HOUSE DOCKET, NO. 1681 FILED ON: 1/19/2017

HOUSE . . . . . No. 899

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish transparency with respect to government surveillance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Jay D. Livingstone	*8th Suffolk*	*1/19/2017*

HOUSE DOCKET, NO. 1681 FILED ON: 1/19/2017

HOUSE . . . . . No. 899

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 899) of Jay D. Livingstone for legislation to prohibit government video surveillance of public or private property without first providing sufficient public notice. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1465* OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to establish transparency with respect to government surveillance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Chapter 6 of the General Laws is hereby amended by inserting the following section:-

"Section 216:

(a)Definitions:

"Video Recording Device" means any device that is capable of recording and storing streamed or snapshotted visual images, including but not limited to video cameras and traffic cameras.

"Video Surveillance Footage" or "Surveillance Footage" or "Footage" means any images recorded by a Video Recording Device including time and location data and any additional metadata or information appended to the images on the Footage.

"Install" means to arrange a Video Recording Device to allow it to operate without direct manual control.

"Public Hearing" means a meeting held in compliance with Chapter 30A, Section 20.

"Government Entity" means any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32 or any officer or employee thereof.

(b)No Government Entity may install a Video Recording Device that records "Video Surveillance Footage" or "Surveillance Footage" or "Footage" of any public or private property without first providing sufficient public notice. Public notice shall be deemed sufficient if the relevant Government Entity: (1) publishes at least twice in a newspaper of general circulation in the area in which the Video Recording Device is to be placed on two separate occasions no more than sixty days and no less than thirty days prior to the placement of the Video Recording Device, (2) places notice prominently on its website for thirty days prior to the placement of the Video Recording Device, and (3) places a placard at least 24 inches by 18 inches in the immediate area where the Video Recording Device is to placed thirty days prior to the placement

with relevant information about the placement, including the timing, anticipated length of placement, and the location.

(c)No Municipality may install a Video Recording Device for more than thirty days without approval of the Municipality after a public hearing. A Video Recording Device is only considered moved if it is moved more than three hundred feet.

(d)No non-Municipal Government entity may install a Video Recording Device for more than thirty days without the approval of the Governor after a public hearing. A Video Recording Device is only considered moved if it is moved more than three hundred feet.

(e)Within thirty days of enactment of this Act, each Government Entity shall publish on its website a complete list of the locations of all Video Recording Devices it currently uses and the dates of placement. Within thirty days of enactment of this Act and annually every year thereafter, each Government Entity shall also disclose to the Secretary of State the complete list of the locations of all Video Recording Devices it currently uses and the dates of placement

(f)Government Entities must always make publicly available on their websites and in hardcopy in a space that is available to the public a list of all the locations in which a Video Recording Device is installed.

(g)Any data collected from a Video Recording Device must be destroyed within fourteen days except with the authorization of a search warrant issued under sections 2 through 3A of chapter 276.

(h)No Government Entity may use Video Recording Devices until the Government Entity publishes written rules, approved by the Attorney General, regarding who may access data

generated by the Video Recording Device and how access to the data is to be authorized. No Government Entity may enact regulations inconsistent with regulations promulgated by the Secretary of State. In addition, no Government Entity may use Video Recording Devices until the Government Entity creates a system to record the names and titles of all individuals who access data, the dates and times of their access, and a detailed description of the data they accessed including the device identification and date and time ranges of the data accessed. The Government Entity must preserve such records for three years.

(i)The Secretary of State shall have the authority to promulgate regulations consistent with this Act. The Secretary of State shall also publish on its website all of the information it receives from other Government Entities pursuant to (e) above.

(j)Any data captured or maintained in violation of this Act shall not be introduced by the commonwealth in any grand jury or criminal proceeding or in any civil or administrative proceeding brought by the commonwealth or any government office or official.

(k)The Commonwealth shall disclose to the defense the existence and the contents of any such captured data pursuant to the provisions of Rule 14(a)(1) of the Massachusetts Rules of Criminal Procedure.