

May 4, 2022

To New Orleans City Councilmembers,

We are a group of civil rights organizations that support New Orleans' Ord. 33021, which bans law enforcement's use of facial recognition, stingrays, predictive policing, and characteristic tracking softwares. **We are writing to oppose Ord. 33639 and any efforts to legalize these and other surveillance technologies that infringe upon civil liberties.**

These surveillance technologies disproportionately harm people of color. The Center on Privacy and Technology at Georgetown Law issued a report that found facial recognition algorithms are most inaccurate when scanning African-American faces¹. In December 2019 the federal government's National Institute of Standards and Technology found Asian and African-American individuals are up to 100 times more likely to be misidentified by facial recognition technology than white men². Additional studies have found that 92% of facial recognition "matches" are false positives that link individuals to crimes they did not commit³. Similarly, predictive policing algorithms have been shown to have built-in racial bias⁴.

Surveillance technology has also been used against individuals practicing their First Amendment rights. Such surveillance undermines fundamental civil liberties.⁵ New Orleans' ban on the usage of this technology protects the freedom of individuals to gather in public spaces without fear of wrongful arrest caused by inaccurate, racially biased technology.

Additionally, there is no meaningful legal protection in this country to guard the highly-sensitive and personal information collected by surveillance tools. Such intimate information can be permanently exposed through data breaches or sale to data brokers. While personal information like passwords can be changed to restore security, it's impossible to change one's face, fingerprints, voice, or gait following a data breach.

New Orleans' recent experience with malware attacks⁶ highlights that the only way to prevent a massive and irrevocable violation of privacy from a data breach is to not use biometric surveillance technology that collects this information in the first place.

Ord. 33639 would not only repeal the ban on these surveillance technologies, but also allow for expanded use. As written, the ordinance gives the New Orleans and New Orleans Police Department (NOPD) explicit power to use any type of surveillance tech to identify a suspect for a wide range of crimes. Such broad language would permit the use of a very large list of

¹ <https://www.perpetuallineup.org/>

² <https://www.nytimes.com/2019/12/19/technology/facial-recognition-bias.html>

³ <https://arstechnica.com/tech-policy/2018/05/uk-police-say-92-percent-false-positive-facial-recognition-is-no-big-deal/>

⁴ <https://www.technologyreview.com/2020/07/17/1005396/predictive-policing-algorithms-racist-dismantled-machine-learning-bias-criminal-justice/>

⁵ <https://www.baltimoresun.com/news/crime/bs-md-facial-recognition-suspect-identity-20180629-story.html>

⁶ https://www.nola.com/news/coronavirus/article_085d2b06-afeb-11ea-9e88-bb7e2e37be4a.html

technologies, such as mobile DNA capture technology, gait recognition, x-ray vans, and surveillance-capable light bulbs.

Research has shown that surveillance technologies including cameras and predictive policing do not actually decrease crime.⁷⁸ Instead of pouring money into tools that don't work, resources could go towards proven public safety solutions like affordable housing, job training, nutritious food options, and better schools.

We applauded your leadership in passing the previous ordinance banning surveillance technology in New Orleans and celebrated your commitment to protecting your constituents' personal privacy, preventing wrongful arrests, and preserving civil liberties and civil rights. Now we're calling on you to stand by this policy, and if anything expand it with additional privacy protections, and continue to make choices that actually protect the people of New Orleans.

Signed,

Advocacy for Principled Action in Government
Electronic Frontier Foundation
Electronic Privacy Information Center (EPIC)
Fight for the Future
Mayers Strategic Solutions, LLC
National Association of Criminal Defense Lawyers
Organization for Identity and Cultural Development
Restore The Fourth
Surveillance Technology Oversight Project
Upturn

⁷ http://www.rand.org/pubs/research_reports/RR531.html

⁸ https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1275&context=ij_pubs