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Title: A Local Law to amend the administrative code of the city of New York, in relation to police department transparency in the use of surveillance technology

Sponsors: Julie Won, Christopher Marte, Tiffany Cabán, Sandy Nurse, Gale A. Brewer

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Int. No. 1207

By Council Members Won, Marte, Cabán, Nurse and Brewer

A Local Law to amend the administrative code of the city of New York, in relation to police department transparency in the use of surveillance technology

Be it enacted by the Council as follows:

Section 1. Section 14-188 administrative code of the city of New York, as added by local law number 65 for the year 2020 is amended to read as follows:

§ 14-188 Annual surveillance reporting and evaluation. a. Definitions. As used in this section, the following terms have the following meanings:

Surveillance technology. The term “surveillance technology” means equipment, software, or systems

capable of, or used or designed for, collecting, retaining, processing, or sharing audio, video, location, thermal, biometric, or similar information, that is operated by or at the direction of the department. Surveillance technology does not include:

1. routine office equipment used primarily for departmental administrative purposes;
2. parking ticket devices;
3. technology used primarily for internal department communication; or
4. cameras installed to monitor and protect the physical integrity of city infrastructure.

Surveillance technology impact and use policy. The term “surveillance impact and use policy” means a written document that includes the following information:

1. a description of the capabilities of a surveillance technology;
2. rules, processes and guidelines issued by the department regulating access to or use of such surveillance technology as well as any prohibitions or restrictions on use, including whether the department obtains a court authorization for such use of a surveillance technology, and, if so, the specific type of court authorization sought;
3. safeguards or security measures designed to protect information collected by such surveillance technology from unauthorized access, including but not limited to the existence of encryption and access control mechanisms;
4. policies and/or practices relating to the retention, access, and use of data collected by such surveillance technology;
5. policies and procedures relating to access or use of the data collected through such surveillance technology by members of the public;
6. [whether] names of all entities outside the department, including local government entities, state government entities, federal government entities, or private entities, that have access to the information and data collected by such surveillance technology, including: (a) [whether the entity is a local governmental entity,

state governmental entity, federal governmental entity or a private entity,(b)] the type of information and data that may be disclosed [by] to each such entity, and [(c)] (b) [any] the specific safeguards or restrictions imposed by the department on [such] each such entity regarding the use or dissemination of the information collected by such surveillance technology;

7. whether any training is required by the department for an individual to use such surveillance technology or access information collected by such surveillance technology;

8. a description of internal audit and oversight mechanisms within the department to ensure compliance with the surveillance technology impact and use policy governing the use of such surveillance technology;

9. any tests or reports regarding the health and safety effects of the surveillance technology; and

10. any potentially disparate impacts of the surveillance technology and surveillance technology impact and use policy on any protected groups as defined in the New York city human rights law.

b. Publication of surveillance technology impact and use policy. The department shall propose a surveillance technology impact and use policy and post such proposal on the department's website, at least 90 days prior to the use of any new surveillance technology. Such impact and use policies shall be published for all distinct surveillance technologies utilized by the department, regardless of whether such technology overlaps in functionality or capability with any other technology for which a separate impact and use statement exists.

c. Existing surveillance technology. For existing surveillance technology as of the effective date of the local law that added this section, the department shall propose a surveillance technology impact and use policy and post such proposal on the department's website within 180 days of such effective date.

d. Addendum to surveillance technology impact and use policies. When the department seeks to acquire or acquires enhancements to surveillance technology or uses such surveillance technology for a purpose or in a manner not previously disclosed through the surveillance technology impact and use policy, the department shall provide an addendum to the existing surveillance technology impact and use policy describing such enhancement or additional use.

e. Upon publication of any proposed surveillance technology impact and use policy, the public shall have 45 days to submit comments on such policy to the commissioner.

f. The commissioner shall consider public comments and provide the final surveillance technology impact and use policy to the speaker and the mayor, and shall post it on the department's website no more than 45 days after the close of the public comment period established by subdivision e of this section.

§ 2. Section 803 of the New York city charter is amended by adding a new subdivision c-1 to read as follows:

c-1. The commissioner shall prepare annual audits of surveillance technology impact and use policies as defined in section 14-188 of the administrative code that shall:

1. assess whether the New York city police department's use of surveillance technology, as defined in section 14-188 of the administrative code, complies with the terms of the applicable surveillance technology impact and use policy;

2. describe any known or reasonably suspected violations of the surveillance technology impact and use policy, including but not limited to complaints alleging such violations made by individuals pursuant to paragraph (6) of subdivision c of this section; and

3. publish recommendations, if any, relating to revisions of any surveillance technology impact and use policies.

§ 3. This local law takes effect immediately.

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