



October 12, 2017

**By Email**

The Honorable Will Sessoms, Mayor  
The Honorable Louis Jones, Vice Mayor  
The Honorable Jessica Abbot, Council Member  
The Honorable Ben Davenport, Council Member  
The Honorable Robert Dyer, Council Member  
The Honorable Barbara Henley, Council Member  
The Honorable Shannon Kane, Council Member  
The Honorable John Moss, Council Member  
The Honorable John Uhrin, Council Member  
The Honorable Rosemary Wilson, Council Member  
The Honorable James Wood, Council Member

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Dear Mayor, Vice Mayor and Council Members:

Recent stories indicate that Virginia Beach has yet to implement fully the plan to install 88 surveillance cameras at the ocean front. Good. That means the City Council has the opportunity to revisit whether the plan is a good one and the investment of scarce tax dollars in the technology is wise. The ACLU of Virginia encourages you to revisit this project and determine that further investment is not appropriate or justified.

The use of government operated or sanctioned video surveillance cameras in public spaces is troubling in a democratic society. Such cameras have not been shown to enhance public safety, and they make us all less free. Further, once implemented, government surveillance often expands beyond its original purpose and is susceptible to abuse. Most importantly, surveillance cameras have a [chilling effect on public life](#).

**Police, not cameras, fight crime.** Evidence does not support the claim that government surveillance cameras reduce the crime rate. At most, they displace criminal activity to areas beyond the view of the cameras. In addition, video surveillance soaks up resources that could be better used for community policing, an effective way to reduce crime. A police officer, not a camera, is what's needed to keep Virginia Beach safer. In one of the most camera present cities in the world, London, it turns out that, in many circumstances where people are caught on camera committing a crime, there is no way to identify the person and a completely [new type of in-person policing](#) has to be implemented.

**Government surveillance cameras are susceptible to abuse.** An [investigation by the Detroit Free Press](#), for example, showed that a database available to Michigan law enforcement was used by officers to stalk or to help their

friends stalk women, threaten motorists after traffic altercations, and track estranged spouses. In addition, video camera systems are operated by humans who bring to the job all their existing prejudices and biases. In Great Britain, camera operators have been found to focus disproportionately on [people of color](#). And, experts studying how the camera systems in Britain are operated also have found that the mostly male (and probably bored) operators frequently use the cameras to spy voyeuristically on women. Finally, cameras and their stored data are susceptible to hackers.

**The use of these systems and the data they collect inevitably will be expanded.** As we've seen with automatic license plate readers, surveillance technology has been used to build vast databases that enable law enforcement to know more than they need to know about the personal lives of law abiding Virginians. And with video technology likely to continue advancing, these systems will pose an increasing danger to our liberties, leading to the idea that we can predict crime or use an algorithm to show probable cause that a crime is going to be committed.

**Video surveillance will have a chilling effect on public life.** The growing presence of public cameras will bring subtle but profound changes to the character of our public spaces. When citizens are being watched by the authorities - or aware they might be watched at any time - they are more self-conscious and less free-wheeling.

As syndicated columnist Jacob Sullum [has pointed out](#), “knowing that you are being watched by armed government agents tends to put a damper on things. You don't want to offend them or otherwise call attention to yourself.” Eventually, he warns, “people may learn to be careful about the books and periodicals they read in public, avoiding titles that might alarm unseen observers. They may also put more thought into how they dress, lest they look like terrorists, gang members, druggies or hookers.” Indeed, the studies of cameras in Britain found that people deemed to be “out of time and place” with the surroundings were subjected to prolonged surveillance.

### **Guiding Principles**

As the elected officials charged with setting procurement policy, the Council should make it a requirement that any purchase or acquisition of surveillance technology (or military equipment) by any government agency in the City must be approved by a vote of the Council in advance. See the enclosed principles for community control of police surveillance that establish the rationale for such a requirement and a draft model ordinance as an example of a means to enact this requirement.

In keeping with the Virginia Government Data Collection and Dissemination Practices Act, it is equally important that the Council require that there be compelling and documented reasons for implementing any system of mass surveillance and that the Council ensure that any such surveillance is implemented only after it is assured that controls are in place to protect the

data collected and to dispose of it within days (not years) if the data collected is not relevant to an ongoing criminal investigation or other compelling government purpose.

As reported in [Journalists' Resource](#), a 2010 document from the European Forum for Urban Security, "[Charter for a Democratic Use of Video-Surveillance](#)," provides a useful overview of the issues at stake as well as a set of principles and tools that the Council could use to ensure that the rights of city residents and visitors are respected with respect to any mass surveillance system or technology purchased, acquired or installed in the City. These include:

- **Necessity:** The City Council should require that the installation and use of mass surveillance technology, including camera systems, is justified empirically, ideally by an independent authority. Objectives and intended outcomes must be defined.
- **Proportionality:** Mass surveillance, including camera systems, must be shown to be appropriate for the problem it is intended to address. Technology should "respond to the established objectives, without going further." Data should be protected and the length of time it is retained be clearly defined.
- **Transparency:** City residents and visitors should know what the objectives of any City owned and installed mass surveillance system are, what its installation and operational costs are, the areas being surveyed, and what the results are. Reports should occur regularly so residents and the Council, as their elected representatives, can make informed decisions.
- **Accountability:** Those in charge of City mass surveillance systems should be clearly identified and accountable to the public, whether the systems are run by the government or private firms.
- **Independent oversight:** An external body should be charged with ensuring that systems respect the public's rights and are achieving their stated objectives. Ideally City residents should have a voice in the oversight process.

## **Conclusion**

In a democratic society two things are true. One is that there is no liberty without privacy, particularly from government surveillance. The second is that, in a democracy, we should know more about government than government knows about us. In this case, we're giving City government and law enforcement the tools to gather and store information about the public movement of innocent Virginians without requiring substantial evidence to support the false assumption that giving up our liberty will make us safer or even ensuring that the City Council will be accountable to the public for its use and misuse.

The ACLU of Virginia with its more than 40,000 members in Virginia and 1.2 million members (and potential Virginia Beach visitors) across the nation strongly encourage the Council to revisit and reverse its decision to authorize purchase and installation of mass surveillance cameras at the ocean front.

Thank you for your careful attention to this important issue that affects our privacy and our liberty.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Claire Guthrie Gastañaga". The signature is fluid and cursive, with the first name "Claire" being the most prominent.

Claire Guthrie Gastañaga

Enclosures

CC: Office of the City Clerk

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