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Moore-Love, Karla

From: noreply@portlandoregon.gov
Sent: Monday, May 28, 2012 11:50 PM
To: Moore-Love, Karla
Subject: City of Portland TrackIT Submission: Commissioner Amanda Fritz Item 598004
Attachments: SurveillanceandLiberty2.pdf

The following item has been submitted to the TrackIT system

TrackIT Item: 598004

Category: Your comments to City Council
Date Created: 05/28/2012 11:49 PM
Date Received: 05/28/2012
Contact: Henry D Herring
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Contact Type: Website
Subject: Other
: Surveillance. Please read before 5/30/12
Attachment: Surveillance and Liberty 2.pdf
Summary: Dear Mayor Adams and Commissioners Fish, Fritz, Leonard and Saltzman:

I urge you to read the attached document before you approve the letting of contracts for surveillance cameras and to strongly consider rescinding their use in Portland.

Henry Herring

5/29/2012

Surveillance and Liberty

Henry Herring

9507 SW Capitol Highway, Portland 97219

Surveillance is the death of liberty. That's the purpose of watching people from an "all-seeing" panopticon, a means of scrutiny and control first imagined by Jeremy Bentham in 1791. Its essence is to observe what people do, to intrude into their minds, to control their behavior, and to stop their actions. For Bentham, the method works best by "*seeing without being seen*" (Bentham, *The Panopticon Writings*, Letters I and V). The "watched" are presumed to be doing something wrong, or likely to do something wrong; they are suspects. Bentham first applied his idea to prisons; but quickly expanded it to, among others, factories, madhouses, hospitals, and schools.

The proposal of the Portland City Council (as enablers of the Portland Police) comes clothed in a good purpose: to reduce crime, initially drug dealing in Old Town. The power to watch others always proposes to do good, and in the current era, to reduce crime or pick out terrorists or make us safe. Some countries, such as the United Kingdom, have employed video surveillance cameras (panopticons) extensively; and American cities, such as New York, have set off on this path. Their goals, too, are safety and reducing crime. Nonetheless, the evaluations of the cameras effectiveness have been deeply disappointing. A survey of several studies in Britain and the United States since 2002 has concluded that the assessments, especially the carefully controlled ones in the U.K., have showed no impact on crime overall (Biale, "What Criminologists and Others Studying Cameras Have Found"). The cameras are most effective in enclosed spaces like parking lots and less so in open streets where crime may simply be displaced to another location. The menace to liberty created by panoptic surveillance cannot be justified in the presence of mediocre or worse results.

Yet, are there menaces to liberty real? Yes, and they imperil a free society and its individuals. The risks take multiple forms, but four stand out: 1) State surveillance; 2) the predictability of abuse; 3) the establishment of behavioral "norms"; and 4) the inevitability of expansion.

State surveillance (city, state or federal) imposes an immense burden on citizens, like no other, because of the state's power to question, investigate, harass, arrest, try, convict and jail. No doubt people are over-surveilled in our society—stores, banks, cell phone pictures, to cite a smattering—but most of these are private properties that we can avoid if we wish, or are so random in the case of pictures that persistent surveillance is not at issue (though following a person for the purpose of watching and photographing him becomes the crime of stalking). But these organizations or people do not have the powers of the state. And citizens neither can nor should avoid using public streets, parks or squares. The massive muscle of the state will inevitably induce caution, hesitancy and fear into the minds and actions of the "watched," of whom a vast majority will be private and innocent (without cameras, the distinction would be needless) Portlanders.

The counterclaim arises often that when one goes into the public sphere one gives up a claim to privacy. True, but surveillance cameras placed by the city are not invasions of privacy, they become unrelenting, continuously operating devices of government power to "watch" Portlanders every time they come into visibility. One might expect to be seen randomly or occasionally in public, even to get caught if seen committing a crime, but one does not expect to have every move caught on camera, recorded and kept as a record. That is not an invasion of privacy; that's its destruction. Even so, privacy is less the issue than imposing on people the power of the state to watch them incessantly and without their awareness and to destroy their liberty.

Moreover, abuses will happen. The history of government abuses of systems to control people for the public good has been so consistent and extensive as to be predictable rather than possible. In an atmosphere of precarious civil rights—from warrantless spying to suspensions of habeas corpus, indefinite detentions and false arrests, such as those of a lawyer in Portland accused of setting off a bomb in Spain to two Portlanders detained at foreign airports—surveillance cameras will only pose a deepening threat.

Even on private property the heavy hand of surveillance falls wrongly: The Mall of America has been found to detain, question and turn over to the police and FBI persons taking pictures, videotaping or looking suspicious in the Mall. As Mall spokesman Dan Jasper said, "You may be questioned at the Mall of America about suspicious activity. It's something that may happen. It's part of today's society" (Collins, "The Mall of America's surveillance society"). The many abuses of private companies and individuals of cameras range from spying on bathrooms and dressing rooms to intimidating workers ("Abuses of Surveillance Cameras").

Surveillance encourages the observers to see suspicious behavior where none exists. People who are marginalized—by ethnic group, class markers, "scruffy" dress—are more likely to be deemed suspicious (Fiske, "Surveilling the City: Whiteness, the Black Man and Democratic Totalitarianism"). In Tuscaloosa, AL, on September 12, 2003, police officers manipulated a supposedly stationary traffic camera near a block of clubs near the University of Alabama campus "to zoom in on several college-aged women's breasts and buttocks as they walked down the street." Later, after the cameras had been spotted, the police arrested three students: One a 22 year old woman who bared her breasts defiantly before the cameras; a second, a 25 year old man who grabbed his crotch as cars passed; and a third a 28 year old man who danced along a row of bars and was arrested for drunkenness and resisting arrest—no doubt the kinds of heinous acts that free Americans should not commit, but might in Portland's Old Town ("Abuses of Surveillance Cameras"). In New York on August 27, 2004, just before the Republican National convention, a police helicopter spotted a couple making love on the top of their apartment building; the police lingered, but then came back for a second and third look ("Abuses of Surveillance Cameras"). Closer to home, on July 4, 2007, in Spokane, WA, police using surveillance cameras to watch a protest for better policing apparently misinterpreted or became angered by something they saw and invaded the demonstration, arresting fifteen. In the aftermath, the tapes, which the police resisted surrendering, showed no justification for the arrests, and all charges were dropped. The rules for using surveillance cameras were revised (Spokesman Review.com).

Although it may take some time and may not always be conscious, surveillance will cause free Portlanders to become cautious, watchful and constrained as they adjust to the expectations of

the city and the police. F. Bianchi expresses his fear that surveillance cameras will be used to bring about the "moral regulation" of city centers (Bianchi in Fyfe and Bannister, "City Watching"). Spontaneity will disappear; weird Portland will wither; movement and gesture will be shrivel. The police, city, state government will be watching. Liberty will die.

Expansion cannot be stopped. Daley in Chicago sought it; Bloomberg in New York pushed for it; Prime Ministers of every party in power spread it across the nation in Great Britain. If Portland starts it will not stop.

The ACLU in 2006 already believed that "we are at a crucial moment for the future of privacy and freedom, in danger of tipping into a genuine surveillance society completely alien to American values" (ACLU, "Why a Surveillance Society Clock?") Privacy International, a UK privacy organization, in 2007 rated eight of forty-seven countries as "endemic surveillance societies." The three worst were China, Malaysia and Russia; followed by Singapore and the United Kingdom; and then finished by Taiwan, Thailand and the United States (pray that North Korea was overlooked). Thirty-nine of forty-seven nations watch their people less rigorously than the United States. ("Mass surveillance," *Wikipedia*)

Whatever justifications we offer, we know, instinctively, that surveillance destroys liberty and freedom. We have every reason to believe that in time it will destroy democracy and usher in totalitarianism. Please do not make Portland yet another place to build the infrastructure that will eventually put its residents in authoritarian hands.

References

("Abuses of Surveillance Cameras." <http://www.notbored.org/camera-abuses.html>)

ACLU, "Why a Surveillance Society Clock?" <http://www.aclu.org/technology-and-liberty/why-surveillance-society-clock>

Biale, Noam. "What Criminologists and Others Studying Cameras Have Found." http://www.aclu.org/images/asset_upload_file708_35775.pdf

Bianchi in Fyfe and Bannister, "City Watching" <http://www.jstor.org/stable/20003625>

Bentham, Jeremy. *The Panopticon Writings*. <http://cartome.org/panopticon2.htm>.

Collins, Bob. "The Mall of America's surveillance society." http://minnesota.publicradio.org/collections/special/columns/news_cut/archive/2011/09/the_mall_of_americas_surveilla.shtml

Fiske, John. "Surveilling the City: Whiteness, the Black Man and Democratic Totalitarianism." <http://tcs.sagepub.com/content/15/2/67.short>

Spokesman Review.com

<http://www.spokesmanreview.com/news/newstrack.asp?newstrack=july%204th%20protests>

Rec'd 5/9/12

185395



**Testimony of Becky Straus
Legislative Director, ACLU of Oregon
Agenda Item 443: PPB Surveillance Cameras
May 2, 2012**

Mayor Adams and Commissioners:

Thank you for the opportunity to submit comments today in opposition to the ordinance proposed in Agenda Item 443, which would authorize the Chief of Police or designee to execute Access and Indemnification Agreements with property owners for installation of surveillance equipment on their property.

Whenever the City ventures to utilize new technologies to streamline its law enforcement activities, we must closely examine to what extent the technology will effectively aid in its public safety goal and at what cost to the fundamental rights of residents and visitors to our city? The proposal before you is troublesome on both fronts. We are aware of no significant evidence that demonstrates the effectiveness of surveillance cameras as a deterrent to crime, but we are well aware of the significant cost to civil liberties when a free society is subjected to the imposition of constant monitoring of their daily movements.

The proposed ordinance provides little to no detail as to the particulars of this increased use of video surveillance equipment. Instead, it raises numerous questions about the use, cost, policies, and implications of more cameras around Portland:

- What type of surveillance cameras will be used? Will they have the capability to zoom or turn, and can those functions be engaged remotely? How close can they zoom? Through windows of private property?
- How many new cameras will go up and where will they be located? What specific problem are we targeting?
- How much do the cameras cost and who is paying for them? What about installation and maintenance?
- Will Portland Police officers monitor the footage in real-time? At what cost to staff time?
- Does the Bureau have a policy for this monitoring, including but not limited to guidelines around collection and retention of footage? How can the public be assured that the use of this surveillance technology is in compliance with ORS 181.575, which prohibits law enforcement from collecting or maintaining political, religious, or social information about individuals or groups?
- What can the government legally do with the footage? Under what circumstances may the government attempt to identify persons or vehicles using the footage?
- Will the footage be shared with anyone who makes a public records request?

Unless and until even these basic questions can be satisfactorily answered, we urge the Council to refrain from approving this proposal that would so significantly compromise our rights. Surveillance cameras operated by or otherwise accessible to government can (a) invade the freedom to be anonymous in public places, (b) chill and deter freedom of speech, association, and assembly, (c) be misused by government employees, and (d) divert scarce resources away from more effective safety measures.

Twenty-four hour video monitoring of public spaces gives the government a vast quantity of information on private citizens that would otherwise be unavailable, allowing it to monitor people engaging in wholly innocent and constitutionally projected behavior. The increased use of this technology will inevitably erode people's confidence in their overall freedom to act, speak, and associate with other people or groups when they know they are being watched. After all, they are bound to worry about who is watching, what others are thinking, and how the information or footage might be used – or misused.

And yet this relinquishment of civil rights comes with no comparable return for community safety. Research shows that video surveillance has no statistically significant effect on crime rates.¹ The cameras may catch crime on film, but do little to prevent it. Criminals quickly adapt to the constant monitoring, taking care to disable the camera or simply avoid its reach. Even worse, cameras send a message to the community that everyone is a suspect. Everyone is being watched.

Portland policing should build bridges between law enforcement and the community, fostering an environment of safety and trust. The use of surveillance equipment in increasing numbers and types of spaces in our city erects barriers between law enforcement and the people they are meant to protect. It is a waste of money and an affront to civil liberties and for these reasons we strongly urge the Council to reject the proposal today.

Thank you for the opportunity to testify. Please feel free to contact me with any questions.

¹ Expert Findings on Surveillance Cameras <http://www.aclu.org/images/asset_upload_file708_35775.pdf>