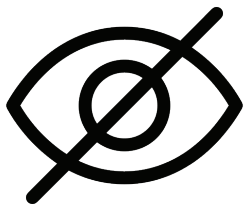




This is unprecedented.

If this ordinance passes, New Orleans would become the first U.S. city to allow facial recognition technology (FRT) as a tool for surveilling residents and visitors in real time. No other U.S. jurisdiction has authorized this type of surveillance. In fact, many jurisdictions that allow limited uses of FRT to attempt to identify images of suspects expressly ban use of FRT to surveil people on live or recorded video.



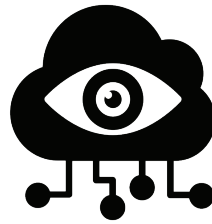
Surveilling is an invasion of our privacy.

The use of FRT places every resident of New Orleans and every visitor of New Orleans at risk, by enabling pervasive tracking of people's identities, movements, activities, and associations. The technology will scan every face that passes in front of a camera, and can be used both to identify and track people in real time, and to reconstruct our movements and activities across stored video feeds.



FRT unfairly risks criminalizing innocent people of color, women, elderly, and youth.

Studies have shown FRT to be less reliable when scanning people of color, women, older and younger people. Uses of the technology to attempt to identify static photos of suspects in police investigations have led to a number of wrongful arrests across the country, almost all of Black people. And the accuracy rates of this technology used on real-time video can be particularly bad, especially in real-world situations involving low light, oblique camera angles, and faces in motion, as well as faces that have changed due to aging early and later in life.



This bill would authorize far wider surveillance than what Project NOLA was doing.

The Project NOLA FRT surveillance system focused on the French Quarter, and scanned passing faces to attempt to identify people with open arrest warrants. That system raises severe concerns, but this bill would go even further. This bill would authorize a network of face recognition surveillance cameras across the entire city (not just the French Quarter), and would allow pervasive surveillance and tracking anytime a NOPD supervisor decides it will merely "assist in the investigation" of a long list of crimes. The bill also expands the list of crimes to include nonviolent and minor offenses, such as identity theft and pickpocketing. In short, it would authorize highly intrusive, 24/7 surveillance.



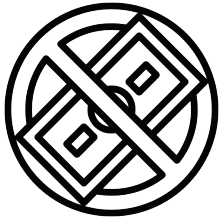
This bill wipes out the due process and protections enacted by the City Council in 2022.

When the City Council amended the FRT law to allow certain uses of FRT in investigations, it incorporated protections to mitigate the chance of misidentifications written into the NOPD's face recognition technology policy, including specific kinds of manual review of potential matches. The real-time surveillance system that would be established by this bill is incompatible with that kind of deliberative confirmatory review process.



This bill would open New Orleans to costly constitutional litigation.

Use of FRT to track individuals across multiple video feeds would provide a chilling surveillance power, and raises grave constitutional concerns. The Supreme Court has made clear that we do not “surrender all Fourth Amendment protection by venturing into the public sphere,” and that pervasively tracking people’s movements using modern technologies is regulated by the Fourth Amendment. In *Carpenter v. United States*, for example, the Supreme Court held that targeted government access to a particular individual’s historical cell site location information requires a warrant. And courts have further held that dragnet tracking—for example, using wide-angle aerial cameras to capture the movements of pedestrians and drivers across a city—constitutes an unconstitutional general search.



This bill would discourage visitors and negatively impact local business.

The use of FRT risks violating the rights of all New Orleans’ residents and visitors, opening up the City to significant monetary liability. Additionally, by New Orleans being the first city in the nation to use such technology, it could have negative impacts on the local tourism and hospitality industry by discouraging international tourists – who already are weary of how the U.S. is targeting non-citizens – from visiting an unwelcoming New Orleans after it becomes America’s most dangerous city for government surveillance.



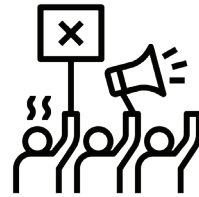
NOLA’s FRT could be taken over by state or federal government.

Once New Orleans establishes this FRT surveillance system, it will be impossible to prevent it being used by federal and state entities. Establishing an official FRT system in the City of New Orleans, will attract the attention and interest of state and federal law enforcement, who will quickly realize they can gain access to the technology and its data with a warrant and who would be under no obligation to adhere to municipal law limitations on uses (so no protection for abortion care seekers, undocumented persons, or peaceful protectors, despite what the bill says).



There are a lot of loopholes law enforcement could exploit to assist law enforcement at all levels of government.

For example, the law bans using FRT for abortion enforcement, but allows for cases to find a “missing person” who is in “imminent danger of receiving serious bodily injury.” So while the tech could not be used for prosecuting an abortion crime, it could be used to find and prevent a person from getting an abortion or gender affirming care if one wants to argue that those processes involve serious bodily injury (or to chill persons from even trying, because they know they could be identified and prosecuted).



This ordinance would allow the police to use FRT to identify protestors.

Law enforcement could do this by identifying a single “crime of violence” (or even something as minor as “purse snatching”) at a largely peaceful protest, and then using FRT to identify everyone at the protest under the guise of trying to identify alleged wrongdoers. Equally troubling, the federal government could secure a warrant by asserting before a sympathetic judge that everyone at the protest is an insurrectionist, and using that as a justification for securing the FRT data and determining the identities of everyone at the protest.



This ordinance would allow the police to use FRT to target undocumented persons.

Even though the proposed law expressly prohibits using FRT for identifying undocumented persons, the prohibition on using FRT is only if its “sole purpose” is for immigration enforcement, so all NOLA PD needs to do is say they are looking for gang members and then, if they happen to discover some of the people they were scanning were undocumented, well that wasn’t the sole purpose of the FRT search. Even worse, state and federal LE don’t have to abide by local laws, so those protective prohibitions do not even apply to them.