commissioner

October 19, 2020

Honorable President and Members of the Baltimore City Council
Room 400, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

**RE: City Council Bill# 20-0606
Banning Face Surveillance Technology in Baltimore**

Dear Council President Scott and Members of the City Council:

The Baltimore Police Department (BPD) has reviewed Council Bill #20-0606. This bill seeks to prohibit Baltimore City government from purchasing or obtaining certain face surveillance technology; prohibits Baltimore City government from contracting or subcontracting with another for the purpose of face surveillance technology; prohibits any person in Baltimore City from obtaining, retaining, accessing, or using certain face surveillance technology or any information obtained from certain face surveillance technology and provides for certain penalties; and defining certain terms.

Although we defer to the law department as to whether or not this bill would apply to the Baltimore Police Department, we do want to make it very clear that the Department has concerns about this bill in its current form.

Currently, the BPD utilizes the Maryland Image Repository System (MIRS), established and maintained by the Maryland Department of Public Safety and Correctional Services (DPSCS), to generate investigative leads that contribute to the closure of all sorts of crimes including but not limited to sex trafficking, carjacking, and murder. MIRS is facial recognition software that is the functional equivalent of a digitized mug shot book. Using MIRS, law enforcement officers throughout the state, who are NCIC certified, are able to compare images of unidentified suspects to images from motor vehicle records and state and FBI mugshots of known offenders.

At a time when residents, visitors and business leaders alike are concerned about the crime rate and BPD's ability to solve and ultimately close cases, we should all be supporting innovative investigative techniques that could help make Baltimore a safer city. Unfortunately, as currently written, this bill would prohibit technology that the Department currently relies upon to serve as a force multiplier to aide good old fashioned investigative work and completely eliminates the possibility that the Department could acquire more effective technology as it becomes available.

We believe that rather than a prohibition against facial recognition technology, it would be more prudent to establish safeguards to prevent intentional misuse and to reduce the possibility that an innocent individual could suffer from negative consequences as a result of the use of such technology.

The Department would be happy to participate in a work session to fine tune amendment language but would propose that, at minimum, the bill should be amended to mandate that a Person may not “obtain, retain, access or use in Baltimore City any face surveillance system or any information obtained from a face surveillance system,” without complying with the following:

1. Clear policies for each type of application that articulates:
 - a. Who is authorized to use the technology;
 - b. Under what circumstances and with what level of human oversight the technology is to be used;
 - c. Should reinforce that constitutional limitations apply to facial recognition deployments;
 - d. Make clear that the technology is never to be used in violation of an individual’s constitutional rights under the First, Fourth and Fourteenth Amendments, such as surveillance based solely on:
 - i. Religious, political or social views or activities.
 - ii. Participation in lawful events.
 - iii. The race, ethnicity, citizenship, place of origin, age, disability, gender, gender identity, sexual orientation or other classification protected by law against discrimination.
2. Such policies must be posted on the agency’s website for increased transparency.
3. All users of facial recognition technology must receive mandatory training that includes but is not limited to the history of the technology, forensic face comparison, the purpose of policy, agency standard operating procedures that include protocols relating to how and when to use the data as well as required documentation of such use, data protection, video image extraction techniques, image enhancement regulations, prohibited use and the impact and consequences of policy violations.

Finally, we would like to note that the Department’s federal Consent Decree mandates that prior to the acquisition of any new technology, the Department is required to notify the public in a timely manner and get approval by the Monitoring Team and the DOJ. If we are required to establish a policy about that new technology, the policy will be created in partnership with the Monitoring Team and DOJ and will have at least one public comment period.

Thank you so much for the opportunity to comment on this bill. If you should have any questions, feel free to contact me via email at michelle.wirzberger@baltimorepolice.org or via telephone at 443-915-3155.

Sincerely,



Michelle Wirzberger, Esq.
Director of Government Affairs

cc: Natwana Austin, Executive Secretary of the Baltimore City Council
Dominic McAlily, Legislative Assistant, Office of the Council President
Matt Stegmand, Mayor’s Legislative Liaison
Eric Melancon, BPD Chief of Staff
Andrew Smullian, BPD Deputy Chief of Staff

c/o 242 West 29th Street • Baltimore, Maryland 21211-2908