



ACLU of Massachusetts
211 Congress Street, Suite 301
Boston, MA 02110
617-482-3170
www.aclum.org

**Community Meeting
on the Proposed Security Camera Policy
in the City of Cambridge**

Hosted by Mayor Henrietta Davis & City Manager Richard C. Rossi

September 26, 2013

**OPPOSITION TO EXPANDED VIDEO SURVEILLANCE
& RECOMMENDATIONS TO IMPROVE THE DRAFT POLICY**

Dear Mayor Davis and City Manager Rossi:

Thank you for hosting this meeting and providing an opportunity for the entire Cambridge community to talk about the prospect of more government-operated video surveillance in our city.

The American Civil Liberties Union is dedicated to defending and protecting individual rights and liberties, and the freedom of expression and dissent that are so central to the democratic enterprise. Throughout its history, from the Palmer Raids through McCarthyism and COINTELPRO into the current era of “homeland” security, the ACLU has opposed government surveillance and worked to safeguard our rights under the First and Fourth amendments – the fundamental principles of freedom of expression and association and freedom from unreasonable government intrusion. The ACLU has evaluated and critiqued the proliferation of video surveillance cameras nationwide, throughout the Commonwealth, and in the City of Cambridge.

Since at least 2009, Cambridge has examined, rejected, and renewed its exploration of expanding the number and operations of cameras trained on city streets, monitoring public activity. The ACLU has consistently opposed the proliferation of cameras on public safety, cost, and civil liberties grounds. We continue to oppose more surveillance cameras in Cambridge. We also believe that, if the people of Cambridge choose to accept more surveillance in the future, any such expansion demands more explicit protection of residents’ civil liberties, more transparency, and more public accountability than proposals have included to date.

We appreciate the Cambridge Police Department’s efforts to articulate a policy to govern the use of video surveillance in the city that takes civil liberties concerns seriously, but we believe the draft policy fails to meet basic standards for sound policing policy in our community. It misrepresents the impact of cameras on public safety, anticipates allowing other cities’ police to monitor public activity on Cambridge streets, fails to adequately protect video data, and lacks explicit safeguards for our rights to speech, activity and association. In short, it is not adequate to the task of protecting residents’ civil liberties. Cambridge, long a beacon of liberty, deserves better.

Before offering a detailed critique of this particular proposal and recommendations for improving it, we need to establish a common understanding of the larger context in which this expansion of surveillance is being proposed, as well as the limited benefits of surveillance cameras to public safety.

National Context: The Rise of the Surveillance State

Cambridge is considering expanding surveillance camera use at a pivotal moment in United States history. Government surveillance of ordinary Americans has never been more ubiquitous or indiscriminate. In recent years, powerful advances in technology have enabled previously unimaginable monitoring and recording of ordinary activity, and the capacity to assemble and share digital dossiers with ease. At the same time, wide-ranging, no-end-in-sight “wars” on drugs and terrorism have been used to try to justify pre-emptive, suspicionless surveillance of the entire population.

After 9/11, the creation of the Department of Homeland Security catalyzed a transfer of funds, technologies, strategies, and tactics from the military and intelligence worlds down to the state and local levels. These transfers are part of a larger, dangerous trend of powerful and largely unaccountable federal agencies conscripting local police to act as eyes and ears for the national surveillance state. The National Security Agency’s modus operandi – collect it all – is antidemocratic on its face, and yet it is the driving force behind these efforts.

This proposal to expand the use of surveillance cameras in Cambridge is part and parcel of the national trend, both in fact and in spirit. This is clearly the case for Cambridge’s Critical Infrastructure Monitoring System (CIMS) cameras, the vision and funding for which come directly from the federal Department of Homeland Security. These cameras are networked to allow shared real-time access with law enforcement in nine municipalities in the metro Boston region, and also possibly with federal agencies, a prospect that raises particularly serious concerns. But employing any camera system to monitor everyday activity – even a system that is locally developed and locally funded – signals the same profound, damaging cultural shift. That means accepting government monitoring as an antidote to existential insecurity and, in doing so, conceding our innate freedom to be left alone, to live our ordinary lives away from the microscope of unwarranted suspicion.

Suspicionless, mass surveillance threatens the very bedrock of what makes the City of Cambridge so exceptional. While the greatest minds in the world come to Cambridge to debate, learn, invent, and create, mass surveillance stifles freedom of thought, professional risk taking, creative expression, and social and political progress. We must reject the surveillance state in Cambridge to reaffirm what makes the city great, and place a stake in the ground in defense of our most cherished values.

Fact v. Myth: Cameras Do Not Prevent Terrorism or Serious Violent Crime

Not only does public video surveillance undermine our ideals; it does not accomplish what proponents claim – deterrence of serious criminal activity.

Part of rejecting fear as a policy motivator requires thinking critically about each and every proposal that will strip the people of our rights, and give more power to the government. Our first question must be: Will this proposal do what its advocates say it will do? Will it work? When it comes to the efficacy of surveillance cameras as a crime deterrent, the Cambridge Police Department’s draft surveillance camera policy is highly misleading.

One of the principal myths about surveillance cameras, which is repeated in the draft policy, is that they deter terrorist attacks. There is zero evidence to suggest that surveillance cameras stop terrorism. In fact, every major terrorist attack in the Western Hemisphere over the past decade has been at least partially caught on camera. London was the most heavily monitored city in the world in 2005, but its vast, government camera network did not stop terrorists from blowing up a train and killing scores. Sadly, people who are determined to do grave harm to their fellow human beings do not balk at doing so on camera.

Without a doubt, cameras can sometimes help investigators *identify* suspects, or give them clues. But as we saw in Boston this spring, the ubiquity of private and existing public camera systems make increased monitoring unnecessary. In the immediate aftermath of the Marathon bombing, the investigating authorities easily accessed existing private cameras, which pointed them to the suspects quickly and efficiently.

Of course, the proliferation of privately operated surveillance cameras raises its own set of privacy questions, but individual systems run by businesses are preferable to networked government systems when it comes to our individual liberties. Government systems, like the networked DHS system Cambridge police want to turn on, enable a kind of pervasive monitoring far more invasive and subject to abuse than the discrete cameras owned and operated by businesses or private parties.

The Cambridge Police Department's proposed camera policy incorrectly implies that its camera system will help to deter both terrorist attacks and ordinary criminal activity. In fact, most studies show that cameras have no meaningful impact on criminal activity whatsoever.¹ Other studies show that cameras have a displacement effect: they simply drive crime into areas where there are no cameras.² And at least one study, from Chicago, showed that crime actually increased when surveillance cameras were installed on public transit platforms.³ The evidence simply does not support a conclusion that cameras keep people safe.

The draft policy does Cambridge residents a disservice by ignoring the research about surveillance cameras and public safety. This technology will not deter crime; it will impact our civil liberties without measurably improving our security. Tellingly, the policy also promises that video surveillance will make residents *feel* safe, saying it will "reduce the fear of crime." That's security theater, not good public policy. Cambridge doesn't need a technological security blanket. It would be a dangerous mistake to trade in our civil liberties for a false promise of security.

Why Spend Big Money to Undermine Our Values and Fail to Make Us Safer?

Embracing video surveillance would also be enormously expensive. Given that it is also invasive and ineffective, we are certain that Cambridge has many worthier things to spend money on, from more

¹ Nick Taylor, *Closed Circuit Television: The British Experience*, 1999 Stan. Tech. L. Rev. 11, 1 (1999). Gill & Spriggs, "Assessing the Impact of CCTV", Home Office Research, Development and Statistics Directorate (2005); *see* Biale, *supra* note 7, at 3-4.

² Jennifer King, et al., *CITRIS Report: The San Francisco Community Safety Camera Program: An Evaluation of Effectiveness of San Francisco's Community Safety Cameras*, UC Berkeley, CITRIS (2008)(hereinafter CITRIS).

³ Peters, Justin, "Chicago Installed Thousands of Cameras on its Rail Platforms. Crime Jumped by 21 Percent", February 26, 2013, Slate.com.

uniformed officers who can engage in meaningful community policing to meeting the long-standing goal of providing universal kindergarten.

Cambridge should not be fooled into the illusion that “free” technology from the federal government has no price tag. The CIMS network, initially funded by Homeland Security, would require significant local expenditures – for training, staffing, and maintenance costs long after the initial outlay by DHS. And the city’s own network would certainly involve the same costs for personnel and upkeep on top of millions of dollars up front merely to purchase and install the system. Cambridge should invest its limited resources more wisely.

Specific Failings of the Draft Policy

So, to be clear, the ACLU of Massachusetts opposes increased monitoring of ordinary Cambridge residents, without qualification. At the same time, any policy that is nonetheless implemented must have certain basic protections in place. We want to be explicit about where the Cambridge Police Department’s proposed camera policy falls short. As drafted, the policy is not ready to be implemented.

Our concerns about the draft policy fall into four major areas: (1) Accountability; (2) Transparency; (3) Safeguarding Constitutional Protections; and (4) Unanswered Questions.

Accountability:

- We appreciate the baseline statement that the cameras will not employ automated tracking, automated identification, or biometric recognition technologies. However, the draft says only that the police will *inform* the City Council of any “upgrades” to add these kinds of powerful monitoring capabilities. That’s unacceptable. There should be a robust public debate and a democratic vote before any such technologies are introduced into the systems. The police should be required to gain approval from the City Council before testing, procuring, or installing any such tools.
- Video surveillance poses a grave danger of abuse, so Cambridge should strictly limit camera access to CPD officials who can be held accountable. This is particularly critical in light of documented surveillance of peaceful activists by the Boston Police Department.⁴
- This draft says that the City Manager will have the discretion to approve outside agency access to or operation of the CIMS, either on a one-time or on-going basis. First, the City should *never* grant outside agencies access to CIMS on an on-going basis. Second, if the City ever gives one-time access to outside agencies, the reason for doing so and the decision to grant access should be made public in a prominent place on the department’s website at the earliest possible time.
- The draft states: “Under no circumstances will recordings pertaining to an active investigation be disseminated.” However, the policy should be amended to explicitly grant defense attorneys access to recordings for the purpose of vindicating the rights of the accused.
- Video footage should not be retained for 45 days. The longer it is kept, the greater the likelihood that it will be accessed, reproduced, or shared inappropriately. If the objective is to

⁴ See Policing Dissent, October 2012, ACLU of Massachusetts, at aclum.org/policing_dissent.

keep video to investigate specific criminal activity, most crimes are discovered or reported in a much shorter time frame. We recommend that the policy limit retention to 15 days.

Transparency:

We appreciate the statement that “[t]he department is committed to a policy of full transparency with regards to the use and operation of all public safety security cameras.” To fulfill this commitment, we urge the department to publish prominently on the CPD website detailed information about the operation and evaluation of these camera systems, including:

- The camera inventory log, described in Section V(A)(8). This log should include records of all recordings, observations, and special event recordings.
- The log of all users with operation access codes, described in Section V(B)(1), updated on a regular basis.
- Logs documenting requests by outside entities for reproduction of video footage. Such logs should be updated online at least quarterly.
- The periodic and annual reviews of the department’s compliance with this policy, described in Sections VIII(D) and VIII(E).
- A description of each time police use the cameras for a “special event” or live monitoring, including the duration of the operation. In addition, CPD should notify the public in advance of such monitoring, and document the reasons for it.
- A map showing where each camera is placed. Cambridge residents deserve to know if there is a city surveillance camera on their residential street, or in the vicinity of their place of work or business.

Safeguards for Constitutionally-Protected Activity

- The draft says it is a violation of the policy to use the CIMS cameras “for the purpose” of infringing on the First Amendment rights of an individual or group. These cameras should not be used to monitor First Amendment activity at all. Absent reasonable suspicion about particularized criminal activity, the CPD should never engage in “specific event recording” of protests, political gatherings, or religious or cultural events.
- The draft says CPD will share camera footage for “legitimate law enforcement purposes” only. The policy should explicitly bar the sharing of information about or pertaining to First Amendment activity unless there is an investigation of a specific criminal offense, and the department receives a court order requiring disclosure.
- The policy should also explicitly bar the sharing of any camera footage with any outside entity if the request is based on the target’s race, religion, sexuality, sex, or gender expression, except when such characteristics are used in combination with other identifying factors in seeking to

apprehend a specific suspect whose identifying characteristics are part of a particularized, timely and reliable description of the suspect.

Unanswered Questions

- What are the camera specifications? All documentation about how the cameras work, including technical specifications like zoom power, should be made public on the department's website.
- The draft says CIMS won't monitor or record sound without a warrant obtained pursuant to the wiretap statute. Where are the microphones? How many are there? What are the minimization standards for audio recorded in public? Will the public be notified in advance if the police intend to use the audio recording features? Can this feature be permanently disabled?
- Can Cambridge permanently block other cities and towns in the Metro Boston Homeland Security Region from viewing video feed from the local CIMS cameras?
- The policy's description of how and when the CIMS cameras will be monitored (Section V, A, 2) is highly confusing. Given the powerful capacity of these cameras and the regional network of which they are a part, these details need to be crystal clear. What is the difference between "passive" and "active" monitoring? What kind of recordings will be "available through a publicly accessible website"?

Cambridge should serve as a beacon of hope and openness. We must reject the post-9/11 "Homeland Security" mindset that we are all suspects, and show the country and the world that pervasive government monitoring is not a requirement of 21st century life. We can do better. We must do better, for ourselves and for future generations. Cambridge can and should lead the way.

Submitted on behalf of the ACLU of Massachusetts by:

Gavi Wolfe
1 Merrill Street, #2
Cambridge, MA 02139