

**A Statement by Nancy Murray, Education Director of the
ACLU of Massachusetts, before the Public Safety
Committee, Cambridge City Council**

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I am a Cambridge resident (204 Erie Street) and Director of Education at the ACLU of Massachusetts, which has 1300 members in Cambridge. I would like to lay out some general information regarding the implementation of security and surveillance cameras and then outline some principles which we think should guide decisions about when and how to use them.

Let me start by saying that the ACLU has not opposed the use of surveillance cameras at highly sensitive facilities and locations or for temporary use in solving repeated crime at a particular locality – as long as residents of that locality know about and approve of their use.

But residents should know what they are getting into. A new ACLU of Michigan report on cameras in neighborhoods of Lansing states that “Today’s surveillance units in residential Lansing not only provide a 360-degree view of the area up to 500 feet, but also have zoom capabilities. Each day, the cameras engage in 24-hour viewing and imaging of the surrounding area utilizing high-definition color, night vision, and focus features that resolve minute detail in even the most severe environmental conditions. This means that the Lansing cameras give police the ability to read words on a piece of paper in someone’s hand within 50 feet, clearly

discern a license plate that is 300 feet away, or recognize a face at 400 feet. Although the cameras are not monitored 24 hours a day, everything viewed by the cameras is digitally recorded and stored on hard drives for two weeks or more.”

Would you want to live there?

Cameras in schools also present problems, since students – as the Supreme Court has declared – do not shed their constitutional rights at the school house door. We want schools to be places where students do not just learn about the Constitution and Bill of Rights in the classroom, but where the principles of those documents are modeled. The notion that the Constitution guarantees privacy rights will mean little to students if they think of their schools as “Big Brother” institutions where they feel they are being watched at all times.

But again, the ACLU is not adamantly opposed to all cameras in schools. However, we think it must be very clear what they are being used for and there must be buy in by students and parents. We would not, for instance, object if parents and students especially those in high crime areas want cameras installed at school entrances to monitor who has access to the buildings. But does that mean there should be cameras in the halls, classrooms, cafeteria and other school spaces? What kind of atmosphere would that create? Do schools want to send the message to students that we don’t trust you and everyone is a suspect?

I have yet to see solid evidence that cameras have helped prevent violence in schools. The cameras in Columbine high school captured the carnage, but didn't prevent it. But we know that they are expensive to purchase and maintain, and we know that around the country they have led to the criminalization of activities and involvement of police in matters that used to be dealt internally by school administrators. We do not think this is a healthy development.

We would therefore urge that cameras only be used in schools if there is a clear understanding – including among students, parents and staff – about what problems they are intended to solve, who has access to images and how long those images are kept. Being secretive about their placement could well undermine trust and lead to confrontation – you may recall the outcry that followed the revelation by the Newton South student newspaper in late 2007 that the principal had installed security cameras outside the locker room without informing faculty, school committee members, parents or students.

Let me now make some general comments on cameras. The ACLU has opposed the permanent use of surveillance cameras by the government in public places for two main reasons: first, given evolving technology, they pose an increasing threat to the freedom to be in those public places with some degree of anonymity; second, there is no good evidence that they are effective in deterring serious crime.

Let me cite two studies – one from San Francisco where \$700,000 had been spent on security cameras by the local government. A December 2008 study by the UC Berkeley School of Law Center for Information Technology Research found that there was “no evidence” that the cameras had realized their primary goal of reducing homicide and other violent crime and that they had no effect on drug-related crime, prostitution or vandalism. However, within a range of 100 feet of cameras they did succeed in reducing such property crimes as vandalism and purse snatching.

The other is a 2009 report from London where more than a million CCTV cameras had been installed at a cost of nearly a billion dollars. This study found that the cameras were not effective in either preventing or solving crimes, and calculated that only one crime per year was solved for every 1,000 cameras. Indeed, improved street lighting was found to be more effective in deterring crimes than surveillance cameras.

However, I should add that the UK has shown no sign of giving up on its cameras, in spite of the vow of Deputy Prime Minister Nick Clegg, who, upon taking office, promised to dismantle Britain’s extensive surveillance system. “This government will end the culture of spying on its citizens,” he declared on May 19, 2010. "It is outrageous that decent law-abiding people are regularly treated as if they have something to hide...Britain must not be a country

where our children grow up so used to their liberty being infringed that they accept it without question.”

Instead of rolling back surveillance, the UK’s first Surveillance Commissioner, Andrew Rennison, announced this year that it would be upgrading the vast camera system to include facial recognition capable of identifying and tracking a person’s face from a half a mile away.

This aptly illustrates the danger of “mission creep” to which camera technology is prone. Swift advances in technology that permit cameras to be fitted with facial recognition software, eye scans, radio frequency identification tags and connected to large law enforcement databases mean that cameras which have been installed in certain locations to deter crime can be re-tooled for other, far more invasive purposes such as locating and tracking individuals.

This raises a host of questions about the kind of society we want to live in. Given the power of these cameras, and the fact that the information they collect can be indefinitely stored, shared, and mined, 21st century cameras have radically changed societal expectations. The ability to monitor these spaces twenty-four-hours a day gives the government an enormous quantity of information on residents that would otherwise be unavailable and has the potential to chill speech and associational activity which the First Amendment was designed to protect.

And the changes in surveillance technology are coming with frightening speed. The Federal Aviation Administration has predicted that some 30,000 drones (or unmanned aerial vehicles) will be using the nation's airspace by the end of this decade. Already, police departments in various parts of the country have them. Here in Massachusetts, the Metropolitan Law Enforcement Council – the consortium of 43 police departments in communities just west of Boston which together form a regional SWAT team – recently applied for clearance from the FAA to use a drone.

A new report by the Congressional Research Service called “Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Legislative Responses” reveals that the kind of drones being used domestically have the capacity to read a license plate number and identify vehicle occupants from 15 miles away, with infrared sensors providing day and night imaging; that they can be outfitted with facial recognition and other biometric software; that they can carry technology that sees through walls, and that they can be weaponized – a sheriff's office in Texas recently acquired a drone carrying a 40 mm grenade launcher and 12 gauge shotgun.

And of course, camera technology can and has been abused. In Britain, police officers assigned to monitor surveillance cameras ended up using them to zoom in on women's body parts and even stalk women. In West

Virginia, FBI watchers at a fusion center zoomed in on teenagers trying on prom dresses.

Cameras have also been used to target and track people of color. The potential for them to be used for racial or religious profiling is especially troubling given what we now know of the activities of the New York Police Department's Demographic Unit and the latest FBI guidelines that permit agents to track people based on their race and ethnicity, without the standard of "suspicion" required by the Fourth Amendment.

I last testified about cameras before this City Council when the issue under discussion was the DHS-funded surveillance camera network tying together Cambridge and the eight other cities and towns in the Boston regional Urban Area Security Initiative. We at the ACLU were very pleased that the Cambridge City Council voted unanimously in February 2009 to reject the cameras and I believe to this date they have never been turned on.

In my testimony I brought up the possibility that the data captured by the cameras could be transmitted to Massachusetts' two secretive fusion centers and possibly used for data mining purposes.

Since then we have gone to court to learn more about the activities of one of those fusion centers – the BRIC (Boston Regional Intelligence Center) – in monitoring protected First Amendment activity. Pursuant to a court order, we received copies of intelligence files concerning the peace activists and

groups that were our clients, as well as hundreds of hours of surveillance videos of peaceful demonstrations.

A recent US Senate Subcommittee report on the nation's 70 fusion centers found that they had not uncovered a single terrorist plot and **“produced irrelevant, useless or inappropriate intelligence reporting.”** Judging from the intelligence files obtained as the result of our lawsuit, this appears to be an accurate description of BRIC's activities.

I am sure that all of us in this room want Cambridge to remain a community where diversity and First Amendment activity can thrive and where privacy rights are respected. Towards that end, I would like to put forward four basic principles which the ACLU hopes would guide decisions that are made about camera implementation.

First, is the critical importance of involving the public in the decision-making process – here I would like to commend Councilor Craig Kelly for his leadership in encouraging a public discussion of the camera issue. If I remember correctly, even members of the City Council were taken by surprise when a persistent reporter revealed the existence of DHS-funded surveillance cameras in our City back in 2008. The public should understand what particular cameras would be used for, what they would cost in terms of expense and personal privacy, and should approve of their use. Any subsequent change made to their use – for instance if they are later fitted with biometric software – should again be subject to public approval.

Second, there must be a clear policy on data retention, sharing and access, with written guidelines on how images can be used and how long they can be kept. Data should only be collected if it is relevant to the particular purpose for which the camera has been installed and should be kept for a minimum period.

Third, privacy principles can be effective only when they are supported by robust oversight mechanisms. Such mechanisms should include a combination of self-regulation, individual redress, and external monitoring to ensure that the camera policy is being properly implemented.

Finally, strict safeguards should be put in place to prevent ‘mission creep’ and the violation of civil liberties. For instance, if cameras are fitted with biometric technology – our hope is that Cambridge will not move in this direction – they should not be used to scan crowds to search for an individual unless there is a warrant based on probable cause of wrongdoing by that individual. We must ensure that the Fourth Amendment protecting our right to be free from unreasonable searches and seizures does not become a victim to rapidly evolving technology.

Thank you for your attention.