

**Council of the District of Columbia, Committee on the Judiciary  
Public Roundtable on the District Government's Response to the Crime Emergency**

**September 29, 2006**

**PREPARED 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 concern about preserving civil liberties. We at the Constitution Project thank the Council for inviting us to participate in this public roundtable and voice our comments and concerns regarding the District's response to the Crime Emergency—particularly the plans for new, residential video surveillance cameras.

Public video surveillance cameras were first introduced in the District four years ago, but the Council's declaration of a Crime Emergency allows them in residential neighborhoods for the first time. Legislation pending before the Council would permanently extend this power.

It is no mystery why fighting crime through video surveillance has generated so much interest in the District. Many see video surveillance as a cost-effective and unobtrusive means of combating a dangerous increase in 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, is antithetical to the ideals of a city and 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. But achieving that balance requires unbiased and public consideration of the costs and benefits of surveillance cameras *before they go in*, as well as robust safeguards to ensure they work as planned once they are in place.

The Constitution Project's Liberty and Security Initiative, launched 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 Initiative recently issued "*Guidelines for Public Video Surveillance: A Guide to Protecting Communities and Preserving Civil Liberties.*" The *Guidelines* present specific recommendations on how communities can establish surveillance systems that minimize intrusions on individual rights. And we are today publishing model legislation that can help jurisdictions to codify our *Guidelines*. We submit both of these documents for consideration as the Council considers its ongoing response to the Crime Emergency.

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? A controversial political or religious group? What if it could see into the windows of your house?

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. We urge the Council, as it considers the expansion of the District's network of surveillance cameras, 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 Council concludes that expanding the District's surveillance program may be 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 in the District
- 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

It is critical that the District conduct such a thorough review even when responding to a “crime emergency.” Our recommendations also include a streamlined *judicial* approval process for authorizing temporary video surveillance systems to address law enforcement or other emergencies requiring rapid deployment or secrecy. In enacting the emergency legislation in July, the District failed to conduct such a review of the new cameras' impact on civil liberties. Now that the Council is revisiting the emergency legislation, we urge you to examine these issues fully—or to authorize the streamlined judicial procedure that we recommend, which allows for a more rapid approval process without sacrificing oversight and accountability.

Our *Guidelines* and model legislation spell out in detail the reasons for these precautions and how they might be implemented. 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.

In 2002, at the urging of the Constitution Project and members of this Council, the District became a national and global leader by adopting video surveillance rules aimed at protecting both civil liberties and public safety. It has the chance now to affirm its leadership role—securing its position as a model of the delicate balance between civil liberties and public safety.

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