

M E M O R A N D U M

January 28, 2026

TO: Public Safety Committee

FROM: Christine M.H. Wellons, Chief Legislative Attorney

SUBJECT: Bill 4-25, Administration – Surveillance Technology - Acquisition and Use by the County

PURPOSE: Worksession – discussion expected

Expected Attendees

Chief Yamada, Montgomery County Police Department (MCPD) (or designee)
Michael Knuppel, Office of Public Safety Programs and Regional Interoperability (OFPS),
Technology and Enterprise Business Solutions (TEBS)
Alicia Singh, Office of Management and Budget (OMB) (invited)

Bill 4-25, Surveillance Technology - Acquisition and Use by the County, sponsored by Lead Sponsors Councilmember Mink and then-Council President Stewart and Co-Sponsors Councilmember Vice President Balcombe and Councilmember Luedtke, was introduced on February 11, 2025. A public hearing was held on March 18, 2025.

An initial worksession of the Public Safety Committee is scheduled for February 2, 2026. If needed, an additional worksession on the bill will be held on February 23rd.

Bill 4-25 would:

- (1) require the submission of impact reports, and the adoption of regulations, prior to the acquisition, funding, or use by the County of certain surveillance technology;
- (2) limit the acquisition and use of facial recognition technology by the County consistent with state law;
- (3) require annual reports and public hearings regarding surveillance technology; and
- (4) generally amend the law regarding the acquisition, funding, and use of surveillance technology by the County.

BACKGROUND

The purpose of the bill would be to establish a transparent process through which safeguards are put in place regarding the County's acquisition and use of any new surveillance technology.

BILL SPECIFICS

As originally introduced, the bill would add a new article to Chapter 2 {Administration} of the County Code. The new article would be entitled the “Surveillance Technology Transparency and Civil Liberties Act”.

Under the bill, before the County acquires or uses a new (post-2020) surveillance technology, it would be required to undergo an impact study process, and to adopt Method (1) regulations regarding the use of the technology. The general definition of “surveillance technology” would include “any electronic device, hardware, or software that is intended to collect, capture, record, retain, process, intercept, analyze, monitor, or share audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group.”

First, the County agency seeking to use a new technology would be required to publish a “surveillance technology impact report.” The impact report would include:

- a description of the new surveillance technology and how it works;
- the proposed purposes of the surveillance technology;
- if the surveillance technology will not be uniformly deployed throughout the County, the factors that will be used to determine where the technology is deployed;
- the fiscal impact of the surveillance technology;
- research on the efficacy of the surveillance technology, including peer-reviewed academic literature if available; and
- an assessment identifying:
 - o potential adverse impacts the surveillance technology, if deployed, might have on civil liberties and civil rights; and
 - o measures that will be implemented to safeguard the public from the potential adverse impacts.

Second, prior to acquiring or using the new surveillance technology, the agency would be required to promulgate Method (1) regulations. As a part of that process, the agency would be required to submit to the Council a report on the anticipated impacts of the proposed regulations on racial equity and social justice.

The regulations would be required to address:

- the purposes the surveillance technology is intended to advance;
- the authorized uses of the surveillance technology;

- the prohibited uses of the surveillance technology;
- procedural requirements to govern the authorized uses of the technology;
- the maintenance and dissemination of surveillance data associated with the technology, including the sharing of collected surveillance data;
- measures to minimize the unauthorized collection of surveillance data;
- measures to minimize the unauthorized access of surveillance data, including encryption and access control mechanisms;
- measures to delete unauthorized surveillance data;
- data retention requirements related to the surveillance data; and
- auditing and oversight requirements.

The bill would “grandfather” technologies already in use by the County prior to 2020. In addition, it would include a transition process for surveillance technologies acquired after 2020 but before the effective date of the bill. For those technologies, the using agency would be required to submit Method (1) regulations to the Council within nine months after the effective date of the bill. If the regulations are not submitted to the Council or the Council disapproves of the regulations, then the agency would have to desist acquiring or using the technology.

SUMMARY OF IMPACT STATEMENTS

Fiscal Impact. According to the Office of Management and Budget (OMB), Bill 4-25 “is expected to increase County expenditures by an estimated amount of \$71.5 million over the next six years” with most of the costs occurring in FY26 (\$48.9 million) and FY27 (\$11.5 million). Thereafter, the County would have additional expenditures of \$2.77 million annually. The expenditures would derive from 13 needed full-time employees, personnel cost, and operating expenditures. It is undetermined if Bill 4-25 would have an impact on revenue at this time.

Economic Impact. “The Office of Legislative Oversight (OLO) anticipates that Bill 4-25 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.”

Racial Equity and Social Justice Impact. OLO “anticipates Bill 4-25 will have a positive impact on racial equity and social justice in the County. Black and Latinx community members could disproportionately benefit from increased transparency in the County’s process to acquire, fund, and use surveillance technologies. This could help mitigate the harms of surveillance technologies on Black, Indigenous and People of Color (BIPOC) community members. Bill 4-25 is mostly aligned with guiding principles to minimize the harms of surveillance technologies on civil rights and civil liberties.” If the Council wished to strengthen the positive racial equity and

social justice impact of the Bill, OLO recommends including drones as surveillance technology that requires approval and/or creating a community advisory committee on surveillance.

Climate Assessment. OLO “anticipates Bill 4-25 will have no impact on the County’s contribution to addressing climate change as the Bill proposes actions to establish a transparent process for the County’s acquisition and use of any new surveillance technology.”

SUMMARY OF PUBLIC HEARING

The County Council held a public hearing on Bill 4-25 on March 18, 2025; however, no speakers testified. The Council received two pieces of written testimony regarding the bill, one in support and the other requesting amendments. [Bill 4-25, Administration - Surveillance Technology - March 18, 2025](#)

ISSUES FOR THE COMMITTEE’S CONSIDERATION

The Committee might want to consider the following issues and potential amendments regarding Bill 4-25. To narrow and clarify the scope of the bill, and to reduce fiscal impact, the Lead Sponsors have discussed various potential amendments, which are reflected in “tracked changes” at © 33.

Councilmember Luedtke has recommended some additions and modifications to the Lead Sponsors’ amendments, as discussed below. Councilmember Luedtke’s proposed amendments are reflected in highlighted “tracked changes” at © 46.

1. Definition of “Surveillance Technology”

The first potential amendment for Committee consideration (starting at © 33) is to replace the defined term “surveillance technology” with the term “public safety technology” throughout the bill, and to narrow the scope of the definition as follows:

- The definition would “grandfather in” any technology acquired or used by the County prior to July 1, 2023 (instead of January 1, 2020, as originally contemplated under the bill).
- The definition would exclude any “routine updates” to technology that was acquired or in use prior to July 1, 2023, or to technology that has been approved through Method (1) regulations.

Councilmember Luedtke intends to propose an amendment that would make the bill’s application entirely prospective, in that all technologies acquired or used by the County prior to the bill’s effective date would be “grandfathered in.” See © 48.

If the Committee wishes to further narrow the scope of the bill, it could consider limiting the definition of “public safety technology” to technologies acquired by certain departments – such as the police department. Alternatively, or additionally, the Committee could consider limiting the definition of public safety technologies to technologies that, in the determination of the Executive, are acquired for public safety purposes.

2. Procurement of Public Safety Technology

As originally introduced, the bill would require that any County contract for the acquisition of public safety technology “must include within the contract a prohibition against the material alteration of the privacy policies, as applied to the County, without the County’s prior written consent.”

A potential amendment by the Lead Sponsors (at © 42) would allow for this requirement to be waived via Council resolution, on a case-by-case basis.

The Committee might wish to ask panelists how the bill would affect procurement practices, and how often departments anticipate that a waiver would be needed in order to acquire technology for the County.

3. Method (1) Regulations

Under the bill, Method (1) regulations would be required prior to the acquisition, funding, or use of a new public safety technology. Councilmember Luedtke intends to propose an amendment to require that the regulations be adopted prior to the *use* of the technology, but not necessarily prior to the funding or acquisition. See © 53. The reason for the amendment would be to avoid any undue delay in the acquisition of technologies that are beneficial to public safety.

4. Reporting Requirements

Regarding annual reporting requirements under the bill, Councilmember Luedtke proposes adding requirements that the Executive must report on: (1) the outcomes of complaints regarding the County’s use of public safety technology; and (2) information about any pending or resolved litigation related to the County’s use of the technology. See © 59.

5. Additional Potential Amendments

Councilmember Luedtke has suggested several additional amendments, which would: (1) provide that the required impact report on a proposed new public safety technology must include an “estimated” fiscal impact; (2) provide that the County must not withhold information required to be disclosed under a subpoena or judicial warrant; and (3) update citations to Maryland law regarding facial recognition technology. See © 57.

6. Questions

The Committee might wish to ask the panelists:

- For feedback regarding the potential amendments; and
- To elaborate regarding the expected fiscal impacts of the legislation as amended.

This packet contains:

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Bill No. 4-25
Concerning: Administration –
Surveillance Technology - Acquisition
and Use by the County
Revised: 2/3/2025 Draft No. 9
Introduced: February 11, 2025
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Mink and then-Council President Stewart
Co-Sponsor: Council Vice President Balcombe and Councilmember Luedtke

AN ACT to:

- (1) require the submission of impact reports, and the adoption of regulations, prior to the acquisition, funding, or use by the County of certain surveillance technology;
- (2) limit the acquisition and use of facial recognition technology by the County consistent with state law;
- (3) require annual reports and public hearings regarding surveillance technology; and
- (4) generally amend the law regarding the acquisition, funding, and use of surveillance technology by the County.

By adding

Montgomery County Code
Chapter 2, Administration
Article XV. Surveillance Technology.
Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following Act:

1 Sec 1. Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165, of Article XV,
2 are added, as follows:

3 **ARTICLE. XV. SURVEILLANCE TECHNOLOGY.**

4 **2-160. Title.**

5 This Article is known as the “Surveillance Technology Transparency and
6 Civil Liberties Act”.

7 **2-161. Definitions.**

8 In this Article, the following terms have the meanings indicated.

9 Agency means a unit or instrumentality of the County government and
10 includes any County department or office.

11 Facial recognition technology means a computer program, a service, or any
12 other technology that analyzes facial features and is used by or at the direction
13 of an agency for the for the identification, verification, or persistent tracking
14 of individuals in still or video images.

15 Facial recognition technology does not include technology:

- 16 (1) used only for the analysis of facial features to grant or deny
17 access to an electronic device; or
- 18 (2) that uses an automated or semiautomated process only for the
19 purpose of redacting a recording or an image for release or
20 disclosure outside an agency to protect the privacy of a subject
21 depicted in the recording or image if the process does not
22 generate or result in the retention of any biometric data or
23 surveillance information.

24 Lead agency means an agency, identified by the Chief Administrative Officer,
25 as having primary responsibility for the acquisition, funding, or use of a new

26 surveillance technology.

27 New surveillance technology means any type of surveillance technology, the
28 acquisition, funding, or use of which is not yet authorized by a Method (1)
29 regulation adopted under Section 2-162.

30 New surveillance technology includes a material alteration or enhancement in
31 the functionalities or capabilities of a technology previously authorized under
32 Section 2-162.

33 New surveillance technology does not include:

34 (1) a technology that does not differ in its functionalities and
35 capabilities from a technology previously authorized under
36 Section 2-162; or

37 (2) a surveillance technology used, funded, or acquired by the
38 County prior to January 1, 2020.

39 Surveillance data means any electronic data collected, captured, recorded,
40 retained, processed, intercepted, analyzed, or shared by surveillance
41 technology.

42 Surveillance technology means:

43 (1) any electronic device, hardware, or software that is intended to
44 collect, capture, record, retain, process, intercept, analyze,
45 monitor, or share audio, visual, digital, location, thermal,
46 biometric, behavioral, or similar information or communications
47 specifically associated with, or capable of being associated with,
48 any specific individual or group; or

49 (2) any system, device, or vehicle that is equipped with an electronic
50 device, hardware, or software under paragraph (1) of this

(3)

definition.

Surveillance technology includes:

- (1) international mobile subscriber identity (IMSI) catchers and other cell site simulators;
- (2) automatic license plate readers;
- (3) electronic toll readers;
- (4) closed-circuit television cameras;
- (5) biometric surveillance technology, including voice, iris, and gait-recognition software and databases;
- (6) mobile DNA capture technology;
- (7) gunshot detection and location hardware and services;
- (8) x-ray vans;
- (9) video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras;
- (10) surveillance enabled or capable lightbulbs or light fixtures;
- (11) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
- (12) social media monitoring software;
- (13) through-the-wall radar or similar imaging technology;
- (14) passive scanners of radio networks;
- (15) long-range Bluetooth and other wireless-scanning devices;
- (16) radio-frequency I.D. (RFID) scanners;
- (17) software designed to integrate or analyze data from surveillance

(4)

76 technology, including surveillance target tracking and predictive
77 policing software; and

78 (18) facial recognition technology.

79 Surveillance technology does not include:

80 (1) routine office hardware, such as televisions, computers, and
81 printers, that is in widespread public use and will not be used for
82 any surveillance or surveillance-related functions;

83 (2) Parking Ticket Devices (PTDs);

84 (3) manually-operated, non-wearable, handheld digital cameras,
85 audio recorders, and video recorders that are not designed to be
86 used surreptitiously and whose functionality is limited to
87 manually capturing and manually downloading video or audio
88 recordings;

89 (4) surveillance devices that cannot record or transmit audio or video
90 or be remotely accessed, such as image stabilizing binoculars or
91 night vision goggles;

92 (5) databases that do not and will not contain any data or other
93 information collected, captured, recorded, retained, processed,
94 intercepted, or analyzed by surveillance technology;

95 (6) manually-operated technological devices that are used primarily
96 for internal communications and are not designed to
97 surreptitiously collect surveillance data, such as radios and email
98 systems; and

99 (7) medical devices or medical treatments used or prescribed by
100 licensed healthcare professionals.

(5)

2-162. New surveillance technology – requirements.

(a) An agency must not acquire, fund, or use a new surveillance technology, unless the requirements of this Section are met.

(b) Impact report - required.

(1) Before an agency acquires, funds, or uses a new surveillance technology, the lead agency must publish and submit to the County Executive and the County Council a surveillance technology impact report.

(2) A surveillance technology impact report must contain:

(A) a description of the new surveillance technology and how it works;

(B) the proposed purposes of the surveillance technology;

(C) if the surveillance technology will not be uniformly deployed throughout the County, the factors that will be used to determine where the technology is deployed;

(D) the fiscal impact of the surveillance technology;

(E) research on the efficacy of the surveillance technology, including peer-reviewed academic literature if available; and

(F) an assessment identifying:

(i) potential adverse impacts the surveillance technology, if deployed, might have on civil liberties and civil rights; and

(ii) measures that will be implemented to safeguard the public from the potential adverse impacts.

(6)

(3) A surveillance technology impact report must be submitted to the County Executive and the County Council, and must be published, at least 30 days before the agency submits proposed regulations to the County Register under subsection (c).

(c) Regulations - required.

(1) Before an agency acquires, funds, or uses a new surveillance technology, the Council must approve Method (1) regulations, promulgated by the lead agency after a public hearing conducted by the Executive.

(2) The public hearing under paragraph (1) must be held at least 60 days after publication of the proposed regulations in the County Register.

(3) When the lead agency submits proposed regulations to the Council under this subsection, it must at the same time submit a written report of the Office of Racial Equity and Social Justice identifying the anticipated impacts of the proposed regulations on racial equity and social justice.

(4) The regulations promulgated under this subsection must address:

(A) the purposes the surveillance technology is intended to advance;

(B) the authorized uses of the surveillance technology;

(C) the prohibited uses of the surveillance technology;

(D) procedural requirements to govern the authorized uses of the technology;

(E) the maintenance and dissemination of surveillance data

associated with the technology, including the sharing of collected surveillance data;

(F) measures to minimize the unauthorized collection of surveillance data;

(G) measures to minimize the unauthorized access of surveillance data, including encryption and access control mechanisms;

(H) measures to delete unauthorized surveillance data;

(I) data retention requirements related to the surveillance data; and

(J) auditing and oversight requirements.

(d) Contracting requirements. Prior to executing a contract to acquire or use new surveillance technology, a contracting agency:

(1) must publish:

(A) the identity of the contractor; and

(B) the written privacy policies of the contractor that apply to the County; and

(2) must include within the contract a prohibition against the material alteration of the privacy policies, as applied to the County, without the County's prior written consent.

(e) Contractors' privacy policies. If a contractor materially alters its privacy policy under subsection (d), as applied to the County, the contracting agency must publish:

(1) the updated policy; and

(2) the County's written consent to the updated policy.

(f) Discriminatory uses or disclosures – prohibited.

(1) An agency must not acquire or use any surveillance technology with the purpose or effect of discriminating against individuals or communities based on immigration status, reproductive healthcare, gender-affirming care, race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, genetic status, presence of children, family responsibilities, source of income, sexual orientation, or gender identity.

(2) An agency must not acquire or use surveillance technology for the purpose of investigating or enforcing:

(A) federal immigration laws; or

(B) laws of the federal government or of other states regarding the provision of, or access to, reproductive healthcare or gender-affirming healthcare.

(3) Unless compelled by court order, an agency must not disclose surveillance data in furtherance of the investigation or enforcement of:

(A) federal immigration laws; or

(B) laws of the federal government or of other states regarding the provision of, or access to, reproductive healthcare or gender-affirming healthcare.

2-163. Facial recognition technology – criminal investigation requirements.

(a) An agency must not acquire or use facial recognition except as permitted under Chapter 808 of the 2024 Laws of Maryland.

(b) An agency must not use facial recognition technology to investigate a

crime other than the commission of or the attempt to commit:

- (1) a crime of violence as defined in Section 14-101 of the Criminal Law Article of the Maryland Code;
- (2) a human trafficking offense under Title 3, Subtitle 11 of the Criminal Law Article of the Maryland Code;
- (3) first- or second-degree child abuse under Section 3-601 of the Criminal Law Article of the Maryland Code;
- (4) a child pornography offense under Section 11-207 of the Criminal Law Article of the Maryland Code;
- (5) a hate crime under Section 10-304 of the Criminal Law Article of the Maryland Code;
- (6) a weapon crime under Sections 4-102, 4-103, 4-203(a)(1)(iii) or (iv), 4-204, or 4-303(a)(2) of the Criminal Law Article of the Maryland Code;
- (7) a weapon crime under Sections 5-138, 5-140, 5-141, 5-207(c)(16), § 5-406(a)(3), OR § 5-703(a) of the Public Safety Article of the Maryland Code;
- (8) aggravated cruelty to animals under Sections 10-606 or 10-607 of the Criminal Law Article of the Maryland Code;
- (9) importation of fentanyl or a fentanyl analogue under Section 5-614(a)(1)(xii) of the Criminal Law Article of the Maryland Code;
- (10) stalking under Section 3-802 of the Criminal Law Article of the Maryland Code;
- (11) a criminal act involving circumstances presenting a substantial and ongoing threat to public safety or national security; or

(12) a crime under the laws of another state substantially equivalent to a crime listed in paragraphs (1) through (10) of this subsection involving a fugitive from justice charged with a crime in that state and sought under Title 9 of the Criminal Procedure Article of the Maryland Code.

2-164. Annual reporting.

(a) Each agency that acquires, funds, or uses surveillance technology must publish and submit to the County Executive and the County Council an annual report.

(b) The annual report must contain, regarding the prior year:

- (1) a description of each type of surveillance technology acquired, funded, or used by the agency;
- (2) a summary of how each technology was used;
- (3) a general description of the geographic areas of the County where the surveillance technology was deployed;
- (4) a summary of complaints or concerns that were received about each surveillance technology;
- (5) the results of any internal audits regarding surveillance data;
- (6) any information about regulatory violations in connection with surveillance technologies, and the response of the agency to the violations;
- (7) an analysis of any discriminatory, disparate, and other adverse impacts of the use of the technology upon civil rights and civil liberties; and
- (8) total annual costs for the surveillance technology.

(c) The Council must hold a public hearing on each annual report.

Sec. 2. Inventory of surveillance technologies. Within 6 months after the effective date of this Act, the Executive must submit to the Council and publish a written inventory of surveillance technology used or acquired by the County prior to the effective date of this Act.

Sec. 3. Transition. For a new surveillance technology acquired or used by an agency after January 1, 2020 and before the effective date of this Act, the agency may continue to acquire and use the technology after the effective date of this Act unless: (i) within 9 months after the effective date of the Act, the lead agency has not submitted Method (1) regulations regarding the technology to the Council under Section 2-162 (added under Section 1 of this Act); (ii) the Council disapproves of the Method (1) regulations regarding the technology; or (iii) the Council takes no action on the Method (1) regulations within one year after submission of the regulations to the Council by the lead agency. The Council may, by resolution, extend the one-year deadline under subsection (iii) by intervals of 3 months.

Climate Assessment

Office of Legislative Oversight

Bill 4-25: Administration - Surveillance Technology – Acquisition and Use by the County

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 4-25 will have no impact on the County's contribution to addressing climate change as the Bill proposes actions to establish a transparent process for the County's acquisition and use of any new surveillance technology.

BACKGROUND AND PURPOSE OF BILL 4-25

Surveillance technologies are becoming increasingly common in local government, especially within police departments. For instance, one recent survey found that almost two-thirds of large police agencies across the U.S. use automatic license plate readers – ¹ “high-speed, computer-controlled camera systems...that automatically capture all license plate numbers that come into view.”² Examples of other surveillance technologies include video surveillance, face recognition, and social media monitoring.³ Advocates and scholars note that unchecked use of surveillance technologies by local governments can pose a considerable threat to civil rights and civil liberties.^{4,5}

The purpose of Bill 4-25 is to establish a transparent process for the County to acquire and use surveillance technologies. If enacted, Bill 4-25 would require County agencies that want to acquire and use a new surveillance technology to:^{6,7}

- **Publish a surveillance technology impact report.** For the desired surveillance technology, the report would describe how it works, its proposed uses, and where it would be deployed, among other things. The report would also assess the potential adverse impacts of technology on civil rights and civil liberties and safeguards that would be implemented to protect against those impacts. The agency would have to publish and submit the report to the County Executive and County Council at least 30 days before proposing regulations for the technology.
- **Propose Method (1) regulations for the use of surveillance technology.** For the desired surveillance technology, the proposed regulations would have to address its purpose, authorized and prohibited uses, and measures to minimize unauthorized collection and access to surveillance data, among other things. The agency would also have to submit a report from the Office of Racial Equity and Social Justice that describes the anticipated impact of the proposed regulations on RESJ. The County Executive would be required to hold a public hearing on the proposed regulations at least 60 days after they are published. Method (1) regulations must be approved by the Council before they are adopted.⁸

- **Submit an annual report for approved surveillance technologies.** The annual report would describe each type of surveillance technology, how they were used, and complaints and concerns on their use, among other things. The Council would be required to hold a public hearing on each annual report.

Bill 4-25 also includes guidelines on contracting requirements, contractor privacy policies, and prohibited discriminatory uses of surveillance technologies. It also includes guidelines on the use of facial recognition technology for criminal investigations.⁹

If Bill 4-25 is enacted, the County Executive would be required to publish an inventory of surveillance technologies that were acquired and used before the Bill's effective date. Agencies must submit Method (1) regulations for any technologies acquired between January 1, 2020, and before the Bill's effective date. Agencies would have to stop using surveillance technologies if their regulations are not submitted or if the Council disapproves their regulations.¹⁰

The Council introduced Bill 4-25, Administration – Surveillance Technology – Acquisition and Use by the County, on February 11, 2025.

ANTICIPATED IMPACTS

As the Bill proposes actions to establish a transparent process for the County's acquisition and use of any new surveillance technology, OLO anticipates Bill 4-25 will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.¹¹ OLO does not offer recommendations or amendments as Bill 4-25 is likely to have little to no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County's contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptive capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ Christopher Slobogin and Sarah Brayne, "[Surveillance Technologies and Constitutional Law](#)," Annual Review of Criminology, September 2022 citing Mariana Oliver and Matthew B. Kugler, "[Surveying Surveillance: A National Study of Police Department Surveillance Technologies](#)," Arizona State Law Journal, 2022.

² [Automated License Plate Readers](#), Street Level Surveillance, Electronic Frontier Foundation.

³ [Street Level Surveillance](#), Electronic Frontier Foundation.

⁴ [Community Oversight of Surveillance - D.C.](#), American Civil Liberties Union of DC.

⁵ Christopher Slobogin, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* (University of Chicago Press, 2008).

⁶ [Introduction Staff Report for Bill 4-25](#), Montgomery County Council, Introduced February 11, 2025.

⁷ Bill 4-25, Introduction Staff Report for Bill 4-25.

⁸ [Montgomery County Code § 2A-15](#)

⁹ Ibid.

¹⁰ Introduction Staff Report for Bill 4-25.

¹¹ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 4-25: ADMINISTRATION – SURVEILLANCE TECHNOLOGY – ACQUISITION AND USE BY THE COUNTY

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 4-25 will have a positive impact on racial equity and social justice (RESJ) in the County. Black and Latinx community members could disproportionately benefit from increased transparency in the County's process to acquire, fund, and use surveillance technologies. This could help mitigate the harms of surveillance technologies on Black, Indigenous and People of Color (BIPOC) community members. Bill 4-25 is mostly aligned with guiding principles to minimize the harms of surveillance technologies on civil rights and civil liberties.

PURPOSE OF RESJ IMPACT STATEMENTS

RESJ impact statements (RESJIS) evaluate the anticipated impact of legislation on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is important to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF BILL 4-25

Surveillance technologies are becoming increasingly common in local government, especially within police departments. For instance, one recent survey found that almost two-thirds of large police agencies across the U.S. use automatic license plate readers – ³ “high-speed, computer-controlled camera systems...that automatically capture all license plate numbers that come into view.”⁴ Examples of other surveillance technologies include video surveillance, face recognition, and social media monitoring.⁵ Advocates and scholars note that unchecked use of surveillance technologies by local governments can pose a considerable threat to civil rights and civil liberties.^{6,7}

The purpose of Bill 4-25 is to establish a transparent process for the County to acquire and use surveillance technologies. If enacted, Bill 4-25 would require County agencies that want to acquire and use a new surveillance technology to:^{8,9}

- **Publish a surveillance technology impact report.** For the proposed surveillance technology, the report would describe how it works, its proposed uses, its fiscal impact, and its efficacy based on available research, among other things. The report would also assess the potential adverse impacts of the technology on civil rights and civil liberties and safeguards that would be implemented to protect against those impacts. The agency would have to publish and submit the report to the County Executive and County Council at least 30 days before proposing regulations for the technology.
- **Propose Method (1) regulations for the use of the surveillance technology.** For the proposed surveillance technology, the proposed regulations would have to address its purpose, authorized and prohibited uses, and measures to minimize unauthorized collection and access to surveillance data, among other things. The agency would also have to submit a report from the Office of Racial Equity and Social Justice (ORESJ) that describes the anticipated impact of the proposed regulations on RESJ. The County Executive would be required to hold a

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public hearing on the proposed regulations at least 60 days after they are published. Method (1) regulations must be approved by the Council before they are adopted.¹⁰

- **Submit an annual report for approved surveillance technologies.** The annual report would describe each type of surveillance technology, how they were used, and complaints and concerns on their use, among other things. The Council would be required to hold a public hearing on each annual report.

Bill 4-25 also includes guidelines on contracting requirements, contractor privacy policies, and prohibited discriminatory uses of surveillance technologies. It also includes guidelines on the use of facial recognition technology for criminal investigations.¹¹

If Bill 4-25 is enacted, the County Executive would be required to publish an inventory of surveillance technologies that were acquired and used before the Bill's effective date. Agencies must submit Method (1) regulations for any technologies acquired between January 1, 2020 and the Bill's effective date. Agencies would have to stop using surveillance technologies if their regulations are not submitted or if they are disapproved by the Council.¹²

The Council introduced Bill 4-25, Administration – Surveillance Technology – Acquisition and Use by the County, on February 11, 2025.

This RESJIS builds on the RESJIS for Bill 14-22, Police – Private Security Camera Incentive Program – Established, which OLO published in July 2022.¹³ Please refer to this RESJIS for background on policing, surveillance, and racial equity.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 4-25 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who would primarily benefit or be burdened by this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, all community members could benefit from increased transparency in the County's process for acquiring surveillance technologies. However, because these technologies are prevalent in local police departments, community members with frequent police interactions could particularly benefit from the increased transparency.

Black and Latinx community members are disproportionately impacted by police interactions. Table 1 shows data for Montgomery County Police Department (MCPD) traffic stops, uses of force, arrests, and field interviews by race ethnicity. The data shows that Black community members are largely overrepresented across each of these interactions. Further, while Latinx community members are proportionately represented in traffic stops, they are overrepresented in uses of force, arrests, and field interviews. Generally, Asian and White community members are underrepresented across all policing interactions. White community members appear to be overrepresented among arrests. However, this measure includes Latinx community members who are White.

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Table 1: Percent of MCPD Traffic Stops, Use of Force, Arrests, and Field Interviews by Race and Ethnicity

Race or ethnicity	Traffic Stops (FY18-FY22)	Use of Force (2023)	Arrests (2024) ¹⁴	Field Interviews (2024)	County Population
Asian/Pacific Islander ¹⁵	6.0	3.0	2.3	0.0	15.1
Black	30.0	57.0	36.2	50.0	18.3
Native American	<1.0	-	-	-	0.1
White	35.0	14.0	61.1	17.2	40.4
Latinx	21.0	25.0	40.3	31.6	20.6

Source: OLO Memorandum Report 2022-12, "[Analysis of dataMontgomery Traffic Violations Dataset](#)," pg.9; [2023 MCPD Annual Use of Force Report](#), pg. 10; OLO Analysis of [2024 MCPD Police Statistical Data Report](#), pg. 11.; [Table DP05](#), American Community Survey 5-Year Estimates, Census Bureau.

For the second question, as described in the RESJIS for Bill 14-22, historically, racial bias in policing has extended to over surveillance in BIPOC communities. Surveillance technologies can widen racial disparities in policing by placing BIPOC community members at greater risk of police contact.¹⁶ The American Civil Liberties Union (ACLU) notes that mitigating the adverse impacts of surveillance technologies requires maximum public input in decision-making to acquire and adopt surveillance technologies, especially from BIPOC and other communities that have historically been over-targeted by surveillance.¹⁷

The Community Control Over Police Surveillance (CCOPS) initiative – a collaborative of 17 advocacy organizations led by the ACLU – developed a set of eight guiding principles for local governments to develop laws that minimize the harms of surveillance technologies on civil rights and civil liberties, especially on BIPOC and other over-policed communities.¹⁸ CCOPS also developed a model bill based on these principles.¹⁹ Figure A in the Appendix describes the CCOPS guiding principles and compares them to Bill 4-25. Based on OLO's review, Bill 4-25 is mostly aligned on six of the eight guiding principles. These are marked with an asterisk (*) on Figure A.

Conclusion. OLO anticipates Bill 4-25 will have a positive impact on RESJ in the County. Black and Latinx community members could disproportionately benefit from increased transparency in the County's process to acquire, fund, and use surveillance technologies. This could help mitigate the harms of surveillance technologies on BIPOC community members. Bill 4-25 is mostly aligned with guiding principles proposed by advocacy organizations to minimize the harms of surveillance technologies on civil rights and civil liberties.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁰ OLO anticipates Bill 4-25 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, if the Council seeks to improve the RESJ impact of this Bill, OLO offers two policy options for Council consideration:

- **Include drones as a surveillance technology that requires approval.** In the current language of Bill 4-25, it is unclear if unmanned aerial vehicles, or drones, would be required to go through the proposed approval process for surveillance technologies.²¹ As noted in the Racial Equity Impact Assessment for the Drone as a First Responder Pilot Program, the program had the potential to "overwhelmingly target communities of color" and potentially harm communities without the appropriate usage policies.²² The Council could consider explicitly including drones as a surveillance technology that requires approval. This could encourage the development of regulations that mitigate the potential harms of drones on BIPOC communities.

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- **Create a community advisory committee on surveillance.** As noted in Figure A, aside from holding a public hearing, Bill 4-25 does not provide additional guidelines to involve communities in decision-making on new surveillance technologies. The Council could consider establishing a community advisory committee to promote community engagement on new surveillance technologies, especially with BIPOC and other communities that are most impacted by over-surveillance. The CCOPS model bill includes language for establishing an advisory committee that provides local decisionmakers with “broad principles to help guide decisions about if and how surveillance technologies should be used.”²³ The model bill proposes the committee submit an annual report describing the adverse impacts of surveillance technologies on equity and policy guidance for addressing. The Council could consider creating a new advisory committee solely focused on surveillance technologies or nesting this responsibility under an existing group, such as the Advisory Commission on Policing.
- **Require surveillance technology impact report, RESJ assessment, and proposed regulations for all surveillance technologies that are currently in use.** Bill 4-25 would require only proposed regulations for surveillance technologies that were acquired after January 1, 2020 and before the Bill’s effective date. To better align Bill 4-25 with CCOPS guiding principles, the Council could consider requiring that agencies also submit a surveillance technology impact report and RESJ assessment for these technologies. The Council could also consider requiring the impact report, RESJ assessment, and proposed regulations for all surveillance technologies that are in use before the Bill’s effective date, regardless of when they were acquired.
- **Set guidelines for agencies to publish information related to new surveillance technologies.** Bill 4-25 would require agencies to produce multiple pieces of information related to new surveillance technologies. This includes a surveillance impact report, a RESJ assessment, and proposed regulations. To ensure community members can easily access information related to proposed surveillance technologies, the Council could consider setting guidelines for agencies to publish this information online in a streamlined way. For instance, the Council could require agencies to publish all information related to surveillance technologies on a dedicated webpage for each agency or on a dedicated webpage for the County that provides information across agencies.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the bill under consideration.

APPENDIX

Figure A: Comparison of Community Control Over Police Surveillance (CCOPS) Guidance Principles to Bill 4-25

Principle	Key Features	Bill 4-25
<i>Surveillance technologies should not be funded, acquired, or used without express city council approval*</i>	<ul style="list-style-type: none">• Public knowledge and explicit approval of new surveillance technologies by Council before they are funded, acquired, or used.• Approval by Council for new uses of previously acquired surveillance technologies.	<ul style="list-style-type: none">• Before an agency acquires, funds or uses a new surveillance technology, they must:<ul style="list-style-type: none">○ Publish a surveillance technology impact report at least 30 days before proposing regulations.

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Principle	Key Features	Bill 4-25
		<ul style="list-style-type: none"> ○ Submit proposed regulations and adopt regulations that are approved by the Council. ● Approved technologies must go through this process again if their functions/capabilities are altered or enhanced.
<i>Local communities should play a significant and meaningful role in determining if and how surveillance technologies are funded, acquired, or used</i>	<ul style="list-style-type: none"> ● Giving the Council and local communities (rather than police department and other agencies) the authority to decide whether or not new surveillance technologies should be acquired and used, especially given the harm of surveillance technologies on communities that are disproportionately targeted by their use, such as BIPOC communities. 	<ul style="list-style-type: none"> ● Bill 4-25 empowers the Council to decide whether or not surveillance technologies are acquired, funded, and used in the County ● Beyond holding a public hearing (described next), Bill 4-25 does not provide additional guidelines for involving communities in decision-making on new surveillance technologies.
<i>The process for considering the use of surveillance technologies should be transparent and well-informed*</i>	<ul style="list-style-type: none"> ● Requiring a public hearing before the Council approves surveillance technologies. ● Requiring agencies to publish information on new surveillance technologies (e.g., impact report, proposed regulations) well before public hearing. 	<ul style="list-style-type: none"> ● The County Executive must hold a public hearing on proposed regulations for new surveillance technologies. ● The public hearing must be scheduled at least 60 days after the proposed regulations are submitted by an agency.
<i>The use of surveillance technologies should not be approved generally; approvals, if provided, should be for specific technologies and specific, limited uses*</i>	<ul style="list-style-type: none"> ● Requiring agencies to provide specific details on proposed use of new surveillance technology before public hearing. ● Prohibiting use of surveillance technologies in a way that has not been expressly approved by Council. 	<ul style="list-style-type: none"> ● Proposed regulations must include specifics on the new surveillance technology. This includes its purpose and authorized and prohibited uses, among other things. ● Proposed regulations must be approved by the Council for the agency to acquire, fund, or use a new surveillance technology.
<i>Surveillance technologies should not be funded, acquired, or used without addressing their potential impact on civil rights and civil liberties*</i>	<ul style="list-style-type: none"> ● Requiring agencies to identify potential adverse impacts of new surveillance technologies on civil rights and civil liberties and measures to prevent adverse impacts before public hearing. 	<ul style="list-style-type: none"> ● The surveillance technology impact report must describe the potential adverse impacts of the new surveillance technology on civil rights and civil liberties and measures that will be implemented to protect against adverse impacts. This report would be published at least 90 days before the public hearing on proposed regulations for the new surveillance technology.

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Principle	Key Features	Bill 4-25
		<ul style="list-style-type: none"> Upon submitting proposed regulations, an agency must also submit a report written by ORESJ that describes the potential impact of the new surveillance technology on RESJ. This report would be submitted to the Council at least 60 days before the public hearing on the proposed regulations.
<i>Surveillance technologies should not be funded, acquired, or used without considering their financial impact*</i>	<ul style="list-style-type: none"> Requiring agencies to provide information on costs and benefits of new surveillance technologies before public hearing. 	<ul style="list-style-type: none"> The surveillance technology impact report must include the fiscal impact of the new surveillance technology. This report would be publicly available at least 90 days before the public hearing on proposed regulations for the new surveillance technology.
<i>To verify legal compliance, surveillance technology use and deployment data should be reported publicly on an annual basis*</i>	<ul style="list-style-type: none"> Requiring agencies to submit an annual report for approved surveillance technologies to help Council and public verify adherence to legal requirements, including protection of civil rights and civil liberties. 	<ul style="list-style-type: none"> Agencies must submit an annual report for each approved surveillance technology. The Council must hold a public hearing on each annual report.
<i>City council approval should be required for all surveillance technologies and uses; there should be no “grandfathering” for technologies currently in use</i>	<ul style="list-style-type: none"> Requiring agencies to undergo same public approval process for all surveillance technologies in use before enactment of law or discontinue their use. 	<ul style="list-style-type: none"> Agencies must propose regulations for technologies adopted after January 1, 2020 and before the Bill’s effective date. They would not be required to submit a surveillance technology impact report or RESJ assessment for these technologies. Agencies would have to discontinue using technologies if proposed regulations are not submitted or if they are disapproved by the Council. Technologies acquired before January 1, 2020 would be grandfathered into the law.

¹ Definition of racial equity and social justice adopted from Marlysa Gamblin et al., “[Applying Racial Equity to U.S. Federal Nutrition Programs](#),” Bread for the World and [Racial Equity Tools](#).

² Ibid.

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³ Christopher Slobogin and Sarah Brayne, “[Surveillance Technologies and Constitutional Law](#),” Annual Review of Criminology, September 2022 citing Mariana Oliver and Matthew B. Kugler, “[Surveying Surveillance: A National Study of Police Department Surveillance Technologies](#),” Arizona State Law Journal, 2022.

⁴ [Automated License Plate Readers](#), Street Level Surveillance, Electronic Frontier Foundation.

⁵ [Street Level Surveillance](#), Electronic Frontier Foundation.

⁶ [Community Oversight of Surveillance - D.C.](#), American Civil Liberties Union of DC.

⁷ Christopher Slobogin, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* (University of Chicago Press, 2008).

⁸ [Introduction Staff Report for Bill 4-25](#), Montgomery County Council, Introduced February 11, 2025.

⁹ Bill 4-25, Introduction Staff Report for Bill 4-25.

¹⁰ [Montgomery County Code § 2A-15](#)

¹¹ Ibid.

¹² Introduction Staff Report for Bill 4-25.

¹³ [RESJS for Bill 14-22](#), Office of Legislative Oversight, July 21, 2022.

¹⁴ Latinx people are included in the racial groups for the arrests data point. Racial groups for other data points in table are non-Latinx.

¹⁵ Traffic stops data point only accounts for percent of Asian community members.

¹⁶ RESJS for Bill 14-22.

¹⁷ Chad Marlow and Maryiam Saifuddin, “[How to Stop ‘Smart Cities’ From Becoming ‘Surveillance Cities.’](#)” ACLU, September 17, 2018.

¹⁸ [Community Control Over Police Surveillance – Guiding Principles](#), ACLU, April 16, 2020.

¹⁹ [Community Control Over Police Surveillance Model Bill](#), ACLU, April 1, 2024.

²⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

²¹ Per Bill 4-25, surveillance technologies that would require approval include international mobile subscriber identity (IMSI) catchers and other cell site simulators; automatic license plate readers; electronic toll readers; closed-circuit television cameras; biometric surveillance technology, including voice, iris, and gait-recognition software and databases; mobile DNA capture technology; gunshot detection and location hardware and services; x-ray vans; video and audio monitoring or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras; surveillance enabled or capable lightbulbs or light fixtures; tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network; social media monitoring software; through-the-wall radar or similar imaging technology; passive scanners of radio networks; long-range Bluetooth and other wireless-scanning devices; radio-frequency I.D. (RFID) scanners; software designed to integrate or analyze data from surveillance technology, including surveillance target tracking and predictive policing software; and facial recognition technology. Refer to Introduction Staff Report for Bill 4-25.

²² [Racial Equity Impact Assessment \(REIA\) for Supplemental Appropriation #24-21](#), Drone as a First Responder Pilot Program, Office of Racial Equity and Social Justice, October 13, 2023.

²³ Community Control Over Police Surveillance Model Bill, pg. 6.

Economic Impact Statement

Montgomery County, Maryland

Bill 4-25 Administration - Surveillance Technology - Acquisition and Use by the County

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 4-25 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND AND PURPOSE OF BILL 4-25

Surveillance technologies are becoming increasingly common in local government, especially within police departments. For instance, one recent survey found that almost two-thirds of large police agencies across the U.S. use automatic license plate readers¹ — "high-speed, computer-controlled camera systems...that automatically capture all license plate numbers that come into view."² Examples of other surveillance technologies include video surveillance, face recognition, and social media monitoring.³ Advocates and scholars have claimed that unchecked use of surveillance technologies by local governments can pose a considerable threat to civil rights and civil liberties.^{4,5}

The purpose of Bill 4-25 is to establish a transparent process for the County to acquire and use surveillance technologies. If enacted, Bill 4-25 would require County agencies that want to acquire and use a new surveillance technology to:^{6,7}

- **Publish a surveillance technology impact report.** For the desired surveillance technology, the report would describe how it works, its proposed uses, and where it would be deployed, among other things. The report would also assess the potential adverse impacts of the new technology on civil rights and civil liberties and the safeguards that would be implemented to protect against those impacts. The agency would be required to publish and submit the report to the County Executive and County Council at least 30 days before proposing regulations for the technology.
- **Propose Method (1) regulations for the use of surveillance technology.** For the desired surveillance technology, the proposed regulations must address its purpose, authorized and prohibited uses, and measures to minimize unauthorized collection and access to surveillance data, among other things. The agency must also submit a report from the Office of Racial Equity and Social Justice that describes the

¹ Christopher Slobogin and Sarah Brayne, "[Surveillance Technologies and Constitutional Law](#)," Annual Review of Criminology, September 2022 citing Mariana Oliver and Matthew B. Kugler, "[Surveying Surveillance: A National Study of Police Department Surveillance Technologies](#)," Arizona State Law Journal, 2022.

² [Automated License Plate Readers](#), Street Level Surveillance, Electronic Frontier Foundation.

³ [Street Level Surveillance](#), Electronic Frontier Foundation.

⁴ [Community Oversight of Surveillance - D.C.](#), American Civil Liberties Union of DC.

⁵ Christopher Slobogin, *Privacy at Risk: The New Government Surveillance and the Fourth Amendment* (University of Chicago Press, 2008).

⁶ [Introduction Staff Report for Bill 4-25](#), Montgomery County Council, Introduced February 11, 2025.

⁷ Introduction Staff Report for Bill 4-25.

anticipated impact of the proposed regulations on RESJ. The County Executive would be required to hold a public hearing on the proposed regulations at least 60 days after they are published. Method (1) regulations must be approved by the Council before they are adopted.⁸

- **Submit an annual report for approved surveillance technologies.** The annual report would describe each type of surveillance technology, how they were used, and complaints and concerns on their use, among other things. The Council would be required to hold a public hearing on each annual report.

Bill 4-25 also includes guidelines on contracting requirements, contractor privacy policies, and prohibited discriminatory uses of surveillance technologies. It also includes guidelines on the use of facial recognition technology for criminal investigations.⁹

If Bill 4-25 is enacted, the County Executive would be required to publish an inventory of surveillance technologies that were acquired and used before the Bill's effective date. Agencies must submit Method (1) regulations for any technologies acquired between January 1, 2020, and before the Bill's effective date. Agencies would have to stop using surveillance technologies if their regulations are not submitted or if the Council disapproves their regulations.¹⁰

The Council introduced Bill 4-25, Administration – Surveillance Technology – Acquisition and Use by the County, on February 11, 2025.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Bill 4-25 on residents and private organizations in relation to Council's priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.¹¹ OLO sees no direct connection between the reporting and regulatory requirements outlined in the Bill and the economic indicators prioritized by the Council and, therefore, concludes that the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

⁸ [Montgomery County Code § 2A-15](#)

⁹ Ibid.

¹⁰ Introduction Staff Report for Bill 4-25.

¹¹ "[Sec. 2-81B, Economic Impact Statements](#)," Montgomery County Code.

DISCUSSION ITEMS

Not applicable

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.



Fiscal Impact Statement

Office of Management and Budget

Bill 4-25 Administration - Surveillance Technology - Acquisition and Use by the County

Bill Summary

Bill 4-25 would require departments to submit impact reports and seek Council approval via regulation prior to acquiring, funding, and using new surveillance technology. The bill prohibits the acquisition or funding of surveillance technology with discriminatory purposes, requires annual reporting and public hearings on surveillance technology, and limits the purchase and use of facial recognition consistent with the State of Maryland. In addition, the bill would require departments to submit reports on the anticipated racial equity and social justice impacts of new surveillance technology and publish the written privacy policies of contractors providing surveillance technology to the County. Finally, the bill would require the County to include a clause in applicable contracts prohibiting the vendor from changing those policies without prior written consent and requires the submission of an inventory of surveillance technology used or acquired prior to January 1, 2020, within 6 months after the effective date of the bill.

Fiscal Impact Summary

This bill is expected to increase County expenditures by an estimated amount of \$71.5 million over the next six years. The majority of that cost is in FY26 and FY27 (\$48.9 million and \$11.5 million respectively) and \$2.77 million annually thereafter. These expenditures include 13.00 FTEs, personnel cost, and operating expenditures. Impact on revenue generating existing surveillance technology is undetermined at this time.

Fiscal Year	2026	2027	2028	2029	2030	2031	Total
Personnel Costs	\$1,988,146	\$1,988,146	\$1,988,146	\$1,988,146	\$1,988,146	\$1,988,146	\$11,928,876
Operating Expenses	\$46,918,908	\$9,534,192	\$784,192	\$784,192	\$784,192	\$784,192	\$59,589,868
Total Expenditures	\$48,907,054	\$11,522,338	\$2,772,338	\$2,772,338	\$2,772,338	\$2,772,338	\$71,518,744
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Impact	(\$48,907,054)	(\$11,522,338)	(\$2,772,338)	(\$2,772,338)	(\$2,772,338)	(\$2,772,338)	(\$71,518,744)
FTE	13.00	13.00	13.00	13.00	13.00	13.00	

Montgomery County Department of Police (MCPD):

The Department of Police has over 100 products/technologies that would qualify under the various definitions of surveillance technology within this bill. Many of these technologies are constantly changing via monthly or quarterly updates, upgrades, and patching which according to this bill would warrant the creation of impact reports and regulation changes. MCPD expects that the implementation of this bill will generate at least 1,200 reviews of changes to regulations on existing technology if required to review each change before implementation.

The administrative workload generated by this bill will significantly exceed MCPD's staff capacity. Staff required to implement the bill include a Manager III, a Program Manager II, an Accountant/Auditor II, and a contractor. These will allow the department to comply with all requirements in the bill within the time frames established in it.

Fiscal Impact Analysis

This bill is expected to increase MCPD's expenditures by an estimated amount of \$526,718 in year one and by \$512,910 in each year thereafter, totaling \$3,091,270 over six-years for 3 FTEs, one contractor, and operating expenditures.

Fiscal Year	FTE	2026	2026	2026	2026	2026	2026	Total 6 Year
Personnel Cost		\$408,719	\$408,719	\$408,719	\$408,719	\$408,719	\$408,719	\$2,452,314
Manager 3	1.00	\$156,456	\$156,456	\$156,456	\$156,456	\$156,456	\$156,456	\$156,456
Program Manager II (Grade 25)	1.00	\$135,254	\$135,254	\$135,254	\$135,254	\$135,254	\$135,254	\$135,254
Accountant/Auditor II (Grade 21)	1.00	\$117,009	\$117,009	\$117,009	\$117,009	\$117,009	\$117,009	\$117,009
Operating Expenditures (Contractor & Technology)		\$118,000	\$104,192	\$104,192	\$104,192	\$104,192	\$104,192	\$638,960
Total Expenditures		\$526,719	\$512,911	\$512,911	\$512,911	\$512,911	\$512,911	\$3,091,274
Revenues		\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	3.00	3.00	3.00	3.00	3.00	3.00	3.00	



Montgomery County Department of Transportation (DOT):

MCDOT identified at least 17 technologies within the traffic and public safety areas that may be impacted by the regulatory requirements within this bill. MCDOT estimates a cost of approximately \$40,000 per technology to comply with reporting requirements, which will result in an increase in expenditures of \$680,000 annually for consultant's time for reporting. For the first year the bill is implemented, MCDOT has assumed a higher cost of \$100,000 per technology due to the extensive initial market and literature review that would be required. MCDOT also advises that costs to comply with the reporting requirements in this bill could vary significantly depending upon how the bill is implemented, which technologies are required to undergo annual reporting and/or procurement, and varying levels of effort required to report on different technologies. Although an exact determination cannot be made without additional detail that is unavailable at this time, MCDOT estimates that reporting requirements could be as high as \$500,000 per year as a worst-case scenario for certain technologies.

Fiscal Year	2026	2026	2026	2026	2026	2026	Total 6 Year
Personnel Cost	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Operating Expenditures (Contractor & Technology)	\$1,700,000	\$680,000	\$680,000	\$680,000	\$680,000	\$680,000	\$5,100,000
Total Expenditures	\$1,700,000	\$680,000	\$680,000	\$680,000	\$680,000	\$680,000	\$5,100,000
Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00	

MCDOT indicates that this bill incentivizes continued use of outdated technology, as it would be faster and cheaper to use existing technology even if the industry demonstrates significant performance or cost savings from new technology.

Technology and Enterprise Business Solutions (TEBS):

TEBS has determined that this bill has the potential to impact a wide range of technologies in common use in County Government. As written, the bill could require either the disabling of features that are core components in computer and networking equipment or the outright replacement of large amounts of County information technology equipment. Replacing the desktops, laptops, phones, iPads and networking equipment impacted by this legislation would cost \$53,850,908. Additionally, responding to the reporting requirements in this legislation and evaluating new technology and updates to existing technology would require 10.00 FTEs at a cost of approximately \$1,579,428 per year. These estimates assume that every TEBS technology, policy, procedure, process, and guideline would have to be reviewed, and some portions rewritten/removed. Some technology used by TEBS and the County (e.g., to detect and respond to security incidents or to facilitate employee/citizen communication) would require annual reports and public hearings. There would be both significant labor hours and opportunity costs. These personnel and operating cost increases will allow the department to comply with all requirements of this bill within the time frames established in it.

TEBS will need an additional 10 FTEs to comply with the implementation of this bill. These FTEs will be responsible for reviewing all software, hardware, subscriptions, licenses, services, policies, procedures, and guidelines. Since information technology (IT) moves at a comparatively rapid pace, numerous County systems and technologies spanning the enterprise would be included in the requirement to submit a surveillance technology impact report to satisfy Method (1) regulations for everything since 2020 and do so within 9 months.

Fiscal Year	FTE	2026	2026	2026	2026	2026	2026	Total 6 Year
Personnel Cost		\$1,579,428	\$1,579,428	\$1,579,428	\$1,579,428	\$1,579,428	\$1,579,428	\$9,476,568
Policy Analyst/Senior IT Specialist (Grade 28)	1.00	\$146,484	\$146,484	\$146,484	\$146,484	\$146,484	\$146,484	\$878,904
Communications/Program Specialist III (Grade 23)	1.00	\$121,966	\$121,966	\$121,966	\$121,966	\$121,966	\$121,966	\$731,796
Assistant County Attorney (Grade 32)	1.00	\$169,668	\$169,668	\$169,668	\$169,668	\$169,668	\$169,668	\$1,018,008
Cyber Technology Experts (Grade 32)	3.00	\$509,005	\$509,005	\$509,005	\$509,005	\$509,005	\$509,005	\$3,054,030
FiberNet Senior IT Specialist (Grade 28)	2.00	\$292,968	\$292,968	\$292,968	\$292,968	\$292,968	\$292,968	\$2,036,022
FiberNet Technology Expert (Grade 32)	2.00	\$339,337	\$339,337	\$339,337	\$339,337	\$339,337	\$339,337	\$1,757,808
Operating Expenditures		\$45,100,908	\$8,750,000	\$0	\$0	\$0	\$0	\$53,850,908
Equipment for new FTEs		\$62,000	\$0	\$0	\$0	\$0	\$0	\$62,000
Replacement Hardware (PC's, Laptops, etc.)		\$27,538,908	\$0	\$0	\$0	\$0	\$0	\$27,538,908
Networking equipment replacement		\$17,500,000	\$8,750,000	\$0	\$0	\$0	\$0	\$26,250,000
Total Expenditures		\$46,680,336	\$10,329,428	\$1,579,428	\$1,579,428	\$1,579,428	\$1,579,428	\$63,327,476
Revenues		\$0	\$0	\$0	\$0	\$0	\$0	\$0
FTE	10.00	10.00	10.00	10.00	10.00	10.00	10.00	

Staff Impact

All departments contributing to this FIS have indicated that the implementation of this bill will require substantial staff time and additional personnel and contractors.



**Actuarial
Analysis**

This bill is not expected to impact retiree pension or group insurance.

**Information
Technology
Impact**

The bill may result in changes to the allowable use of existing technology core to County business operations. For example, because the bill's definition includes the word "digital" all County information technology and communications technology is within scope, which encompasses a wide range of commonly used equipment and software. Departments using dual-purpose technologies (e.g., routers that log user activity) may need to undergo the regulatory and impact-reporting process. Even if a device was not originally purchased as surveillance technology, its capability to track or profile individuals placed it under regulation. Technology also continuously requires updates and patches that could change the functionality or capability of the technology which enhances its surveillance capability. These patches and updates would have to be vetted and tested before they are deployed to ensure compliance. There is the cost of planning, procurement, configuration, testing, deployment, and downtime that impacts County operations, as well as opportunity costs that divert staff and resources away from other County initiatives.

Other Information

*Later actions
that may
impact
revenue or
expenditures
if future
spending is
projected*

The bill does not authorize future spending.

*Ranges of
revenue or
expenditures
that are
uncertain or
difficult to
project*

Expenditures for the surveillance technologies that will be impacted by this bill have been difficult to assess because the definitions for new surveillance technology and surveillance technology are unclear and broad. It is difficult to determine if additional staff may be needed in departments that are indirectly impacted by the administrative burden in this bill. Impact on County revenues for approval delays on existing revenue generating surveillance technology such as red-light and speed cameras are difficult to determine, and it will depend on the length of the delay. Contracting requirements within this bill may limit the pool of vendors the County could engage with and limit access to newer, and less expensive technology. Information technology software and hardware are procured as a service to assure compliance with security, technological advances, and functional enhancements as products are improved by manufacturers. Subjecting this inherent characteristic of the technological field to the regulatory requirements within this bill will be difficult and costly to implement. Exact figures will be better known when the definition of new surveillance technology is clarified. It is difficult to assess the potential cost of fines and legal actions against the County if pre-existing technologies based on legal mandates are not approved timely. This is the case of some technologies in Public Safety such as body cameras, mobile video, speed light cameras, tasers, interview rooms, license plate readers, and surveillance cameras among others.

Contributors

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Montgomery County Council

Public Hearing on Bill 4-25

Surveillance Technology - Acquisition and Use by the County

March 18, 2025

Testimony of Aaron Droller

Silver Spring, Maryland

Good afternoon Council President Stewart and members of the Montgomery County Council. My name is Aaron Droller and I am a resident of Silver Spring. Thank you for the opportunity to submit testimony on Bill 4-25, the Surveillance Technology Transparency and Civil Liberties Act.

I testify in support of the proposed legislation, and I would like to express my sincere appreciation to Councilmembers Mink and Stewart for its introduction. As surveillance technologies and artificial intelligence become ever more present in our daily lives, I have become concerned that our civil liberties may come under threat without legal guardrails in place. This bill creates essential safeguards and transparency in this rapidly evolving area. I believe the bill will increase both the trust of Montgomery County residents in its government as well as transparency in the procurement process for advanced technologies.

I acknowledge that surveillance technology will have an important and expanding role in Montgomery County moving forward. I was initially wary of the drone as first responder program because it is a technology that can so easily be misused. However, the program appears to have been successful and is now an important tool for law enforcement. As surveillance capabilities become ever more omnipresent and powerful, it is now an ideal time for the Council to create essential guardrails in law to protect our civil liberties and civil rights. To ease administrative burden, I would recommend that the bill apply to technology acquired prospectively, rather than retroactively back to 2020. I support the legislation and urge its approval.



TESTIMONY ON BILL 4-25 Surveillance Technology - Acquisition and Use by the County

My name is Joanna Silver, and I am submitting this testimony regarding Bill 4-25, Surveillance Technology - Acquisition and Use by the County on behalf of the Silver Spring Justice Coalition.

The Silver Spring Justice Coalition (SSJC) is a coalition of community members, faith groups, and civil and human rights organizations from throughout Montgomery County committed to eliminating harm caused by law enforcement officers, establishing transparency and accountability for officer conduct, and redirecting public funds toward community needs. We carefully considered Bill 4-25 and based on the mixed views of our Coalition members, we have chosen not to take a position either in favor or against the bill at this time. However, we would like to suggest several amendments that we believe would strengthen the bill from its current form.

1. Expand the bill's coverage to require the Council to review technologies that were in use prior to 2020. This is recommended by the American Civil Liberties Union's model legislation on surveillance oversight.
2. Under the "Definitions" section, "Surveillance technology includes," should be modified to clarify that the proposed list is not exclusive, by adding language such as, "includes but is not limited to," or "includes without limitation." This is consistent with feedback we understand was provided to the bill sponsors from the ACLU.
3. The section prohibiting the use of surveillance technology to investigate or enforce federal laws and laws of other states related to immigration and reproductive or gender-affirming healthcare should be expanded to ensure that it protects against the use of surveillance technology targeted at certain religious, racial, and ethnic groups and political speech more broadly, under the guise of national security. The current federal administration has made it clear that it will use its law enforcement power to investigate and punish people who express views contrary to theirs. We must ensure that our County does nothing to further these repressive and undemocratic uses of law enforcement. Towards that end, we recommend these sections be broadened to prohibit using technology solely for the enforcement of *any* federal laws or policies or the laws or policies of another state, and should prohibit the disclosure, without court order, of surveillance data in furtherance of *any* federal investigation or the an investigation of any other state.

4. Remove the section incorporating the current state law on the use of facial recognition technology. We do not support the use of facial recognition technology as it has proven to be unreliable, particularly when used to identify people of color. We do not believe the current state law is protective/restrictive enough to address these concerns. In addition, we do not believe exceptions allowing for the use of facial recognition technology should be based on broad categories of suspected criminal conduct. If there are concerns regarding an expansion of the right to use facial recognition technology under state law, the Council can, at a future time if needed, take up its own approach to regulating the use of this technology.

We thank you in advance for considering these suggestions.

Draft; For Discussion Purposes

Potential amendments by the Lead Sponsors in tracked changes.

Bill No. 4-25
Concerning: Administration –
~~Surveillance~~ Public Safety Technology -
Acquisition and Use by the County

Revised: 2/3/2025 Draft No. 9
Introduced: February 11, 2025
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Mink and Council President Stewart

Co-Sponsor: Councilmembers Balcombe and Luedtke

AN ACT to:

- (1) require the submission of impact reports, and the adoption of regulations, prior to the acquisition, funding, or use by the County of certain ~~surveillance~~ public safety technology;
- (2) limit the acquisition and use of facial recognition technology by the County consistent with state law;
- (3) require annual reports and public hearings regarding ~~surveillance~~ public safety technology; and
- (4) generally amend the law regarding the acquisition, funding, and use of ~~surveillance~~ public safety technology by the County.

By adding

Montgomery County Code

Chapter 2, Administration

Article XV. ~~Surveillance~~ Public safety Technology.

Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or a defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland, approves the following Act:

DRAFT

1 Sec 1. Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165, of Article XV,
2 are added, as follows:

3 **ARTICLE. XV. ~~SURVEILLANCE~~PUBLIC SAFETY TECHNOLOGY.**

4 **2-160. Title.**

5 This Article is known as the “~~Surveillance~~ Public Safety Technology
6 Transparency and Civil Liberties Act”.

7 **2-161. Definitions.**

8 In this Article, the following terms have the meanings indicated.

9 Agency means a unit or instrumentality of the County government and
10 includes any County department or office.

11 Facial recognition technology means a computer program, a service, or any
12 other technology that analyzes facial features and is used by or at the direction
13 of an agency for the for the identification, verification, or persistent tracking
14 of individuals in still or video images.

15 Facial recognition technology does not include technology:

16 (1) used only for the analysis of facial features to grant or deny
17 access to an electronic device; or

18 (2) that uses an automated or semiautomated process only for the
19 purpose of redacting a recording or an image for release or
20 disclosure outside an agency to protect the privacy of a subject
21 depicted in the recording or image if the process does not
22 generate or result in the retention of any biometric data or
23 surveillance information.

24 Lead agency means an agency, identified by the Chief Administrative Officer,

(3)

as having primary responsibility for the acquisition, funding, or use of a new surveillance public safety technology.

New surveillance public safety technology means any type of surveillance public safety technology, the acquisition, funding, or use of which is not yet authorized by a Method (1) regulation adopted under Section 2-162.

New surveillance public safety technology includes a material alteration or enhancement in the functionalities or capabilities of a technology previously authorized under Section 2-162 if the alteration or enhancement affects the type or amount of personal data collected, captured, recorded, retained, processed, intercepted, analyzed, monitored, or shared by the technology.

New surveillance public safety technology does not include:

(1) a technology that does not differ in its functionalities and capabilities from a technology previously authorized under Section 2-162; or

(2) a surveillance public safety technology used, funded, or acquired by the County prior to ~~January 1, 2020~~ July 1, 2023.

Surveillance Public safety data means any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance public safety technology.

Surveillance Public safety technology means:

(1) any electronic device, hardware, or software that is intended to collect, capture, record, retain, process, intercept, analyze,

(4)

monitor, or share audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or

(2) any system, device, or vehicle that is equipped with an electronic device, hardware, or software under paragraph (1) of this definition.

Surveillance Public safety technology includes:

- (1) international mobile subscriber identity (IMSI) catchers and other cell site simulators;
- (2) automatic license plate readers;
- (3) electronic toll readers;
- (4) closed-circuit television cameras;
- (5) biometric *surveillance public safety* technology, including voice, iris, and gait-recognition software and databases;
- (6) mobile DNA capture technology;
- (7) gunshot detection and location hardware and services;
- (8) x-ray vans;
- (9) video and audio monitoring or recording technology, such as *surveillance public safety* cameras, wide-angle cameras, and wearable body cameras;
- (10) *surveillance public safety* enabled or capable lightbulbs or light fixtures;
- (11) tools, including software and hardware, used to gain

(5)

73 unauthorized access to a computer, computer service, or
74 computer network;

75 (12) social media monitoring software;

76 (13) through-the-wall radar or similar imaging technology;

77 (14) passive scanners of radio networks;

78 (15) long-range Bluetooth and other wireless-scanning devices;

79 (16) radio-frequency I.D. (RFID) scanners;

80 (17) software designed to integrate or analyze data from ~~surveillance~~
81 ~~public safety~~ technology, including ~~surveillance public safety~~
82 target tracking and predictive policing software; and

83 (18) facial recognition technology.

84 ~~Surveillance Public safety~~ technology does not include:

85 (1) routine office hardware, such as televisions, computers, ~~and~~
86 printers, that is in widespread public use and will not be used for
87 any ~~surveillance public safety~~ or ~~surveillance public safety-~~
88 related functions;

89 (2) ~~p~~Parking ~~t~~Ticket ~~d~~Devices (PTDs);

90 (3) manually-operated, non-wearable, handheld digital cameras,
91 audio recorders, and video recorders that are not designed to be
92 used surreptitiously and whose functionality is limited to
93 manually capturing and manually downloading video or audio
94 recordings;

95 (4) ~~surveillance public safety~~ devices that cannot record or transmit
96 audio or video or be remotely accessed, such as image stabilizing

(6)

binoculars or night vision goggles;

(5) databases that do not and will not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance public safety technology;

(6) manually-operated technological devices that are used primarily for internal communications and are not designed to surreptitiously collect surveillance public safety data, such as radios, ~~and~~ email systems, telephones, and voicemail; and

(7) medical devices or medical treatments used or prescribed by licensed healthcare professionals; and

(8) routine updates to public safety technology if the technology:

(i) was in use by the County prior to July 1, 2023 or;

(ii) is approved by Method (1) regulation under Section 2-162.;

2-162. New surveillancepublic safety technology – requirements.

(a) An agency must not acquire, fund, or use a new surveillancepublic safety technology, unless the requirements of this Section are met.

(b) Impact report - required.

(1) Before an agency acquires, funds, or uses a new surveillancepublic safety technology, the lead agency must publish and submit to the County Executive and the County Council a surveillancepublic safety technology impact report.

(2) A surveillancepublic safety technology impact report must

(7)

121 contain:

122 (A) a description of the new surveillancepublic safety
123 technology and how it works;

124 (B) the proposed purposes of the surveillancepublic safety
125 technology;

126 (C) if the surveillancepublic safety technology will not be
127 uniformly deployed throughout the County, the factors
128 that will be used to determine where the technology is
129 deployed;

130 (D) the fiscal impact of the surveillancepublic safety
131 technology;

132 (E) research on the efficacy of the surveillancepublic safety
133 technology, including peer-reviewed academic literature if
134 available; and

135 (F) an assessment identifying:

136 (i) potential adverse impacts the surveillancepublic
137 safety technology, if deployed, might have on civil
138 liberties and civil rights; and

139 (ii) measures that will be implemented to safeguard the
140 public from the potential adverse impacts.

141 (3) A surveillancepublic safety technology impact report must be
142 submitted to the County Executive and the County Council, and
143 must be published, at least 30 days before the agency submits
144 proposed regulations to the County Register under subsection

(c).

(c) Regulations - required.

(1) Before an agency acquires, funds, or uses a new
surveillancepublic safety technology, the Council must approve
Method (1) regulations, promulgated by the lead agency after a
public hearing conducted by the Executive.

(2) The public hearing under paragraph (1) must be held at least 60
days after publication of the proposed regulations in the County
Register.

(3) When the lead agency submits proposed regulations to the
Council under this subsection, it must at the same time submit a
written report of the Office of Racial Equity and Social Justice
identifying the anticipated impacts of the proposed regulations
on racial equity and social justice.

(4) The regulations promulgated under this subsection must address:

(A) the purposes the surveillancepublic safety technology is
intended to advance;

(B) the authorized uses of the surveillancepublic safety
technology;

(C) the prohibited uses of the surveillancepublic safety
technology;

(D) procedural requirements to govern the authorized uses of
the technology;

(E) the maintenance and dissemination of surveillancepublic

(9)

- 169 safety data associated with the technology, including the
170 sharing of collected surveillancepublic safety data;
- 171 (F) measures to minimize the unauthorized collection of
172 surveillancepublic safety data;
- 173 (G) measures to minimize the unauthorized access of
174 surveillancepublic safety data, including encryption and
175 access control mechanisms;
- 176 (H) measures to delete unauthorized surveillancepublic safety
177 data;
- 178 (I) data retention requirements related to the
179 surveillancepublic safety data; and
- 180 (J) auditing and oversight requirements.
- 181 (d) Contracting requirements. Prior to executing a contract to acquire or
182 use new surveillancepublic safety technology, a contracting agency:
- 183 (1) must publish:
- 184 (A) the identity of the contractor; and
- 185 (B) the written privacy policies of the contractor that apply to
186 the County; and
- 187 (2) unless the Council grants an exception by resolution, must
188 include within the contract a prohibition against the material
189 alteration of the privacy policies, as applied to the County,
190 without the County's prior written consent.
- 191 (e) Contractors' privacy policies. If a contractor materially alters its
192 privacy policy under subsection (d), as applied to the County, the

193 contracting agency must publish:

194 (1) the updated policy; and

195 (2) unless the Council granted an exception under paragraph (1) of
196 subsection (e), the County's written consent to the updated
197 policy.

198 (f) Discriminatory uses or disclosures = prohibited.

199 (1) An agency must not acquire or use surveillancepublic safety
200 technology with the purpose or effect of discriminating against
201 individuals or communities based on immigration status,
202 reproductive healthcare, gender-affirming care, race, color,
203 religious creed, ancestry, national origin, age, sex, marital status,
204 disability, genetic status, presence of children, family
205 responsibilities, source of income, sexual orientation, or gender
206 identity.

207 (2) An agency must not acquire or use surveillancepublic safety
208 technology for the purpose of investigating or enforcing:

209 (A) federal immigration laws; or

210 (B) laws of the federal government or of other states regarding
211 the provision of, or access to, reproductive healthcare or
212 gender-affirming healthcare.

213 (3) Unless compelled by court order, an agency must not disclose
214 surveillancepublic safety data in furtherance of the investigation
215 or enforcement of:

216 (A) federal immigration laws; or

(B) laws of the federal government or of other states regarding the provision of, or access to, reproductive healthcare or gender-affirming healthcare.

2-163. Facial recognition technology – criminal investigation requirements.

(a) An agency must not acquire or use facial recognition except as permitted under Chapter 808 of the 2024 Laws of Maryland.

(b) An agency must not use facial recognition technology to investigate a crime other than the commission of or the attempt to commit:

(1) a crime of violence as defined in Section 14-101 of the Criminal Law Article of the Maryland Code;

(2) a human trafficking offense under Title 3, Subtitle 11 of the Criminal Law Article of the Maryland Code;

(3) first- or second-degree child abuse under Section 3-601 of the Criminal Law Article of the Maryland Code;

(4) a child pornography offense under Section 11-207 of the Criminal Law Article of the Maryland Code;

(5) a hate crime under Section 10-304 of the Criminal Law Article of the Maryland Code;

(6) a weapon crime under Sections 4-102, 4-103, 4-203(a)(1)(iii) or (iv), 4-204, or 4-303(a)(2) of the Criminal Law Article of the Maryland Code;

(7) a weapon crime under Sections 5-138, 5-140, 5-141, 5-207(c)(16), § 5-406(a)(3), OR § 5-703(a) of the Public Safety Article of the Maryland Code;

- (8) aggravated cruelty to animals under Sections 10-606 or 10-607 of the Criminal Law Article of the Maryland Code;
- (9) importation of fentanyl or a fentanyl analogue under Section 5-614(a)(1)(xii) of the Criminal Law Article of the Maryland Code;
- (10) stalking under Section 3-802 of the Criminal Law Article of the Maryland Code;
- (11) a criminal act involving circumstances presenting a substantial and ongoing threat to public safety or national security; or
- (12) a crime under the laws of another state substantially equivalent to a crime listed in paragraphs (1) through (10) of this subsection involving a fugitive from justice charged with a crime in that state and sought under Title 9 of the Criminal Procedure Article of the Maryland Code.

2-164. Annual reporting.

- (a) Each agency that acquires, funds, or uses ~~surveillance~~public safety technology must publish and submit to the County Executive and the County Council an annual report.
- (b) The annual report must contain, regarding the prior year:
- (1) a description of each type of ~~surveillance~~public safety technology acquired, funded, or used by the agency;
- (2) a summary of how each technology was used;
- (3) a general description of the geographic areas of the County where the ~~surveillance~~public safety technology was deployed;
- (4) a summary of complaints or concerns that were received about

each surveillancepublic safety technology;

(5) the results of any internal audits regarding surveillancepublic safety data;

(6) any information about regulatory violations in connection with surveillancepublic safety technologies, and the response of the agency to the violations;

(7) an analysis of any discriminatory, disparate, and other adverse impacts of the use of the technology upon civil rights and civil liberties; and

(8) total annual costs for the surveillancepublic safety technology.

(c) The Council must hold a public hearing on each annual report.

Sec. 2. Inventory of surveillancepublic safety technologies. Within 6 months after the effective date of this Act, the Executive must submit to the Council and publish a written inventory of surveillancepublic safety technology used or acquired by the County prior to the effective date of this Act.

Sec. 3. Transition. For a new surveillancepublic safety technology acquired or used by an agency after ~~January 1, 2020~~July 1, 2023 and before the effective date of this Act, the agency may continue to acquire and use the technology after the effective date of this Act unless: (i) within 9 months after the effective date of the Act, the lead agency has not submitted Method (1) regulations regarding the technology to the Council under Section 2-162 (added under Section 1 of this Act); (ii) the Council disapproves of the Method (1) regulations regarding the technology; or (iii) the Council takes no action on the Method (1) regulations within one year after submission of the regulations to the Council by the lead agency. The Council

289 may, by resolution, extend the one-year deadline under subsection (iii) by intervals
290 of 3 months.

Draft; For Discussion Purposes

Potential amendments by Councilmember Luedtke in tracked changes and highlighted.

Bill No. 4-25
Concerning: Administration –
Surveillance Public Safety Technology -
Acquisition and Use by the County

Revised: 2/3/2025 Draft No. 9
Introduced: February 11, 2025
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Mink and Council President Stewart
Co-Sponsor: Councilmembers Balcombe and Luedtke

AN ACT to:

- (1) require the submission of impact reports, and the adoption of regulations, prior to the acquisition, funding, or use by the County of certain ~~surveillance~~ public safety technology;
- (2) limit the acquisition and use of facial recognition technology by the County consistent with state law;
- (3) require annual reports and public hearings regarding ~~surveillance~~ public safety technology; and
- (4) generally amend the law regarding the acquisition, funding, and use of ~~surveillance~~ public safety technology by the County.

By adding

Montgomery County Code
Chapter 2, Administration
Article XV. ~~Surveillance~~ Public safety Technology.
Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or a defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

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Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland, approves the following Act:

DRAFT

1 Sec 1. Sections 2-160, 2-161, 2-162, 2-163, 2-164, and 2-165, of Article XV,
2 are added, as follows:

3 **ARTICLE. XV. SURVEILLANCE PUBLIC SAFETY TECHNOLOGY.**

4 **2-160. Title.**

5 This Article is known as the “Surveillance Public Safety Technology
6 Transparency and Civil Liberties Act”.

7 **2-161. Definitions.**

8 In this Article, the following terms have the meanings indicated.

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10 includes any County department or office.

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16 (1) used only for the analysis of facial features to grant or deny
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18 (2) that uses an automated or semiautomated process only for the
19 purpose of redacting a recording or an image for release or
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21 depicted in the recording or image if the process does not
22 generate or result in the retention of any biometric data or
23 surveillance information.

24 Lead agency means an agency, identified by the Chief Administrative Officer,

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as having primary responsibility for the acquisition, funding, or use of a new surveillance public safety technology.

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New surveillance public safety technology does not include:

(1) a technology that does not differ in its functionalities and capabilities from a technology previously authorized under Section 2-162; or

(2) a surveillance public safety technology used, funded, or acquired by the County prior to January 1, 2020the effective date of this Article XV.

Surveillance Public safety data means any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance public safety technology.

Surveillance Public safety technology means:

(1) any electronic device, hardware, or software that is intended to

(4)

49 collect, capture, record, retain, process, intercept, analyze,
50 monitor, or share audio, visual, digital, location, thermal,
51 biometric, behavioral, or similar information or communications
52 specifically associated with, or capable of being associated with,
53 any specific individual or group; or

54 (2) any system, device, or vehicle that is equipped with an electronic
55 device, hardware, or software under paragraph (1) of this
56 definition.

57 *Surveillance Public safety* technology includes:

- 58 (1) international mobile subscriber identity (IMSI) catchers and
59 other cell site simulators;
60 (2) automatic license plate readers;
61 (3) electronic toll readers;
62 (4) closed-circuit television cameras;
63 (5) biometric *surveillance public safety* technology, including voice,
64 iris, and gait-recognition software and databases;
65 (6) mobile DNA capture technology;
66 (7) gunshot detection and location hardware and services;
67 (8) x-ray vans;
68 (9) video and audio monitoring or recording technology, such as
69 *surveillance public safety* cameras, wide-angle cameras, and
70 wearable body cameras;
71 (10) *surveillance public safety* enabled or capable lightbulbs or light
72 fixtures;

(5)

- (11) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
- (12) social media monitoring software;
- (13) through-the-wall radar or similar imaging technology;
- (14) passive scanners of radio networks;
- (15) long-range Bluetooth and other wireless-scanning devices;
- (16) radio-frequency I.D. (RFID) scanners;
- (17) software designed to integrate or analyze data from *surveillance public safety* technology, including *surveillance public safety* target tracking and predictive policing software; and
- (18) facial recognition technology.

Surveillance Public safety technology does not include:

- (1) routine office hardware, such as televisions, computers, ~~and~~ printers, that is in widespread public use and will not be used for any *surveillance public safety* or *surveillance public safety*-related functions;
- (2) ~~p~~Parking ~~t~~Ticket ~~d~~Devices (PTDs);
- (3) manually-operated, non-wearable, handheld digital cameras, audio recorders, and video recorders that are not designed to be used surreptitiously and whose functionality is limited to manually capturing and manually downloading video or audio recordings;
- (4) *surveillance public safety* devices that cannot record or transmit

(6)

audio or video or be remotely accessed, such as image stabilizing
binoculars or night vision goggles;

(5) databases that do not and will not contain any data or other
information collected, captured, recorded, retained, processed,
intercepted, or analyzed by surveillance public safety
technology;

(6) manually-operated technological devices that are used primarily
for internal communications and are not designed to
surreptitiously collect surveillance public safety data, such as
radios, ~~and~~ email systems, telephones, and voicemail; and

(7) medical devices or medical treatments used or prescribed by
licensed healthcare professionals; and

(8) routine updates to public safety technology if the technology:

(i) was in use by the County prior to the effective date of this
Article XV; or

(ii) is approved by Method (1) regulation under Section 2-
162.;

2-162. New surveillancepublic safety technology – requirements.

(a) An agency must not acquire, fund, or use a new surveillancepublic
safety technology, unless the requirements of this Section are met.

(b) Impact report - required.

(1) Before an agency acquires, funds, or uses a new
surveillancepublic safety technology, the lead agency must
publish and submit to the County Executive and the County

(7)

121 Council a surveillancepublic safety technology impact report.

122 (2) A surveillancepublic safety technology impact report must
123 contain:

124 (A) a description of the new surveillancepublic safety
125 technology and how it works;

126 (B) the proposed purposes of the surveillancepublic safety
127 technology;

128 (C) if the surveillancepublic safety technology will not be
129 uniformly deployed throughout the County, the factors
130 that will be used to determine where the technology is
131 deployed;

132 (D) the estimated fiscal impact of the surveillancepublic safety
133 technology;

134 (E) research on the efficacy of the surveillancepublic safety
135 technology, including peer-reviewed academic literature if
136 available; and

137 (F) an assessment identifying:

138 (i) potential adverse impacts the surveillancepublic
139 safety technology, if deployed, might have on civil
140 liberties and civil rights; and

141 (ii) measures that will be implemented to safeguard the
142 public from the potential adverse impacts.

143 (3) A surveillancepublic safety technology impact report must be
144 submitted to the County Executive and the County Council, and

145 must be published, at least 30 days before the agency submits
146 proposed regulations to the County Register under subsection
147 (c).

148 (c) Regulations - required.

149 (1) Before an agency ~~acquires, funds, or~~ uses a new
150 ~~surveillance~~public safety technology, the Council must approve
151 Method (1) regulations, promulgated by the lead agency after a
152 public hearing conducted by the Executive.

153 (2) The public hearing under paragraph (1) must be held at least 60
154 days after publication of the proposed regulations in the County
155 Register.

156 (3) When the lead agency submits proposed regulations to the
157 Council under this subsection, it must at the same time submit a
158 written report of the Office of Racial Equity and Social Justice
159 identifying the anticipated impacts of the proposed regulations
160 on racial equity and social justice.

161 (4) The regulations promulgated under this subsection must address:

162 (A) the purposes the ~~surveillance~~public safety technology is
163 intended to advance;

164 (B) the authorized uses of the ~~surveillance~~public safety
165 technology;

166 (C) the prohibited uses of the ~~surveillance~~public safety
167 technology;

168 (D) procedural requirements to govern the authorized uses of

- 169 the technology;
- 170 (E) the maintenance and dissemination of surveillancepublic
- 171 safety data associated with the technology, including the
- 172 sharing of collected surveillancepublic safety data;
- 173 (F) measures to minimize the unauthorized collection of
- 174 surveillancepublic safety data;
- 175 (G) measures to minimize the unauthorized access of
- 176 surveillancepublic safety data, including encryption and
- 177 access control mechanisms;
- 178 (H) measures to delete unauthorized surveillancepublic safety
- 179 data;
- 180 (I) data retention requirements related to the
- 181 surveillancepublic safety data; and
- 182 (J) auditing and oversight requirements.
- 183 (d) Contracting requirements. Prior to executing a contract to acquire or
- 184 use new surveillancepublic safety technology, a contracting agency:
- 185 (1) must publish:
- 186 (A) the identity of the contractor; and
- 187 (B) the written privacy policies of the contractor that apply to
- 188 the County; and
- 189 (2) unless the Council grants an exception by resolution, must
- 190 include within the contract a prohibition against the material
- 191 alteration of the privacy policies, as applied to the County,
- 192 without the County's prior written consent.

(e) Contractors' privacy policies. If a contractor materially alters its privacy policy under subsection (d), as applied to the County, the contracting agency must publish:

(1) the updated policy; and

(2) unless the Council granted an exception under paragraph (1) of subsection (e), the County's written consent to the updated policy.

(f) Discriminatory uses or disclosures – prohibited.

(1) An agency must not acquire or use any surveillancepublic safety technology with the purpose or effect of discriminating against individuals or communities based on immigration status, reproductive healthcare, gender-affirming care, race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, genetic status, presence of children, family responsibilities, source of income, sexual orientation, or gender identity.

(2) An agency must not acquire or use surveillancepublic safety technology for the purpose of investigating or enforcing:

(A) federal immigration laws; or

(B) laws of the federal government or of other states regarding the provision of, or access to, reproductive healthcare or gender-affirming healthcare.

(3) Unless compelled by court order, subpoena, or judicial warrant, an agency must not disclose surveillancepublic safety data in

217 furtherance of the investigation or enforcement of:

218 (A) federal immigration laws; or

219 (B) laws of the federal government or of other states regarding
220 the provision of, or access to, reproductive healthcare or
221 gender-affirming healthcare.

222 **2-163. Facial recognition technology – criminal investigation requirements.**

223 (a) An agency must not acquire or use facial recognition except as
224 permitted under ~~Chapter 808 of the 2024 Laws of Maryland~~ Subtitle 5
225 {Facial Recognition Technology} of Title 2 of the Criminal Procedure
226 Article of the Maryland Code, as amended.

227 (b) An agency must not use facial recognition technology to investigate a
228 crime other than the commission of or the attempt to commit:

229 (1) a crime of violence as defined in Section 14-101 of the Criminal
230 Law Article of the Maryland Code;

231 (2) a human trafficking offense under Title 3, Subtitle 11 of the
232 Criminal Law Article of the Maryland Code;

233 (3) first- or second-degree child abuse under Section 3-601 of the
234 Criminal Law Article of the Maryland Code;

235 (4) a child pornography offense under Section 11-207 of the
236 Criminal Law Article of the Maryland Code;

237 (5) a hate crime under Section 10-304 of the Criminal Law Article
238 of the Maryland Code;

239 (6) a weapon crime under Sections 4-102, 4-103, 4-203(a)(1)(iii) or
240 (iv), 4-204, or 4-303(a)(2) of the Criminal Law Article of the

Maryland Code;

- (7) a weapon crime under Sections 5-138, 5-140, 5-141, 5-207(c)(16), § 5-406(a)(3), OR § 5-703(a) of the Public Safety Article of the Maryland Code;
- (8) aggravated cruelty to animals under Sections 10-606 or 10-607 of the Criminal Law Article of the Maryland Code;
- (9) importation of fentanyl or a fentanyl analogue under Section 5-614(a)(1)(xii) of the Criminal Law Article of the Maryland Code;
- (10) stalking under Section 3-802 of the Criminal Law Article of the Maryland Code;
- (11) a criminal act involving circumstances presenting a substantial and ongoing threat to public safety or national security; or
- (12) a crime under the laws of another state substantially equivalent to a crime listed in paragraphs (1) through (10) of this subsection involving a fugitive from justice charged with a crime in that state and sought under Title 9 of the Criminal Procedure Article of the Maryland Code.

2-164. Annual reporting.

- (a) Each agency that acquires, funds, or uses ~~surveillance~~public safety technology must publish and submit to the County Executive and the County Council an annual report.
- (b) The annual report must contain, regarding the prior year:
- (1) a description of each type of ~~surveillance~~public safety technology acquired, funded, or used by the agency;

- 265 (2) a summary of how each technology was used;
- 266 (3) a general description of the geographic areas of the County where
- 267 the ~~surveillance~~public safety technology was deployed;
- 268 (4) a summary of complaints or concerns that were received about
- 269 each ~~surveillance~~public safety technology and whether each
- 270 complaint was verified, inconclusive, or unfounded;
- 271 (5) the results of any internal audits regarding ~~surveillance~~public
- 272 safety data;
- 273 (6) any information about regulatory violations in connection with
- 274 ~~surveillance~~public safety technologies, and the response of the
- 275 agency to the violations;
- 276 (7) an analysis of any discriminatory, disparate, and other adverse
- 277 impacts of the use of the technology upon civil rights and civil
- 278 liberties;
- 279 (8) information about any resolved or pending lawsuit against the
- 280 County regarding the technology, including information about
- 281 the settlement or judgment and procedural status of each case;
- 282 and
- 283 (8) total annual costs for the ~~surveillance~~public safety technology.

284 (c) The Council must hold a public hearing on each annual report.

285 **Sec. 2. Inventory of ~~surveillance~~public safety technologies.** Within 6

286 months after the effective date of this Act, the Executive must submit to the Council

287 and publish a written inventory of ~~surveillance~~public safety technology used or

288 acquired by the County prior to the effective date of this Act.

COUNCILMEMBER LUEDTKE'S AMENDMENTS ARE HIGHLIGHTED.

289 **Sec. 3. Transition.** For a new surveillance technology acquired or used by
290 an agency after January 1, 2020 and before the effective date of this Act, the agency
291 may continue to acquire and use the technology after the effective date of this Act
292 unless: (i) within 9 months after the effective date of the Act, the lead agency has
293 not submitted Method (1) regulations regarding the technology to the Council under
294 Section 2-162 (added under Section 1 of this Act); (ii) the Council disapproves of
295 the Method (1) regulations regarding the technology; or (iii) the Council takes no
296 action on the Method (1) regulations within one year after submission of the
297 regulations to the Council by the lead agency. The Council may, by resolution,
298 extend the one-year deadline under subsection (iii) by intervals of 3 months.