



INSTRUCTIONS FOR TURNING CCOPS MODEL BILL INTO
CCOPS + FACIAL RECOGNITION BAN MODEL BILL (CCOPS+FR),
CCOPS + MILITARIZATION MODEL BILL (CCOPS+M), OR BOTH (CCOPS+FR/M)

CCOPS + FACIAL RECOGNITION BAN (CCOPS+FR):

ADD FOLLOWING AS SECTION 1(B) TO EXISTING CCOPS MODEL BILL:

(B)Notwithstanding the provisions of this Chapter, it shall be unlawful for any City department to obtain, retain, access or use facial recognition technology. A City department's inadvertent or unintentional receipt, retention, access to, or use of information obtained from facial recognition technology shall not be a violation of this subsection provided that:

- (1) The City department does not request or solicit its receipt, access to, or use of such information; and
- (2) The City department logs such receipt, access to, or use in its Annual Surveillance Report.

ADD FOLLOWING TO DEFINITIONS SECTION IN PROPER PLACE IN ALPHABETICAL ORDER TO EXISTING CCOPS MODEL BILL:

(a) "Facial recognition" shall mean an automated or semi-automated process that assists in identifying or verifying an individual or capturing information about an individual based on the physical characteristics of an individual's face, or that uses characteristics of an individual's face, head, or body to infer emotion, associations, activities, or the location of an individual.

ADD FOLLOWING "WHEREAS" CLAUSE BENEATH THE "WHILE SURVEILLANCE TECHNOLOGY MAY THREATEN THE PRIVACY OF ALL OF US" WHEREAS CLAUSE IN EXISTING CCOPS MODEL BILL:

WHEREAS, the City Council finds that the propensity for facial recognition technology to endanger civil rights and civil liberties substantially outweighs its purported benefits, and that the technology will exacerbate racial injustice and threaten our ability to live free of continuous government monitoring.

CCOPS + MILITARIZATION (CCOPS+M):

REPLACE ENTIRE BILL WITH BELOW¹



**An Act To Promote Transparency, the Public’s Welfare, Civil Rights, and Civil Liberties
In All Decisions Regarding The Funding, Acquisition, and Deployment of
Military and Surveillance Equipment**

WHEREAS, the City Council finds it is essential to have an informed public debate as early as possible about decisions related to the funding, acquisition, and deployment of military and surveillance equipment by local law enforcement.

WHEREAS, the City Council finds that no decisions relating to the funding, acquisition, or deployment of military and surveillance equipment should occur without strong consideration being given to the significant impact such equipment may have on the public’s welfare, civil rights, and civil liberties, including those rights guaranteed by the First, Fourth, and Fourteenth Amendments to the United States Constitution;

WHEREAS, the City Council finds that, while the deployment of military and surveillance equipment may threaten everyone’s safety and privacy, throughout history, military and surveillance equipment has been used to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual orientation, or political perspective.

WHEREAS, the City Council finds that the local acquisition of military and surveillance equipment and their deployment in our communities can adversely impact the public’s welfare, including creating significant risks to their physical and psychological well-being.

WHEREAS, the City Council finds that decisions regarding if and how military and surveillance equipment is funded, acquired or deployed should not be made until meaningful public input has been solicited and given significant weight.

WHEREAS, the City Council finds that legally enforceable safeguards, including robust transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, civil rights, and civil liberties before any military or surveillance equipment is funded, acquired, or deployed; and

WHEREAS, the City Council finds that, should the acquisition or deployment of any military or surveillance equipment be approved, data reporting measures must be adopted that empower the City

Comment [A1]: For any questions regarding this model bill, contact Chad Marlow at cmarlow@ACLU.org.

Comment [A2]: We use the term “the public’s welfare” throughout instead of “public safety” to make sure there is no confusion that our focus is on protecting the public from the risks (physical and psychological) created by the use of the equipment/techs. Using “public safety” in the bill might be misinterpreted to mean there is a need to balance the (highly exaggerated, if not entirely fictional) need to use this equipment/tech to stop “bad guys” from threatening public safety with the need to protect fundamental civil rights and civil liberties.

Comment [A3]: Throughout the document, make sure the proper name for your local legislative body is used. For Counties, “City” will also need to be replaced with “County” throughout. Ditto for townships, boroughs, etc.

Comment [A4]: Considerer adding references to relevant provisions of the State Constitution and/or City Charter here.

¹ If you are also adding a facial recognition ban (CCOPS+FR/M model bill), make facial recognition changes to CCOPS+M bill as indicated.

Council and public to verify that mandated the public's welfare, civil rights, and civil liberties safeguards have been strictly adhered to.

THEREFORE BE IT RESOLVED, that the City Council adopts the following:

Section 1. City Council Approval Mandatory for Military and Surveillance Equipment Funding, Acquisition, or Deployment

(A) A municipal entity must obtain City Council approval, subsequent to a mandatory, properly-noticed, germane, public City Council hearing at which the public is afforded a fair and adequate opportunity to provide online, written and oral testimony, prior to engaging in any of the following:

- (1) Seeking funds for new military or surveillance equipment, including but not limited to applying for a grant, or soliciting or accepting state or federal funds or in-kind or other donations or transfers;
- (2) Acquiring or borrowing new military or surveillance equipment, whether or not that acquisition is made through the exchange of monies or for other or no consideration;
- (3) Deploying or using new or existing military or surveillance equipment for a purpose or in a manner not previously approved by the City Council in accordance with this Act, including the sharing of surveillance data therefrom; or
- (4) Soliciting proposals for or entering into an agreement with any other person or entity to acquire, share, or otherwise use military or surveillance equipment or its surveillance data.

Section 2. Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy Submission

(A) As a part of the process of seeking City Council approval, pursuant to Section 1(A), to fund, acquire, or deploy military or surveillance equipment or to enter into an agreement concerning such funding, acquisition, or deployment, a municipal entity shall submit to the City Council and make publicly available a Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy concerning the military or surveillance equipment at issue.

- (1) No use of military or surveillance equipment by a municipal entity pursuant to Section 1(A) shall be permitted without the City Council's express approval of the related Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy submitted by the municipal entity pursuant to Section 2(A).
- (2) Prior to approving or rejecting a Military/Surveillance Equipment Impact Report or Military/Surveillance Equipment Use Policy submitted pursuant to Section 2(A), the City Council may request revisions be made by the submitting municipal entity.

(B) Military/Surveillance Equipment Impact Report: A Military/Surveillance Equipment Impact Report submitted pursuant to Section 2(A) shall be a publicly-released, legally enforceable written report that includes, at a minimum, the following:

- (1) Information describing the military or surveillance equipment and how it works;

Comment [A5]: To turn this municipal ordinance into a state-level bill, add a section at the top of the bill which mandates all localities enact the provisions below. This type of state mandated, local-control approach was commenced in California in 2017.

The best advice is to bring bills where your chance of success is the greatest, or to pursue statewide and local efforts simultaneously.

- (2) Information on the proposed purpose(s) of the military or surveillance equipment;
 - (3) If the military or surveillance equipment will not be uniformly deployed or targeted throughout the city, what factors will be used to determine where the technology is deployed or targeted;
 - (4) The fiscal impact of the military or surveillance equipment; and
 - (5) An assessment identifying with specificity:
 - (a) Any potential adverse impacts the military or surveillance equipment, if deployed, might have on the public's welfare, civil liberties, and civil rights; and
 - (b) What specific, affirmative measures will be implemented to safeguard the public from the potential adverse impacts identified pursuant to Section 2(B)(5)(a).
- (C) Military/Surveillance Equipment Use Policy: A Military/Surveillance Equipment Use Policy submitted pursuant to Section 2(A) shall be a publicly-released, legally enforceable written policy governing the municipal entity's use of the military or surveillance equipment that, at a minimum, includes and addresses the following:
- (1) Purpose: What specific purpose(s) the military or surveillance equipment is intended to advance.
 - (2) Authorized Use(s): For what specific capabilities, deployments, and uses of the military or surveillance equipment is authorization being sought, and
 - (a) What legal and procedural rules will govern each authorized use;
 - (b) What potential deployments and uses of the military or surveillance equipment will be expressly prohibited; and
 - (c) Where applicable, how and under what circumstances will surveillance data that was collected, captured, recorded, or intercepted by the surveillance equipment be analyzed and reviewed.
 - (3) Training: What course of training must be completed before any municipal entity employee is permitted to use the specific type of military or surveillance equipment, so as to ensure the public's safety, civil rights, and civil liberties are fully protected and the provisions of the relevant Military/Surveillance Equipment Use Policy are fully adhered to, and what the annual cost of operating the training program are anticipated to be.
 - (4) Data Collection:
 - (a) Where applicable, what types of surveillance data will be collected, captured, recorded, intercepted, or retained by the surveillance equipment;
 - (b) Where applicable, what surveillance data may be inadvertently collected during the authorized uses of the surveillance equipment, and what measures will be taken to minimize the inadvertent collection of data; and
 - (c) Where applicable, how inadvertently collected surveillance data will be expeditiously identified and deleted.

- (5) Data Protection: Where applicable, what safeguards will be used to protect surveillance data from unauthorized access, including encryption and access control mechanisms.
- (6) Data Retention: Where applicable, insofar as the privacy of the public can be severely compromised by the long-term storage of mass surveillance data, what rules and procedures will govern the retention of surveillance data, including those governing:
 - (a) For what limited time period, if any, surveillance data will be retained. Such information shall include a statement explaining why the designated retention period is no greater than that which is absolutely necessary to achieve the specific purpose(s) enumerated in the Military/Surveillance Equipment Use Policy;
 - (b) What specific conditions must be met to retain surveillance data beyond the retention period stated in Section 2(C)(5)(a);
 - (c) By what process surveillance data will be regularly deleted after the retention period stated in Section 2(C)(5)(a) elapses and what auditing procedures will be implemented to ensure data is not improperly retained;
- (7) Surveillance Data Sharing: Where applicable, if a municipal entity is seeking authorization to share access to surveillance data with any other governmental agencies, departments, bureaus, divisions, or units, it shall detail:
 - (a) How it will require that the collection, retention, and storage of surveillance data be conducted in compliance with the principles set forth in 28 C.F.R. Part 23, including but not limited to 28 C.F.R. Part 23.20(a), which states that a government entity operating a surveillance program “shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.”
 - (b) Which governmental agencies, departments, bureaus, divisions, or units will be approved for surveillance data sharing;
 - (c) How such surveillance data sharing is necessary for the stated purpose and use of the surveillance equipment;
 - (d) How it will ensure any entity receiving access to the surveillance data complies with the applicable Military/Surveillance Equipment Use Policy and does not further disclose the surveillance data to unauthorized persons and entities; and
 - (e) What processes will be used to seek approval of future surveillance data sharing agreements from the municipal entity and City Council.
- (8) Demands for Access to Surveillance Data: Where applicable, what legal standard must be met by government entities or third parties seeking or demanding access to surveillance data.
- (9) Auditing and Oversight: What mechanisms will be implemented to ensure the Military/Surveillance Equipment Use Policy is followed, including what independent persons or

entities will be given oversight authority, and what legally enforceable sanctions will be put in place for violations of the policy.

(10) Complaints: What procedures will be put in place by which members of the public can register complaints or concerns, or submit questions about the deployment or use of a specific type of military or surveillance equipment, and how the municipal entity will ensure each question and complaint is responded to in a timely manner.

(D) The City Council hearing required pursuant to Section 1(A) may not be held until the required Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy have been available to the public, at a designated page on the City website, for at least fourteen (14) calendar days.

Section 3. Review of Preexisting Uses Mandatory

No later than one hundred twenty (120) days following the effective date of this Act, any municipal entity seeking to continue the use of any military or surveillance equipment that was acquired prior to the effective date of this Act, or the sharing of surveillance data therefrom, must commence a City Council approval process in accordance with Section 1(A)(3). If the City Council has not approved the continuing deployment of the military or surveillance equipment, including the Military/Surveillance Equipment Impact Report and Military/Surveillance Equipment Use Policy submitted pursuant to Section 2(A), within one hundred eighty (180) days of its submission to the City Council, the municipal entity shall cease its use of the military or surveillance equipment and the sharing of any surveillance data therefrom until such time as City Council approval is obtained in accordance with this Act.

Section 4. Lead Entity Identification

If more than one municipal entity will have access to the military or surveillance equipment or its surveillance data, a lead municipal entity shall be identified. The lead municipal entity shall be responsible for maintaining the military or surveillance equipment and ensuring compliance with all related laws, regulations and protocols.

Section 5. Standard for Approval

The City Council shall only approve a request to fund, acquire, or use military or surveillance equipment if it determines the benefits of the military or surveillance equipment outweigh its costs, that the proposal will safeguard the public's welfare, civil liberties, and civil rights, and that the uses and deployments of the military or surveillance equipment will not be based upon discriminatory or viewpoint-based factors or have a disparate impact on any community or group. To assist the public in participating in such an analysis, all approved Military/Surveillance Equipment Impact Reports and Military/Surveillance Equipment Use Policies shall be made available to the public, at a designated page on the relevant municipal entity's public website, for as long as the related military or surveillance equipment is available for deployment. An approval for the funding, acquisition and/or deployment of any military or surveillance equipment by the City Council, where the risk of potential adverse impacts on the public's welfare, civil rights, or civil liberties has been identified in the Military/Surveillance Equipment Impact Report pursuant to 2(B)(5)(a), shall not be interpreted as an acquiescence to such

impacts, but rather as an acknowledgement that a risk of such impacts exists and must be proactively avoided.

Section 6. Annual Military/Surveillance Equipment Report

(A) A municipal entity that obtains approval for the funding, acquisition, or deployment of any military or surveillance equipment must submit to the City Council, and make available on its public website, an Annual Military Equipment Report for each specific military grade law enforcement equipment acquired or deployed by the municipal entity within twelve (12) months of City Council approval, and annually thereafter on or before March 15. The Annual Military/Surveillance Equipment Report shall, at a minimum, include the following information for the previous calendar year for each type of military or surveillance equipment:

- (1) A summary of how the military or surveillance equipment was used;
- (2) Whether and how often collected surveillance data was shared with any external persons or entities, the name(s) of any recipient person or entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s);
- (3) Where applicable, a breakdown of where the military or surveillance equipment was deployed geographically, by individual census tract as defined in the relevant year by the United States Census Bureau;
- (4) A summary of complaints or concerns that were received about the military or surveillance equipment;
- (5) The results of any internal audits, any information about violations of the Military/Surveillance Equipment Use Policy, and any actions taken in response;
- (6) An analysis of any discriminatory, disparate, and other adverse impacts the use of the military or surveillance equipment may have had on the public's safety, civil rights, and civil liberties, including but not limited to those guaranteed by the First, Fourth, and Fourteenth Amendment to the United States Constitution; and
- (7) Total annual costs for the military or surveillance equipment, including operating personnel, maintenance, and other ongoing costs, and what source of funding will fund the military or surveillance equipment in the coming year.

(B) Within thirty (30) days of submitting and publicly releasing an Annual Military/Surveillance Equipment Report pursuant to Section 6(A), the municipal agency shall hold one or more well-publicized and conveniently located community engagement meetings at which the general public is invited to discuss and ask questions regarding the Annual Military/Surveillance Equipment Report and the municipal agency's acquisition and/or deployment of military and surveillance equipment.

(C) Based upon information provided in the Annual Military/Surveillance Equipment Report, the City Council shall determine whether each type of military or surveillance equipment identified in response to Section 6(A), as used by the report-submitting entity, has met the standard for approval set forth in Section 4. If it has not, the City Council shall direct the use of the military or surveillance

Comment [A6]: Considerer adding references to relevant provisions of the State Constitution and/or City Charter here.

equipment be discontinued or shall require modifications to the Military/Surveillance Equipment Use Policy that will resolve the observed failures.

- (D) For purposes of this section, “external persons and entities” shall not include persons acting in their individual capacities.

Section 7. Annual Public Reporting

Not later than April 15 of each year, the City Council or its appointed designee shall release an annual public report, in print and on its public website, containing the following information for the proceeding calendar year:

- (A) The number of requests for approval submitted to the City Council under this Act for the funding, acquisition, or new deployment of military and surveillance equipment;
- (B) The number of times the City Council approved requests submitted under this Act for the funding, acquisition, or new deployment of military and surveillance equipment;
- (C) The number of times the City Council rejected requests submitted under this Act for the funding, acquisition, or new deployment of military and surveillance equipment;
- (D) The number of times the City Council requested modifications be made to Military/Surveillance Equipment Impact Reports and Military/Surveillance Equipment Use Policies before approving the funding, acquisition, or new deployment of military and surveillance equipment; and
- (E) All Annual Military/Surveillance Equipment Reports submitted pursuant to Section 6. Printed copies of the public report may contain pinpoint references to online locations where the Annual Military/Surveillance Equipment Reports are located, in lieu of reprinting the full reports.

Section 8. Community Advisory Committee on Military and Surveillance Equipment

- (A) Within three (3) months of the adoption of this Act, the City Council shall appoint a Community Advisory Committee on Military and Surveillance Equipment to provide the City Council with broad principles to help guide decisions about if and how military and surveillance equipment should be acquired and deployed by the City and its municipal agencies.
 - (1) The membership of the Community Advisory Committee on Military and Surveillance Equipment should reflect the diversity of the City’s residents, and special efforts should be made to ensure communities that have historically been disproportionately subjected to targeting by military and surveillance equipment are well-represented.
 - (2) The Community Advisory Committee on Military and Surveillance Equipment shall have a Chair and Vice Chair, who shall be elected annually by the members of the Committee.
- (B) Every year, by no later than September 15, the Community Advisory Committee on Military and Surveillance Equipment shall produce and submit to the City Council a Military/Surveillance Equipment Community Equity Impact Assessment and Policy Guidance, which shall address, at a minimum, the following:

- (1) What communities and groups in the City, if any, are disproportionately impacted by the deployment of military and surveillance equipment, what disparities were perceived and/or experienced, and what were the resulting adverse impacts on the community's or group's safety, civil rights, and civil liberties;
- (2) With respect to each perceived or experienced disparity identified in response to Section 8(B)(1), what remedial adjustments to laws and policies, including but not limited to prior approvals granted pursuant to Section 1(A), should be made so as to achieve a more just and equitable outcome in the future.
- (3) With respect to each remedial adjustment identified in response to Section 8(B)(2), what additional funding, implementation strategies, and/or accountability mechanisms would be needed to effectuate the adjustment; and
- (4) In light of the collective responses to Section 8(B)(1)-(3), what new approaches and considerations should the City Council bring to future reviews of applications submitted pursuant to Section 1(A).

Section 9. Remedies; Penalties; Whistleblower Protections.

- (A) Any violation of this Act, including but not limited to funding, acquiring, or deployment of military or surveillance equipment that has not been approved pursuant to this Act or utilizing military or surveillance equipment in a manner or for a purpose that has not been approved pursuant to this Act, constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, writ of mandate, or evidence suppression in any court of competent jurisdiction to enforce this Act.
- (B) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought to enforce this Act.
- (C) Municipal employees or agents shall not use any military or surveillance equipment except in a manner consistent with policies approved pursuant to the terms of this Act, and may in no circumstances utilize military or surveillance equipment in a manner which is discriminatory, viewpoint-based, or violates the City Charter, State Constitution, or United States Constitution. Any municipal employee who violates the provisions of this Act, or any implementing rule or regulation, may be subject to disciplinary proceedings and punishment. For municipal employees who are represented under the terms of a collective bargaining agreement, this Act prevails except where it conflicts with the collective bargaining agreement, any memorandum of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.
- (D) Any person who knowingly violates this Act shall be deemed guilty of a misdemeanor and may be punished by a fine not exceeding \$2,500 per violation.
- (E) Whistleblower protections.

Comment [A7]: Specific "emergency situation" deployments/uses can be pre-approved by the City Council subject to the provisions of this Act, so the "what about emergencies?" argument is not valid.

Comment [A8]: Insert proper name if "City Charter" is not the name used by your city.

(1) No municipal entity or anyone acting on behalf of a municipal entity may take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment, including but not limited to discriminating with respect to compensation, terms, conditions, access to information, restrictions on due process rights, privileges of employment, or civil or criminal liability, because the employee or applicant was perceived to, about to, or assisted in any lawful disclosure of information concerning the funding, acquisition, or deployment of military or surveillance equipment or sharing of surveillance data to any relevant municipal agency, municipal law enforcement, prosecutorial, or investigatory office, or City Council Member, based upon a good faith belief that the disclosure evidenced a violation of this Act.

Section 10. Conflicting Contractual Agreements Prohibited

It shall be unlawful for the city or any municipal entity to enter into any contract or other agreement that conflicts with the provisions of this Act, and any conflicting provisions in such contracts or agreements, including but not limited to non-disclosure agreements, shall be deemed void and legally unenforceable. Conflicting provisions in contracts or agreements signed prior to the enactment of this Act shall be deemed void and legally unenforceable to the extent permitted by law.

Section 11. Certain Public-Private Contracts Prohibited

It shall be unlawful for the city or any municipal entity to enter into any contract or other agreement that facilitates the receipt of military or surveillance equipment from, or provision of privately generated and owed surveillance data from or government generated and owned surveillance data to any non-governmental entity in exchange for any monetary or any other form of consideration from any source, including the assessment of any additional fees, interest, or surcharges on unpaid fines or debts. Any contracts or agreements signed prior to the enactment of this Act that violate this section shall be terminated as soon as is legally permissible.

Section 12. Definitions

For the purposes of this Act:

(A) “Discriminatory” shall mean (1) disparate treatment of any individual(s) because of any real or perceived traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, the constitution or any law of the State of XXX, or the City Charter or any law of the City of YYY, or because of their association with such individual(s), or (2) disparate impact on any such individual(s) having traits, characteristics, or status as described in subsection (1).

Comment [A9]: Insert state name here.

Comment [A10]: Insert proper name if “City Charter” is not the name used by your city.

Comment [A11]: Insert city name here.

(B) “Disparate impact” shall mean an adverse effect that is disproportionately experienced by individual(s) having any traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, the constitution or any law of the State of XXX, or the City Charter or any law of the City of YYY than by similarly situated individual(s) not having such traits, characteristics, or status.

Comment [A12]: Insert state name here.

Comment [A13]: Insert proper name if “City Charter” is not the name used by your city.

Comment [A14]: Insert city name here.

- (1) “Military equipment” shall mean tactical equipment regularly acquired, maintained, or used by the United States military, including, but not limited to: (a) manned aircraft; (b) unmanned aerial vehicles; (c) wheeled or tracked armored vehicles, including mine-resistant and/or ambush-protected vehicles; (d) tactical vehicles and vessels; (e) command and control vehicles; (f) firearms and ammunition with a caliber of .50 caliber or higher; (g) firearms and ammunition under .50 caliber, other than service weapons, and ammunition therefor, issued to local police officers; (h) bayonets; (i) grenade launchers; (j) grenades, including stun and flash-bang; (k) explosives and pyrotechnics; (l) silencers; (m) breaching apparatus; (n) riot batons, helmets, and shields; (o) long range acoustic devices (p) night vision devices; and (q) camouflage uniforms. The enumeration of military equipment examples in this subsection shall not be interpreted as an endorsement or approval of their use by any municipal entity.
- (C) “Municipal entity” shall mean any municipal government, agency, department, bureau, division, or unit of this City.
- (D) “New military or surveillance equipment” shall mean any type of military or surveillance equipment, the acquisition of which was not previously approved by the City Council. Military or surveillance equipment is not considered new military or surveillance equipment where its capabilities and functionality do not differ in any significant way from a previously approved version of an equivalent military or surveillance equipment.
- (E) “Surveillance data” shall mean any electronic data collected, captured, recorded, retained, processed, intercepted, analyzed, or shared by surveillance equipment.
- (F) “Surveillance equipment” shall mean an electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.
- (1) “Surveillance equipment” includes, but is not limited to: (a) international mobile subscriber identity (IMSI) catchers and other cell site simulators; (b) automatic license plate readers; (c) electronic toll readers; (d) closed-circuit television cameras; (e) biometric surveillance technology, including facial, voice, iris, and gait-recognition software and databases; (f) mobile DNA capture technology; (g) gunshot detection and location hardware and services; (h) x-ray vans; (i) video and audio monitoring and/or recording technology, such as surveillance cameras, wide-angle cameras, and wearable body cameras; (j) surveillance enabled or capable lightbulbs or light fixtures; (k) tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network; (l) social media monitoring software; (m) through-the-wall radar or similar imaging technology, (n) passive scanners of radio networks, (o) long-range Bluetooth and other wireless-scanning devices, (p) radio-frequency I.D. (RFID) scanners, and (q) software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software. The enumeration of

Comment [A15]: The sources from which this list were derived are:

U.S. Department of Defense, Defense Logistics Agency’s definition of “controlled property”:
http://www.dla.mil/Portals/104/Documents/DispositionServices/LESO/DISP_ControlledPropertyDefinition_04182017.pdf

Stop Militarizing Law Enforcement Act:
<https://www.congress.gov/115/bills/hr1556/BILLS-115hr1556ih.pdf>

JAG prohibited equipment:
<https://www.bia.gov/Funding/JAGControlledPurchaseList.pdf>

surveillance technology examples in this subsection shall not be interpreted as an endorsement or approval of their use by any municipal entity.

- (2) “Surveillance equipment” does not include the following devices or hardware, unless they have been equipped with, or are modified to become or include, a surveillance technology as defined in Section 12(F): (a) routine office hardware, such as televisions, computers, and printers, that is in widespread public use and will not be used for any surveillance or surveillance-related functions; (b) Parking Ticket Devices (PTDs); (c) 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 and/or audio recordings; (d) surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars; (e) municipal agency databases that do not and will not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by surveillance technology; and (f) manually-operated technological devices that are used primarily for internal municipal entity communications and are not designed to surreptitiously collect surveillance data, such as radios and email systems.

- (G) “Viewpoint-based” shall mean targeted at any community or group or its members because of their exercise of rights protected under the First Amendment of the United States Constitution.

Section 13. Severability

The provisions in this Act are severable. If any part or provision of this Act, or the application of this Act to any person or circumstance, is held invalid, the remainder of this Act, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 14. Effective Date

This Act shall take effect on [DATE].