

EYES IN THE SKY



LANSING RESIDENTIAL SURVEILLANCE AND ITS INTRUSION ON PRIVACY



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EXECUTIVE SUMMARY

This report is about government camera surveillance in the residential neighborhoods of Lansing, Michigan. Although cameras have been placed across the country in banks, airports, malls, and downtown areas for some years now, they have not traditionally been used by the government to watch residents in neighborhoods. This report questions the effectiveness of residential cameras and discusses the cost and negative effects of neighborhood video surveillance, including the invasion of residents' privacy and the disparate impact on African American residents. It also offers recommendations for workable crime-fighting alternatives in Lansing and other cities considering camera surveillance.

The report's findings and conclusions are summarized as follows:

Surveillance Camera Networks Are Ineffective

- A growing body of research and literature from the United Kingdom and cities across the United States, including Lansing, finds no conclusive evidence that camera surveillance decreases or prevents violent crimes.
- The use of surveillance cameras has no significant impact on the rate of solving major crimes. Evidence shows that government surveillance cameras have minimal investigative utility. Most crimes that have taken place in the purview of a camera have not been solved.
- Rhetoric on camera surveillance encourages the public belief that cameras will make them safer. However, empirical research on public perception and acceptance of camera surveillance indicates that increased perceptions of safety are not supported by actual reductions in crime.

Surveillance Cameras Are Expensive

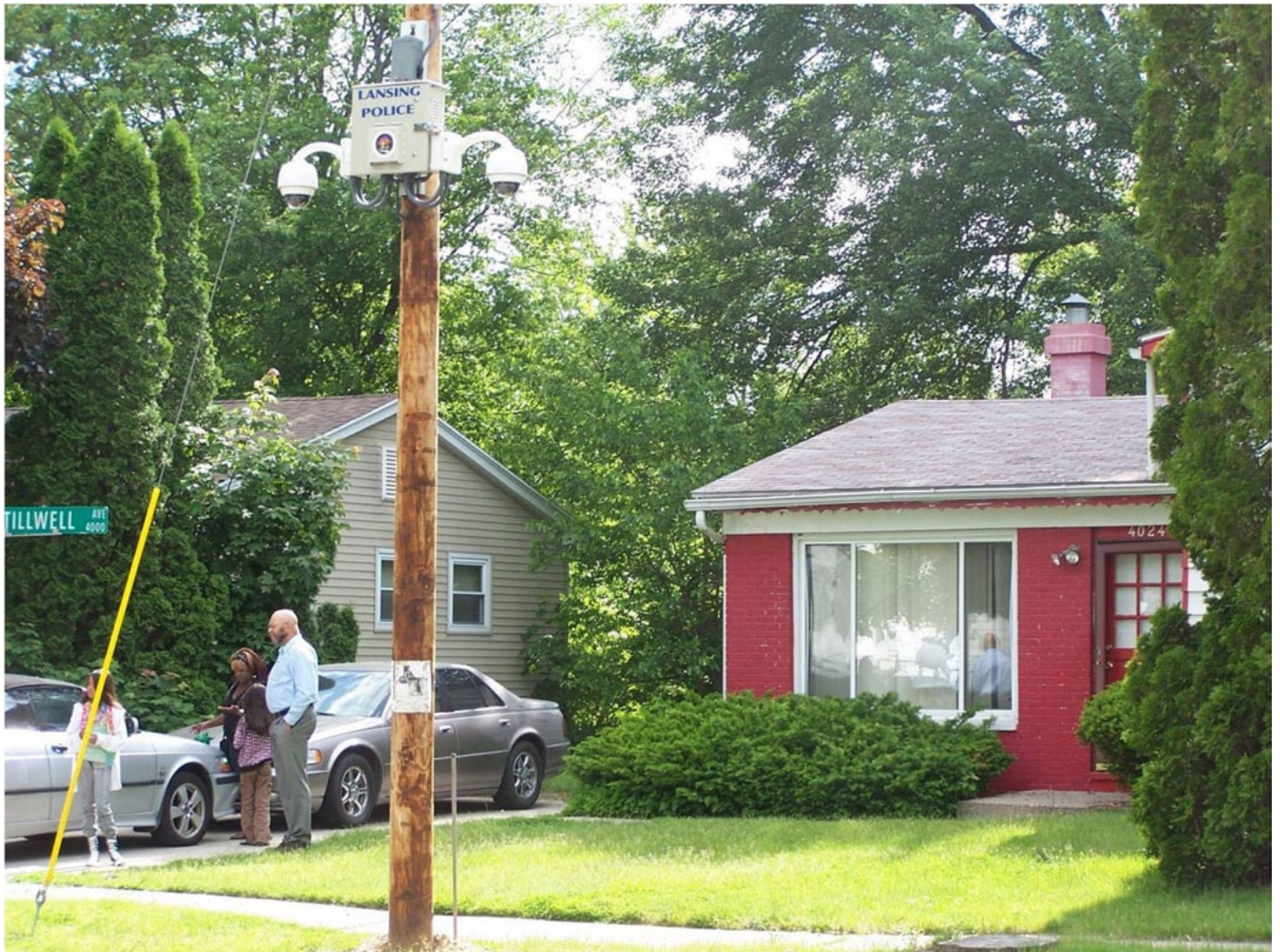
- The use of surveillance cameras is not justified given the costs associated with installing, maintaining, and operating such an ineffective crime-fighting tool.

Camera Surveillance Undermines Privacy and Democratic Values

- Privacy, particularly in and around the home, has always been of particular importance to Americans. Being subject to round-the-clock government monitoring in our neighborhoods, and on our front porches, is inconsistent with fundamental democratic values and beliefs.
- Knowing that they are being watched, innocent residents may alter their lawful behavior. The effect is to "chill" innocuous speech, limit whom we are willing to associate with in our neighborhoods, and homogenize our citizenry.
- Camera surveillance impacts our democratic rights to political association and protest by making individuals feel that the government is suspicious of their participation in activities protected by the Constitution. It thus inhibits democratic participation.
- Information gathered about people by camera operators could be, and in other locations has been, used for inappropriate purposes, like voyeurism, stalking, or harassment. Video surveillance provides access to personal information, creating numerous opportunities for abuse.
- Policies governing the Lansing camera surveillance program designed to safeguard privacy and individual rights have been ignored in some cases. For example, some posted notices that neighborhoods are being monitored by surveillance cameras have been removed. Similarly, procedures to maintain a log of people who access the camera images are no longer being followed, making it harder to detect potential abuses.
- Lansing's African American population is disproportionately monitored by surveillance cameras. As a result, communities of color may feel separated and targeted by the government instead of feeling protected by it. This can adversely impact community relations.

Recommendations

1. Lansing officials charged with authorizing and implementing camera surveillance should halt the expansion of video surveillance and remove existing residential cameras.
2. Lansing officials should explore and expand the use of alternate crime-fighting tools.
3. If surveillance cameras are to be used, they should be used only if high quality statistical evaluations provide credible evidence that they reduce crime in Lansing, strict privacy protections are in place, and they are removed after a limited period.
4. If surveillance cameras are to be used, Lansing Police Department (LPD) should conduct an annual self-audit for compliance with surveillance camera operational policies and procedures that safeguard individual rights. The results should be reported to the community.
5. Future decisions on surveillance cameras should be made with active community involvement.



INTRODUCTION

Currently, the United States is witnessing a dramatic increase in the use of government camera surveillance to watch, follow, and record its citizens. Citing crime and terrorism as major concerns, cities across the country are deploying massive and expensive projects to install cameras without any evidence of their effectiveness. More importantly, the negative impact the cameras have on people's privacy is rarely questioned.

It is this primary concern that makes Lansing's surveillance scheme particularly alarming. While most cities' surveillance systems are fixed in downtown areas, Lansing's has gone so far as to creep into residential neighborhoods, further amplifying the damage to people's privacy.

In light of these issues, the primary purpose of this report is to raise awareness about the negative effects of residential video surveillance in the United States and, more specifically, in Lansing, Michigan. Additionally, this report serves to detail the dangers of living in a surveillance society, what it means to lose our privacy, and why residential video surveillance does little to protect our safety. It concludes with a set of recommendations for Lansing and for other communities that are considering the installation or expansion of public surveillance camera systems.

BACKGROUND: CAMERA SURVEILLANCE IN LANSING



In March 2008, with the approval of the Lansing City Council, the Lansing Police Department (LPD) began operating its first set of surveillance cameras in residential neighborhoods.¹ Installed with the purpose of "enhanc[ing] safety,"² the 26 surveillance cameras, or closed-circuit television (CCTV),³ now operate at 12 locations throughout the city. This LPD surveillance network is expanding in nonresidential areas. The LPD currently monitors and receives feeds from cameras owned and controlled by the Capital Area Transportation Authority (CATA) at the CATA bus station. In 2011, the LPD installed computers at four state-owned and -operated facilities, to connect to

existing surveillance cameras. Plans are to install additional surveillance cameras in parking lots outside the three Lansing high schools, with both the high schools and the LPD monitoring these cameras.⁴

The technological capacity of modern surveillance cameras is extraordinary. Early surveillance cameras used mostly in downtown areas were crude, low-definition, black-and-white systems with no ability to zoom, pan, or tilt. These cameras could "see" only as far as the human eye, if that far. Modern cameras, however, are much more sophisticated, fundamentally changing the nature of video surveillance. 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.⁵ Each day, the cameras engage in 24-hour viewing and imaging⁶ of the surrounding area utilizing high-definition color, night vision, and focus features that resolve minute detail

1 Ryan Loew, *New Cameras Up, Running*, Lansing State Journal, May 1, 2008, at 1B.

2 *Id.*

3 CCTV (as opposed to open-circuit television) broadcasts on a closed network that is not available for public viewing.

4 Interview with Ray Hall, North Precinct Captain, Lansing Police Department, in Lansing, Mich. (Oct. 22, 2009); and Interview with Ray Hall, Captain, Lansing Police Department, in Lansing, Mich. (June 28, 2011).

5 *Id.*

6 Interview with Ray Hall, North Precinct Captain, Lansing Police Department, in Lansing, Mich. (Feb. 27, 2009).

in even the most severe environmental conditions.⁷ 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.⁸

The LPD has three camera viewing stations. The central command station is staffed by a light-duty officer who monitors live surveillance camera images on closed-circuit television screens.⁹ There, the monitoring officer can override the "tour" feature and focus on anything within the viewing area.¹⁰ 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.¹¹ There is a second camera viewing station at the detectives' unit. Dispatch (911) has a third viewing station, so that the person receiving live calls from the community can also access the cameras.¹²

"Privacy zones" - defined by the LPD as windows of homes and other "non-public areas" - are not recorded.¹³ Still, while most private windows have been blocked from viewing, many front stoops and fenced backyards were only blocked after the ACLU's recommendation to do so.¹⁴ Further, these blocks could be removed at any time without notice to the public.¹⁵

Many technological changes have been made to more closely monitor individuals in Lansing. For example, most of the surveillance cameras were initially running on digital subscriber lines (DSL); now, the LPD is using fiber optic technology at some locations in order to augment the cameras' already impressive visual quality.¹⁶ Moreover, all police cruisers have been equipped with laptop computers which allow patrolling officers to receive live video feed via wireless networks from the surveillance cameras set up throughout the city.¹⁷

The LPD claims that it decides where to place surveillance cameras based on crime rates, the nature of crimes taking place at certain locations, and neighborhood requests. "There is no set formula," says Captain Ray Hall, "but the driving force is the crime numbers."¹⁸ Still, many residents believe that the cameras are "a waste of time" and do little to deter crime.¹⁹

According to the chief radio technician at the precinct, catching littering and public urination have been amongst the most frequent uses of camera footage.²⁰ Capt. Hall similarly commented that the cameras are best able to deal with "quality of life crimes" like open alcohol.²¹

No major violent crimes have been solved by the use of cameras, including the homicide of a Lansing teenager in one of the areas under surveillance. According to records provided to the ACLU by the LPD, since 2008 the only significant crime where cameras may have helped lead to an arrest was a suspected breaking and entering in June 2011. In that case, a resident called 911 to report a break-in in progress and, after viewing the cameras, the LPD sent a patrol car to the location. However, even in that case, it is difficult to determine whether the suspect would have been arrested without the cameras.

7 Lansing Police Dept. Operational Procedure, Public Video System, No. 600-55, at 3 (Nov. 9, 2007) [hereinafter Operational Procedure 600-55].

8 Loew, *supra*, note 1; and Interview with Jeff Kludy, Chief Technician, Lansing Police Department, in Lansing, Mich. (June 28, 2011).

9 Hall (Oct. 22, 2009), *supra*, note 4.

10 *Id.*

11 *Id.*

12 Hall (June 28, 2011), *supra*, note 4.

13 Loew, *supra*, note 1, and Kludy (June 28, 2011), *supra*, note 8.

14 Hall (Oct. 22, 2009), *supra*, note 4.

15 *Id.*

16 *Id.*

17 Kevin Grasha, *Patrol Cars in Lansing Getting High-Tech Upgrades*, Lansing State J., June 13, 2009, at 1B; Interview with Jeff Kludy (June 28, 2011), *supra*, note 8.

18 Hall (Oct. 22, 2009), *supra*, note 4.

19 Loew, *supra*, note 1 (quoting Lansing resident Carl Tielking).

20 Interview with Jeff Kludy, Chief Radio Technician, Lansing Police Department, in Lansing, Mich. (Oct. 22, 2009).

21 Hall (June 28, 2011), *supra*, note 4.

SURVEILLANCE CAMERA NETWORKS ARE INEFFECTIVE

Crime Deterrence is a Myth

"The evidence-base is unreliable . . . [and] has been misunderstood, misused, or even ignored by policy-makers in the policy process . . . it becomes increasingly difficult to explain . . . [camera surveillance] as a rational . . . policy."

–Dr. William Webster, Camera Surveillance Expert

Proponents of camera surveillance commonly argue that the presence of surveillance cameras deters crime. Indeed, the LPD has stated that it installed cameras in order to "protect the safety and property of the City of Lansing."²² Such surveillance initiatives based on deterrence aim at making potential criminals aware that they are being monitored, and aware that the video monitoring will increase their risk of arrest.²³ In short, the deterrence theory posits that camera surveillance reduces crime because potential offenders will refrain from engaging in criminal activity where cameras are located.

However, there is little if any evidence that video surveillance actually reduces the incidence of crime. Indeed, numerous cities across the country and abroad have found the effects of video surveillance to be unpredictable, at best.

For example, in a comprehensive study commissioned by the City of San Francisco, researchers found no evidence that surveillance cameras decreased violent crimes, drug incidents, prostitution, vandalism, or other "suspicious occurrences."²⁴ Moreover, the study found that homicide patterns surrounding the cameras before, during, and after camera installation remained consistent.²⁵

In another study, researchers from the University of Southern California examined Los Angeles's surveillance system. Like Lansing, the Los Angeles Police Department installed cameras in specific "high crime" areas where officers could view camera footage in "real time."²⁶ The researchers found no statistically significant reduction for any crime in the surveillance areas.²⁷ Furthermore, the footage did not produce a statistically significant change in the rate of arrests for misdemeanor "quality of life" infractions like littering or graffiti painting.²⁸

Lessons can be learned from other countries as well. Since the 1980s, the United Kingdom has led the world in camera surveillance use. Yet the UK's estimated 4.2 million cameras²⁹ - more than any other country in the world - have had a minimal deterrent effect. A comprehensive study conducted for the Home Office³⁰ in 2005 found that the majority of its surveillance initiatives did not reduce

22 Operational Procedure 600-55, *supra*, note 7, at 1.

23 Wade Deisman et al., *Surveillance Camera Awareness Network, A Report on Camera Surveillance in Canada* 14 (2009).

24 Jennifer King, Deirdre Mulligan & Steven Raphael, Center for Information Technology Research in the Interest of Society, *An Evaluation of the Effectiveness of San Francisco's Community Safety Cameras* 11-12 (2008), available at http://www.sfgov.org/site/uploadedfiles/police/commission/CITRIS_SF_CSC_Stud_Final_Dec_2008.pdf [hereinafter CITRIS Report]. A key qualification here is that the San Francisco Police Department does not monitor its cameras in real time. *Id.* at 15. Interestingly, they cite this policy as being in the interest of civil rights protection. *Id.* However, the Lansing Police Department claims that the cameras produce a deterrent effect by their mere presence, regardless of monitoring. See Operational Procedure 600-55, *supra*, note 7.

25 CITRIS Report at 11.

26 Aundrea Cameron et al., California Research Bureau, *Measuring the Effects of Video Surveillance on Crime in Los Angeles* 4 (2008), available at <http://www.library.ca.gov/crb/08/08-007.pdf>.

27 *Id.* at 46.

28 *Id.* at 29. These crimes are "victimless" and would normally go unreported. One would expect an increase in the arrest rate for these crimes due to the watching eye of the cameras. However, the Los Angeles data disproves this hypothesis.

29 Michael McCahill & Clive Norris, Urbaneye Project, *CCTV in London* 20 (2002), available at http://www.urbaneye.net/results/ue_wp6.pdf.

30 The United Kingdom's Home Office is the federal government department responsible for immigration, security, crime, and counter-terrorism. One of its official primary stated goals is to reduce crime. See <http://www.homeoffice.gov.uk/about-us/purpose-and-aims/index.html>.

crime.³¹ Moreover, the study concluded that even where crime did decline, it was not due to cameras.³² Conventional wisdom predicts the opposite, of course. But despite London's having approximately 500,000 surveillance cameras, its "Ring of Steel" has hardly cut crime.³³ Rather, the UK's near 30-year affair with camera surveillance has verified that it simply does not work.

Several cities have heeded the evidence and abandoned their video surveillance plans. In Oakland, California, the police department advocated for surveillance cameras for three years until finally coming to terms with their limited effectiveness.³⁴ Chief of Police Joseph Samuels, Jr. concluded that "...there is no conclusive way to establish that the presence of video surveillance cameras resulted in the prevention or reduction of crime."³⁵ Here in Michigan, officials in the City of Detroit approved one of the largest video surveillance systems in the country, only to eliminate it 14 years later.³⁶ Their reasoning: the high maintenance and personnel costs did not justify the minimal results.³⁷

Responses to Freedom of Information Act (FOIA) requests from the LPD have also been inconclusive with respect to deterrence of criminal activity. In the most recent study of public video surveillance camera analysis for 2009 and 2010, of the 12 camera locations, major crime actually increased within the 500-foot viewing range at five of the 12 camera locations.³⁸ In three of the other camera locations, while crime was down within the 500-foot viewing area, it had increased in the 500- to 1,000-foot range.³⁹ These mixed results took place even with increased community policing in four of the locations and additional community-building efforts.

Measuring the success of camera surveillance in Lansing requires more than noting a rise or fall in crime numbers. Various factors - like more police officers on patrol, neighborhood watches, better lighting, and overall population decreases - can affect crime and must be taken into account when conducting analyses. In fact, Capt. Hall said that any reduction in crime in an area where the cameras are installed cannot be attributed to the cameras alone. In several areas where crime cameras were installed, a community policing officer has also been assigned and there has been increased community involvement. The LPD's crime analysis does not address why crime increased in certain areas where there are surveillance cameras, nor does it effectively measure the possible effects of crime displacement to areas beyond the 1,000-foot range. Indeed, while raw statistics show that the number of violent crimes has gone down in certain areas, the statistics concurrently show that the number of active neighborhood watches has gone up.⁴⁰ In effect, there is no clear evidence to suggest that the Lansing residential cameras have been successful.

Despite this lack of evidence, the City of Lansing has installed surveillance cameras with the stated purpose of reducing crime, raising serious questions about the rationale for their use. The LPD Operational Procedure recommends frequent analyses. However, without further studies performed by established researchers, the ability of surveillance cameras to deter crime remains questionable, as does the foundation for its implementation.

31 Martin Gill & Angela Spriggs, Home Office Research, *Assessing the Impact of CCTV* 115 (2005).

32 *Id.*

33 In reaction to the August 1993 bombing of Bishopsgate in London by the Irish Republican Army, the city installed - among other measures - numerous surveillance cameras around the city's financial district. The security and surveillance cordon surrounding London is now popularly referred to as the "Ring of Steel."

34 Jane Black, *When Cameras Are Too Candid*, *Business Week*, Sept. 26, 2002, http://www.businessweek.com/technology/content/sep2002/tc20020926_9020.htm.

35 *Id.*

36 Walter M. Cummins & George G. Gordon, *Programming Our Lives: Television and American Identity* 177 (Praeger Publishers) (2006).

37 *Id.*

38 Lansing Stat April 2011, Report for Chief's Review

39 The LPD chose the 1,000-foot range to track whether crime is being displaced just outside the viewing area of the cameras or whether dispersion had taken place.

40 Freedom of Information Act Response from Brig Smith, City Attorney, City of Lansing (Dec. 7, 2009) (enclosing documents related to Lansing crime statistics).

Insignificant Assistance with Criminal Investigations

“Only one crime was solved by each 1000 . . . [surveillance] cameras in London last year.”
–BBC News, August 24, 2008

The local news often shows private surveillance camera footage of crimes that have recently occurred in buildings. They show us bank robberies and holdups at convenience stores, and in some cases conclude their report by telling us that thanks to the surveillance cameras, the criminals have been identified and found. Unfortunately, what news reports do not tell us is how infrequently the criminal is actually apprehended as a result of government surveillance cameras in public areas.

Washington, D.C.'s surveillance initiative serves as a prime example of how rarely surveillance cameras assist with making arrests. The District began installing surveillance cameras over eight years ago, yet the 74 cameras located in high-crime residential areas have had a particularly dismal crime-solving record. In response to a 2007 Freedom of Information Act (FOIA) request made by the National Capital Area ACLU, the D.C. police admitted that surveillance footage had never been used to make an arrest.⁴¹

Cross-listing unsolved murders with D.C.'s camera locations, *Huffington Post* reporter Arthur Delaney⁴² has discovered numerous unsolved homicides that have taken place within just one block of a surveillance camera; he cites an east Capitol Hill murder on April 22, 2008, as an example.⁴³ Evidently, while a camera had been installed in 2006 at the very intersection of the crime, First District Commander David Kamperin reported a month later that “[t]he viewing from the . . . [cameras] was not helpful.”⁴⁴ This surely came as no surprise to the community – despite having surveillance cameras there, a murder that followed a drive-by shooting in July 2007 at the very same intersection has also remained unsolved.⁴⁵

Cities with far more experience than D.C., like London, UK, have also found no correlation between surveillance cameras and crime-solving. In 2007, figures released under public record requests from the London boroughs, the Metropolitan Police Service, and public transport authorities demonstrated “no link” between camera surveillance and crime-solving rates in London.⁴⁶ Similarly, an internal police report released in 2009 found that it took 1,000 cameras to solve just one crime.⁴⁷ “The Metropolitan Police [have] been extraordinarily slow to act to deal with the ineffectiveness of [camera surveillance],” said David Davis, former shadow home secretary. “It creates a huge intrusion on privacy, yet provides little or no improvement in security.”⁴⁸

The surveillance cameras are not seen as having provided significant value to the LPD in investigations of major cases, with the possible exception of one arrest in connection with a recent breaking and entering.⁴⁹ Studies in city after city continue to show that officers fail to bring criminals to justice even after they have been captured on film and identified. However, the publicity surrounding the infrequent but high profile cases involving camera surveillance creates a false sense among the public that cameras are effective. In reality, camera surveillance fails as an investigative aid, just as it fails to deter.

41 Arthur Delaney, *The Watchmen: How Useless Are the D.C. Police Department's Crime Cameras?*, Wash. City Paper, Feb. 11, 2009, at 2-3.

42 Arthur Delaney has been a reporter with the *Huffington Post* since March 2009.

43 Delaney, *supra*, note 43, at 4. Delaney lists seven more unsolved homicides all within one block of surveillance cameras.

44 *Id.*

45 *Id.*

46 Peter Sayer, *CCTV Cameras Don't Solve Crimes, Say London Politicians*, IDG News Service, Sep 21, 2007, at 1.

47 BBC News, *1,000 Cameras 'Solve One Crime'*, Aug. 24, 2009, http://news.bbc.co.uk/go/pr/fr/-/2/hi/uk_news/england/london/8219022.stm.

48 *Id.*

49 Hall (June 28, 2011), *supra*, note 4.

SURVEILLANCE CAMERAS ARE EXPENSIVE

A 2007 article in the Lansing State Journal stated that the proposed cost for Lansing surveillance cameras was \$350,000 for 11 units,⁵⁰ but in response to a Freedom of Information Act request, the LPD stated in December 2009 that they had “no records” of how much the installation and maintenance of the cameras cost.⁵¹ Thus, though the LPD received private donations totaling \$63,520,⁵² we do not know how the remaining \$286,480 was paid or if the cameras cost even more. Moreover, in order to stream video footage to all patrolling police, Lansing spent another \$1.5 million to install laptop computers and digital video cameras in their police cruisers.⁵³ Utility costs and miscellaneous expenses for operation, and maintenance costs for 2009 and 2010, when the cameras were still under a three-year warranty, were approximately \$171,000.⁵⁴ In total, the Lansing surveillance system has cost the city at least \$2.3 million. The cost of maintenance is expected to increase this year when the three-year warranties on the cameras expire,⁵⁵ further calling into question the continued use of surveillance cameras.

CAMERA SURVEILLANCE UNDERMINES PRIVACY AND HARMS DEMOCRATIC VALUES

The Right to Be Let Alone

To many Americans, the constitutional right against unreasonable “search and seizure” conjures up images of police breaking into homes and confiscating whatever they deem appropriate. This portrait is, of course, correct. The Fourth Amendment of the United States Constitution⁵⁶ was written to limit this specific governmental power - the power to invade an individual’s privacy. However, as time and technology have progressed, the government’s ability to invade privacy has advanced, taking the form of wiretaps, electronic bugs, and surveillance cameras.

The Fourth Amendment was crafted to protect Americans’ “right to be let alone.”⁵⁷ It has always been accepted that the Fourth Amendment protects people against government intrusion into their homes. With the advent of electronic surveillance and eavesdropping technologies, the Supreme Court has recognized that people also have privacy rights outside the home. Noting that the Fourth Amendment “protects people, not places,”⁵⁸ the Court held that “what [a person] seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.”⁵⁹

Whether or not a “search” has occurred depends on whether an individual has an “expectation of privacy . . . that society is prepared to recognize as ‘reasonable.’”⁶⁰ Thus, with respect to camera surveillance, the question is whether it is “reasonable” for individuals today to expect to be watched by technologically advanced, covert government surveillance the moment they leave their homes 24 hours a day, 365 days a year.

The answer to this question should be “NO.” Clearly, individuals can expect to be seen by pedestrians or

50 Op-Ed., *Cameras: City Need to Venture Into New Tools In Its Fight Against Crime*, Lansing State Journal., Sept. 21, 2007, at 4A.

51 Letter from John M. Roberts, Chief Deputy City Attorney, City of Lansing, to author (Dec. 7, 2009) (on file with author).

52 *Id.*

53 Grasha, *supra*, note 17.

54 Letter from Donald J. Kulhanek, Assistant City Attorney dated May 26, 2011, in response to a FOIA request.

55 Kludy (June 28, 2011), *supra*, note 8.

56 The Fourth Amendment to the United States Constitution provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV.

57 *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting).

58 *Katz v. United States*, 389 U.S. 347, 351 (1967). Government officials attached an electronic listening device to the outside of a public telephone booth to overhear Katz transmit illegal wagering information. The government did not have a warrant, but argued that since they did not physically penetrate the booth or search “tangible property,” they did not violate the Fourth Amendment. The Supreme Court ruled that by paying a toll and shutting the door behind him, Katz was “entitled to assume that the words he utter[ed] into the mouthpiece [would] not be broadcast to the world.”

59 *Id.* at 351-352.

60 *Katz*, 389 U.S. at 361 (Harlan, J., concurring).

police officers patrolling the street, but it is not reasonable for people to expect the presence of high tech government surveillance cameras tracking their movements block-by-block in residential neighborhoods. In 1987, before becoming Michigan's governor, Jennifer Granholm wrote, "In [your] home, it is reasonable to expect almost total privacy, and [you] take some vestige of that privacy with [you] when [you] walk across Woodward Avenue."⁶¹

When installing cameras in neighborhoods, the LPD adopted procedures requiring that signs be posted in neighborhoods that are under surveillance. The government cannot abolish residents' legitimate expectation of privacy by simply giving notice that it is violating their rights by conducting intrusive, round-the-clock camera surveillance.⁶² Nonetheless, it is worthy of note that on a recent drive by two camera locations,⁶³ neither an ACLU observer nor a LPD official could find signs near several of the cameras. Subsequently, LPD reviewed the placement of the signs, ordered ten additional signs, and lowered the height of some existing signs that were above pedestrians' eye level.⁶⁴

The Chilling Effect

"If we can never be sure whether or not we are being watched and listened to, all our actions will be altered and our very character will change."
—Vice President Hubert Humphrey

Chilling Innocent Behavior in Public

How would you act if a police officer followed you around on the street with a video camera? The effect of such pervasive tracking causes people to act increasingly nervous, inhibited, and overwhelmingly "normal." Disturbingly, because camera surveillance does not deter criminals from committing crime, it appears that its deterrence effects implicate the wrong people: law-abiding citizens engaging in innocent behavior in public. A woman may be hesitant to kiss her partner because she knows a local police officer is watching; individuals late to an appointment may walk instead of run for fear of looking suspicious; and a neighborhood resident may think twice before sunbathing in her previously private backyard. Indeed, camera surveillance homogenizes our citizenry and risks the suppression of innocuous, open behavior that has been the cornerstone of America's free and expressive democratic society. It also changes the fundamental expectations and mindset of citizens in a democratic society as to whether they are being watched in everyday life.

Chilling Protected Speech

Government surveillance cameras not only pose risks to social activity, but also to the constitutionally protected rights of freedom of speech, religion and association. Since September 11, 2001, government surveillance has chilled free speech and the free exercise of religion for thousands of Americans.⁶⁵ Many citizens and lawful residents have feared protesting the war in Iraq or attending religious services at their local mosques, concerned that the government will record their activities with video surveillance and brand them as traitors or terrorists. Their concerns are justified. In 2004, for example, the FBI admitted to monitoring mosques in nine cities and surveilling a number of Muslims in the U.S.⁶⁶ The consequences are clear: camera surveillance not only chills protected speech, but also stigmatizes those who are wrongfully associated with criminality.⁶⁷

61 Jennifer Granholm, *Video Surveillance on Public Streets: The Constitutionality of Invisible Citizen Searches*, 64 U. Det. L. Rev. 687, 695 (1987).

62 Operational Procedure 60-555, *supra*, note 7.

63 The drive occurred on June 28, 2011.

64 Interview with Ray Hall, Captain, Lansing Police Department, Lansing, Mich. (Sept. 12, 2011).

65 Linda E. Fisher, *Guilt by Expressive Association: Political Profiling, Surveillance and the Privacy of Groups*, 46 Ariz. L. Rev. 621 (2004) (discussing, generally, how individuals participating in lawful political and religious activities have become targets of surveillance).

66 *Id.* at 625.

67 *Id.* at 647.

Camera surveillance is dangerous when applied to ordinary citizens. Knowledge that the government is forming opinions by observing our associational activities can significantly alter the way we live our lives and interact with people. Lansing citizens often meet in homes for Bible study, neighborhood association meetings, and to discuss political issues and candidates. Government surveillance of these activities in Lansing neighborhoods could stifle people's participation in local religious and political gatherings, deeply injuring our democratic values and freedoms.

The Potential for Police Abuse

Camera surveillance provokes uneasy questions about who is looking at whom, and for what purpose. Because those who monitor the cameras remain anonymous, camera surveillance creates circumstances for police officers to use surveillance for purposes unrelated to its stated goal. Said in another way, when no one is watching the watchmen, ample opportunities exist to abuse the system.

For example, in a major study examining camera operators, experts found that instead of conducting protective surveillance, male operators frequently used the cameras to voyeuristically spy on women.⁶⁸ The researchers warned that "the thighs and cleavages of scantily clad women [were] an easy target for those male operators so motivated."⁶⁹ With no real oversight or consequences for their behavior, police "peeping toms" could easily violate the privacy and sexual integrity of an unknowing individual.

The information obtained about Lansing residents through camera surveillance can also be misused for other personal reasons. For example, in Washington, D.C., a police officer retrieved private information off an internal database in an attempt to blackmail a married attendee of a gay club.⁷⁰ The officer threatened to reveal photographs of the man at the bar to the man's wife and employer unless he paid \$10,000.⁷¹ The case proved that even police, who are entrusted to protect us, may misuse personal information for nefarious purposes.

Michigan officers have also abused their access to private information. In a comprehensive report published by the *Detroit Free Press*, investigators found that 90 Michigan police officers had used an internal database to help themselves or their friends stalk women, threaten motorists, and track estranged spouses.⁷² In one instance, an officer provided a motorist's private information to a friend who then used it to anonymously harass the driver.⁷³ In another case, a former Troy Police Chief admitted that officers run the plates of attractive women through the database, a practice commonly known as "running a plate for a date."⁷⁴ Again, these examples reflect the potential for abuse with any system that provides access to private information. By extension, the risks to civil liberties associated with a city-wide surveillance system are considerable.

The LPD's Operational Procedure "prohibits monitoring based solely on race, gender, sexual orientation, religion, national origin, disability, or for purposes of voyeurism" and mandates that observation be conducted for "for safety and security purposes."⁷⁵ Accordingly, operators are not permitted to monitor individuals unless they appear "suspicious."⁷⁶ However, what specifically constitutes "suspicious" behavior is not defined, nor is there any enforcement mechanism to make sure improper searches are not performed. Unfortunately, experience suggests that officers who have abused such systems have been difficult to catch, and those who have been caught have only received mild reprimands.⁷⁷

68 Clive Norris & Gary Armstrong, *CCTV and the Social Structuring of Surveillance*, 10 *Crime Prevention Studies* 157, 174 (1999).
Surveillance on women for voyeuristic reasons outnumbered protective surveillance by five to one.

69 *Id.*

70 Avis Thomas-Lester & Toni Locy, *Chief's Friend Accused of Extortion*, *Wash. Post*, Nov. 26, 1997, at A01.

71 *Id.*

72 M.L. Elrick, *Cops Tap Database to Harass, Intimidate*, *Detroit Free Press*, July 31, 2001, page 1A.

73 *Id.*

74 *Id.*

75 Operational Procedure 600-55, *supra*, note 7, at 2.

76 Hall (Oct. 20, 2009), *supra*, note 4.

77 Elrick, *supra*, note 72. Police say that officers likely abuse the internal database quite often. When officers are caught, most are dealt with internally.

The LPD's Operational Procedure also requires that a log be maintained of all people who access the surveillance cameras. However, there are no known records of who has accessed the cameras or images, or of any abuses of the system.⁷⁸ An administrator for the City of Lansing explained that the LPD ceased maintaining an access log or monitoring access for potential abuse when Dispatch got access to the cameras, because compliance with the operating procedure was too cumbersome. But, with increased access, maintaining the log is even more important, as the potential for abuse is greater.

Disparate Impact on People of Color

The placement of Lansing's surveillance cameras imposes a disproportionate impact on Lansing's minority population. In a study conducted by an Oakland University researcher, the racial demographics of Lansing's surveilled and non-surveilled neighborhoods were compared.⁷⁹ The researcher found that neighborhoods under observation had approximately 15 percent more black residents than non-surveilled neighborhoods.⁸⁰ Comparing the representation of black residents to white residents, the study concluded that African Americans were twice as likely to be under camera surveillance as white residents.⁸¹ These numbers demonstrate that African Americans in Lansing are subject to disproportionate scrutiny of their personal houseguests and yard activities, and undue exposure to round-the-clock surveillance.⁸²

Although the LPD has expressed a desire to create stronger ties with the Lansing community, the disproportionate monitoring of people of color actually exacerbates the conditions that facilitate anger and resentment of law enforcement. In a society where many African Americans already feel profiled, installing surveillance cameras in their communities to constantly monitor their behavior only serves to heighten their sense of powerlessness and to foster mistrust of government officials. As a result, racial disparities in government camera surveillance harms the already fragile relationships necessary for effective police protection. African American residents of Lansing have voiced their dissatisfaction with camera surveillance. One resident in an affected neighborhood expressed fear that when his grandson practices basketball on his driveway, the stranger on the other side of the camera would be silently judging him according to his own prejudices and stereotypes.⁸³ These concerns reflect the unfortunate but real pressures of racism and discrimination that continue to affect people of color today. Because these perspectives have not been taken into consideration, the installation of cameras has elicited negative responses from some African American residents, many of whom feel they are being viewed with suspicion as potential criminals. Their sentiments have been reflected in studies verifying that racial minorities are frequently targeted by camera operators in other communities "with a relish that impl[ies] a deep prejudice."⁸⁴

In a similar situation, the erosion of community relationships with the police was observed in Birmingham, United Kingdom, where a disparately high concentration of the surveillance cameras was placed in Muslim areas of the city. Afterwards, many Muslim residents were angry, distrustful and a lot less likely to talk to the police.⁸⁵ In September, 2010, the 200 neighborhood surveillance cameras were taken down, and the police apologized to the community.⁸⁶

78 Freedom of Information Act Response from Assistant City Attorney Kulhaney, City of Lansing, (May 26, 2011) (enclosing documents related to Lansing crime statistics and miscellaneous costs for cameras).

79 See Ray Liedka, *Analysis of Lansing Population Under Camera Surveillance: Actual v. Expected* (Feb. 2, 2010), www.aclumich.org/cams

80 *Id.*

81 *Id.*

82 Studies in the UK have also concluded that black persons were 1½ to 2½ times more likely to be targeted for surveillance when compared to the general population. See, for example, Norris & Armstrong, *supra*, note 69, at 162.

83 Interview with Lansing Resident, in Lansing, Mich. (Feb. 27, 2009).

84 Norris & Armstrong, *supra*, note 69, at 171. Racist language and stereotypical negative attitudes were prevalent among CCTV operators studied in the United Kingdom. These attitudes translated into an almost automatic targeting of black individuals, including black youth, without any suspicion of wrongdoing.

85 See <http://www.bbc.co.uk/news/uk-10888985>.

86 See <http://www.bbc.co.uk/news/uk-england-birmingham-11443781>.

RECOMMENDATIONS

Civil and human rights activists have been concerned with the implications of camera surveillance for many years. However, the use of video surveillance in residential areas makes their privacy concerns even greater. The placement of cameras near homes, paired with the technological advancements that have been made in video surveillance, make it easy for the government to monitor and record much more than is possible with the naked eye.

The American Civil Liberties Union of Michigan, along with its Lansing Branch, have therefore formulated recommendations for Lansing officials charged with authorizing and implementing camera surveillance. These guidelines balance law enforcement's important public safety goals against this country's constitutional values and longstanding commitment to individual privacy.

Recommendation 1: Immediate Removal of All Residential Lansing Surveillance Cameras

The LPD aims "to minimize crime, maximize public safety, maintain order, and enforce the law."⁸⁷ However worthy these goals, a simple cost-benefit analysis of Lansing's residential video surveillance system suggests that the cameras should be dismantled. Because camera surveillance is ineffective at reducing crime yet seriously threatens civil liberties, the ACLU of Michigan recommends that the expansion of video surveillance be halted and existing residential cameras be removed.

Recommendation 2: Alternative Crime-Fighting Tools

The City of Lansing can find alternative crime-fighting methods less costly and more effective than video surveillance systems. In conjunction with their constituency, researchers, criminologists, privacy advocates, and other law enforcement agencies, the LPD should evaluate and expand its use of other measures that help keep people safe without sacrificing their privacy.

Recent studies have identified several viable alternatives to the presence of surveillance cameras in residential neighborhoods. Current research shows that increasing "on the beat" police officers decreases crime.⁸⁸ In fact, the LPD has assigned community patrolling officers to four of the areas under surveillance. In keeping with the LPD's philosophy of community-oriented policing, it may be more useful to assign more police officers to street patrol in high crime areas and to build on existing community watch programs, instead of maintaining cameras. In addition, environmental design methods - like increased street lighting - have a demonstrative positive effect in reducing crime without violating citizens' rights.⁸⁹ While the preceding suggestions are not exhaustive, they demonstrate that the LPD may have its choice of alternative practices that will not harm the privacy rights of its residents.

Recommendation 3: High Quality Statistical Evaluations

A key feature of all good policy-making is that it is based on robust evidence. Therefore, any use of residential camera surveillance should occur *only if* officials can provide credible causal evidence that it reduces crime. Researchers must perform clear statistical analyses. Such studies must take into account extrinsic factors that may skew results such as crime displacement and population shifts. All studies should be made available to the public and subject to peer review. Furthermore, if a camera system is used, it must be regularly evaluated for effectiveness and for impact on civil liberties, and removed after a limited period of time.

⁸⁷ Lansing Police Department, Annual Report 4 (2008) (reciting the Lansing Police Department's mission statement).

⁸⁸ See Jonathan Klick & Alexander T. Tabarrok, *Using Terror Alert Levels to Estimate the Effect of Police on Crime*, 48 J. L. Econ. 267 (2005) (showing a significant drop in crime rates with increased police presence); Steven D. Levitt, *Using Electoral Cycles in Police Hiring to Estimate the Effect of Police on Crime*, 87 Am. Econ. Rev. 270 (1997). These studies evaluate the effect of police on crime rates using catalysts for increased police presence that are independent of crime rates. In this way, the studies control for difficulties in determining a causal link between instances of crime and placing more police "on the beat."

⁸⁹ See Ronald Clarke, *Improving Street Lighting to Reduce Crime in Residential Areas*, U.S. Department of Justice Office of Community Oriented Policing Services (2008), available at <http://www.cops.usdoj.gov/files/RIC/Publications/e1208-StreetLighting.pdf>.

Recommendation 4: Self-audit to Monitor and Enforce Policy and Procedural Safeguards

If surveillance cameras are used, an annual review or self-audit by the LPD should be conducted to ensure that all of the operational procedures and policies applicable to the surveillance cameras designed to safeguard the public are being followed and a copy of the report should be made available to the community. The difficulties in spotting the signs posted in some surveillance areas observed by the ACLU and brought to the attention of Capt. Hall is prompting the LPD to post additional signs in the surveillance areas. Similarly, the ACLU learned that an access log is not being maintained, as required by the Operational Procedures, only after it submitted a FOIA request, and was informed that LPD has no such records.⁹⁰ In order to monitor any abuses of the camera system, the LPD should have its own mechanism to routinely detect and correct any noncompliance with procedures designed to safeguard the rights of residents.

Recommendation 5: Neighborhood Involvement and Approval

As part of its mission, the LPD pledges “to maintain the trust and confidence of its citizens by partnering with them to solve community problems . . . and enhance Lansing’s quality of life.”⁹¹ Consistent with this goal, the ACLU recommends that the city refrain from installing surveillance cameras in any neighborhood without consulting and obtaining the approval of the vast majority of those affected by its presence - the residents. Before seeking approval, neighborhood residents should be made fully aware of the technological capacity of the cameras and the threat surveillance poses to individual privacy. Well publicized hearings should be held in neighborhoods where cameras are contemplated so residents can voice their concerns. Any use of surveillance cameras in neighborhoods should only be for a limited time period and should not be continued past that time without again obtaining the approval of the vast majority of neighborhood residents. Further, there should be a mechanism for residents to petition for the removal of the cameras in their neighborhood before the time period has expired if, for example, the use of surveillance cameras has been abused. Community input, public vote, and collaborative decision-making create effective public policy tools. If residents oppose surveillance cameras in their neighborhood, they should not be installed.

GETTING INVOLVED

There are many ways that Lansing residents can speak out against residential surveillance cameras. Below are just a few ways that you can get involved:

1. Write or call your mayor and city council representatives to let them know that you oppose residential surveillance. Visit <http://www.lansingmi.gov/council/> to find a list of council members and their contact information.
2. Get involved with the Coalition Against Monitoring and Surveillance (CAMS), an organization dedicated to ending residential camera surveillance in Lansing. For more information about CAMS or what you can do to protect privacy in Lansing, go to www.aclumich.org/cams
3. Talk to your friends, family, and neighbors about the installation of cameras and why privacy matters to you.
4. Attend your neighborhood association meetings and make sure your leaders know about and address the issue of residential cameras. Invite an ACLU speaker to your meeting to discuss the issue.
5. Sign up for the ACLU of Michigan Action Alert network to receive messages about talks and campaigns to address surveillance and other civil liberties issues in the Lansing area. Go to **www.aclumich.org**.

⁹⁰ Letter from Assistant City Attorney, *supra*, note 55.

⁹¹ Lansing Police Department. Annual Report 4, *supra*, note 88.

Eyes In the Sky: Lansing Residential Surveillance and Its Intrusion on Privacy

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