

**City of Stamford Board of Representatives, Public Safety & Health Committee  
Item PS27.024: Review of Draft Policies & Procedures Manual for CCTV Cameras.**

**September 27, 2007**

**STATEMENT OF THE CONSTITUTION PROJECT**

I am Will DeVries, representing the Constitution Project—an independent think tank that promotes and defends constitutional safeguards by bringing together liberals and conservatives who share a common desire to preserve civil liberties. We have advised numerous communities—from Lafayette, LA to Washington, DC—that are evaluating video surveillance regulations on how to preserve both citizens' rights *and* their security. We at the Constitution Project thank the Committee for inviting us to participate in this hearing on the draft Policies and Procedure Manual to govern the Stamford Police Department's use of video surveillance, and hope our experience can aid the Committee in its important work on this issue.

The City of Stamford recently approved Ordinance 1062, permitting the use of surveillance cameras for crime-fighting and homeland security purposes. The law limits how the cameras—and the data gathered from them—can be used, preserves community and City oversight of the system, and calls for a policies and procedure manual to govern the cameras' operation. This Committee is now considering a draft of that Policies and Procedures Manual that includes further protections. The Constitution Project salutes the efforts of the City to include safeguards in the ordinance and draft manual, and we feel that with some additional steps, the City will have adequately addressed the rights of those who will live and work under the gaze of these cameras.

It is no mystery why fighting crime through video surveillance has generated so much interest in this city, as in others around the country. Many see video surveillance as a cost-effective and peaceful means of combating dangerous crime. It is also clear why many others oppose such cameras. They believe that government surveillance, which will inevitably capture the activity of law-abiding people, conflicts with the ideals of a society that values individual rights, autonomy, and freedom from government intrusion.

We believe it is possible to accomplish both—to be both safe and free—through unbiased and public consideration of the costs and benefits of surveillance cameras *before they go in*, as well as safeguards to ensure they work as planned once they are in place.

The Constitution Project's Liberty and Security Committee, formed in the aftermath of the September 11, 2001 terrorist attacks on the United States, is committed to developing and advancing proposals to protect civil liberties even as we work to enhance our nation's security. The Committee is composed of members of the law enforcement community, legal academics, former government officials, and advocates from across the political spectrum. Despite their varied professional and political backgrounds, the members of the Committee share a commitment to preserving our individual rights as well as our security.

The Committee in 2006 issued “*Guidelines for Public Video Surveillance: A Guide to Protecting Communities and Preserving Civil Liberties*,” presenting specific recommendations on how communities can establish surveillance systems that minimize intrusions on individual rights—and on how to balance law enforcement needs with the rights of residents. And the *Guidelines* include model legislation that can help jurisdictions easily adopt some or all of our recommendations.

The Constitution Project’s *Guidelines* make clear that—given the technological capabilities of modern video cameras—public video surveillance systems must be designed narrowly, used carefully, and examined thoroughly. It is not just criminals who should fear public surveillance; without proper safeguards, even surveillance of “public” places can imperil our core constitutional rights and values, including privacy and anonymity, free speech and association, government accountability, and equal protection. What if a camera could record every visitor to a psychiatrist’s office? A fertility clinic? What if rogue operators target minorities, or peer into the windows of houses and businesses?

At the same time, effective public video surveillance systems need not be abandoned merely because they can be abused. We believe that constitutional rights and values can be reconciled with law-enforcement and anti-terrorism goals given careful thought and planning. In general, we urge the Committee, as it considers the current and future expansion of the City’s surveillance system, to:

- Compare the cost of increasing the number of video surveillance cameras—including the cost of manning and maintaining them—to alternative means of combating crime, such as increased community policing and improved street lighting
- If the City concludes that expanding the surveillance program is cost-effective, select camera locations carefully and conduct an open review process with public input, to ensure that each camera will be capable of actually achieving its purpose of reducing violent crime and protecting sensitive infrastructure
- Design the scope and capabilities of the surveillance system to minimize its potential for misuse and abuse and its negative impact on constitutional rights and values, for instance by preventing the cameras from being able to pan, tilt or zoom such that operators could view inside the windows of residences on the street
- Enact strict rules governing how the cameras can be used once in place, such as rules to govern and restrict the use of recorded footage
- Allow citizens to vindicate their rights as data subjects through open, accountable procedures and redress for harms.

Far from being a burden on law enforcement and local governments, these rules are designed to assure both the public and the police that surveillance cameras will actually fight crime *and* be minimally invasive.

The Constitution Project has aided numerous cities and governmental organizations around the country as they grapple with this issue. We have helped cities avoid many common mistakes and problems that would otherwise unnecessarily infringe citizen rights without improving the cost or efficacy of surveillance. For example:

**Fresno, CA.** In August 2006, the City of Fresno, California approved a policy manual for its system that adopted many of the recommendations in our Guidelines, including restricting the use of cameras' pan, tilt, and zoom capabilities, and limiting the retention of recorded data.

**Washington, DC.** In the fall of 2006, the Constitution Project helped the D.C. City Council's Committee on the Judiciary examine the District's use of video surveillance. DC Chief of Police Charles Ramsey held out the *Guidelines* as the standard, stating that the "need to regulate the use of CCTV to ensure the integrity of any such program . . . was articulated quite well by the representative of the Constitution Project" at the earlier forum.

**Lafayette, LA.** This year, we have been advising the city of Lafayette as it considers guidelines for its camera network. A city official charged with the issue told his colleagues that "the guidelines developed by the Constitution Project [are] very informative. I believe that with this document as a guide, citizen rights and public safety can both be addressed."

**Lansing, MI.** We have been advising the city of Lansing, Michigan in connection with its consideration of plans to install a video surveillance system.

**U.S. Department of Homeland Security (DHS).** DHS has posted our report in their Homeland Security Information Network's (HSIN) main document library, a non-public website through which DHS shares information with state and local government "fusion centers." In addition, the DHS has invited the Constitution Project to speak about the *Guidelines* at a national law enforcement conference and before DHS's Privacy Advisory Committee.

Stamford's draft Policies and Procedures Manual includes important procedures and safeguards that we at the Constitution Project heartily applaud. Provisions requiring oversight by a special committee, requiring training, prohibiting discriminatory use of the cameras, and requiring deletion of the footage are aimed precisely at securing citizen's rights without sacrificing the usefulness of the cameras. But there remain several areas in which the draft manual can be revised to better balance the important security and civil liberties interests at stake. We have three principle areas of concern:

### **Fully Addressing the Rights and Values at Stake**

The draft manual admirably acknowledges the threats to privacy and of discriminatory treatment posed by video surveillance systems. It mentions the need to protect the privacy of Stamford residents, and specifically bars use of the cameras to target minority groups or use such characteristics without specific cause. But the impact of video cameras goes further than contemplated by the draft manual, and it fails to address some specific, concrete steps that the

police can take to protect civil rights and constitutional values without sacrificing the efficacy of the system.

The “reasonable expectation of privacy as defined by law” does not cover the very legitimate need for privacy even in public places. The law in this regard has not kept pace with technological realities. Modern cameras include really incredible zoom capabilities, and some systems are equipped with facial recognition technology and other advanced tools. The cameras the Stamford police will use will likely be able to “see” things well beyond the capability of an officer on the street, such as the label on a prescription vial or the text on a mobile phone screen. A recent newspaper story about the Chicago camera system included a demonstration where operators were able to identify the food ordered by customers at a drive-thru window over a block from the camera location.

Moreover, there are other rights at stake, such as freedom of association and expression. Cameras can record those entering the offices of a fringe political group or an AA meeting just as easily as they record car thieves and muggers. We urge the Committee to revise the manual to require the police to consider the full range of rights and values at stake. We recommend some specific items that could improve the manual in this regard:

- Add language specifically barring use of the cameras to focus on specific individuals or groups unless reasonably related to a law enforcement purpose.
- Including penalties for officers using the system in a discriminatory manner, to infringe privacy rights, or in violation of the previous provision.
- Require the police department to include technological measures to prevent cameras from viewing private property, such as backyards or inside the windows of homes or businesses. The technological scope of any camera should be no greater than necessary for the camera to accomplish its purpose.
- Limit the use of enhanced technologies such as zoom and facial recognition to situations in which such capabilities are reasonably related to the stated purposes of the specific camera or system.

### **Use of Stored Data**

The draft manual includes some very important provisions requiring deletion of data after 35 days barring specific circumstances. Nevertheless, due to the danger posed by recorded video data, we recommend some additional provisions for the manual:

- The manual currently anticipates that cameras will be monitored live, by sworn officers, at all times. If the City indeed follows this policy, there will be little need to review recorded footage; if, however, costs or other considerations lead the police department to rely more heavily on review of recorded footage, it needs procedures governing such practices. Without set procedures, it would be too easy for police to “fish” for bad behavior or for rogue operators to misuse the footage. Review of

recorded footage should be engaged in only to support the stated purposes of the cameras, and all review should be logged and subject to audit.

- The manual should acknowledge that all recorded footage is potentially personal data about individuals, just like victim reports or personnel files. Data subjects (identifiable people caught on camera) should be protected by clear administrative safeguards. For data released for any reason, the police should be required to use available technologies to scrub or otherwise mask the identifying features of people unrelated to the purposes of the release.

### **Provide for True Oversight**

The manual and Ordinance 1062 anticipate oversight by a Public Safety Camera Review Committee composed of community members and elected representatives or their delegates. This is an extremely important step to preserve accountability, and it provides the public a chance to voice their concerns and experiences. Unfortunately, this section of the manual is incomplete, and lacks provisions giving that Review Committee the authority necessary for their oversight role.

- Except in exigent circumstances, the police should request approval *prior to* installation of a camera. While the law understandably gives the police the authority to set up a camera quickly and on their own temporary authority, such a procedure should be limited to situations where speed is of the essence.
- The Committee should review the size, scope, and capabilities of the proposed cameras to determine if the system (and each camera) will be capable of serving the purposes to which the police plan to put it, without capturing more information than is necessary for those purposes.
- The Review Committee must have power to reject or modify proposed or deployed cameras based on the stated criteria. The manual is currently silent on such power, and the Committee should not become a “rubber stamp” for the police.
- The Review Committee should be required to conduct periodic audits (one a year, perhaps) of the police department’s use of the system to ensure compliance with all requirements and to determine the efficacy of individual cameras and the system overall. The regular audit by the police chief (mentioned in the “Training” section) is helpful, but an outside entity like the Review Committee should also perform audits to preserve accountability.

Lastly, the most important check on the danger of surveillance cameras can be contained in no legal provision. The most important check is the obligation of this city’s residents and your obligation as their representatives to hold law enforcement officials to *their* obligations as embodied in this manual. The cameras will continue to watch and record long after this Committee and the City have moved onto other issues. The greatest danger to privacy, to freedom of expression, and to government accountability is the limits of the human attention span.

On behalf of the Constitution Project, I sincerely thank the Committee for this opportunity to speak on this important matter.

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Electronic copies of the *Guidelines* and accompanying model legislation can be found on the Constitution Project's Liberty and Security Committee website, at <http://www.constitutionproject.org/libertyandsecurity/index.cfm?categoryId=3>.