

The Constitution Project



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April 15, 2008

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Hon. Adrian Fenty
Executive Office of the Mayor
1350 Pennsylvania Avenue, NW, Suite 310
Washington, DC 20004

Dear Mayor Fenty:

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We are writing to urge you to ensure that the District of Columbia's new Video Interoperability for Public Safety ("VIPS") program will preserve the important privacy and civil liberties safeguards currently in place relating to the Metropolitan Police Department's use of video surveillance cameras. The District has become a national leader in its efforts to preserve constitutional rights and civil liberties while making full use of advanced technologies to preserve public safety. That leadership role—and the freedom of District citizens—must be preserved as the Homeland Security and Emergency Management Agency assumes control of the District's surveillance systems. We urge you and HSEMA to avoid moving backwards on this issue as you move forward with the VIPS program.

The Constitution Project is 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. Our 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 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 achieve this balance.

As representatives of the Constitution Project, we have worked with the MPD and the DC Council for several years on the District's video surveillance system. One of the most admirable features of MPD's guidelines is that their development included a series of public hearings before the DC City Council—both at the outset of the system in 2002, and when the MPD's system was expanded into residential neighborhoods in 2006. Current MPD policy reflects many of our recommendations; former MPD Chief Charles Ramsey testified before the Council in the fall of 2006

I. Scott Messinger
Chief Operating Officer

* Affiliations listed for
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that the *Guidelines* were the standard he sought to match with the MPD policy. We were encouraged by MPD's recent report on video surveillance, which documents ways in which its guidelines have been effective in protecting civil liberties without hampering the usefulness of the cameras. Indeed, the District's experience has been a model for communities across the United States, such as Fresno, CA and Stamford, CT.

We understand the District's interest in making full use of its investment in video surveillance technology, and the benefits of a central location for managing it. But as we are sure you realize, 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? These concerns only grow as the network of cameras is centralized and expanded. Thus, your plans to centralize control of over 5,000 cameras means that the safeguards contained in MPD's policy become even more important; this is not the time to discard MPD's guidelines. 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 public safety goals given careful thought and planning.

We are also pleased to note your promise, expressed in your office's public statement on the VIPS program, to implement "safeguards . . . that prohibit the release of images except for purposes of crime prevention and detection" and to "prevent improper access to images and maintain records that show access and chain of custody for images." This is a great start, and with your reputation of leadership on civil liberties issues, we fully expect that you will follow through with your promise. We aim to ensure, however, that the safeguards included in the VIPS program are at least as strong as (and can perhaps exceed) the standards set by existing MPD policy.

We urge you and HSEMA to:

- **Create a policy now**—using existing MPD policy and the Constitution Project's *Guidelines* as a starting point—that can guide not only the future use of the VIPS system, but its creation and management.
- **Use an open public process to create the guidelines**, and permit the Council and residents to read and comment on it *before* it becomes effective.
- **Ensure the policy is followed** by requiring regular audits and reporting. The MPD's recent report is an excellent example of how public reporting can preserve accountability and prevent the misuse of video surveillance technology.

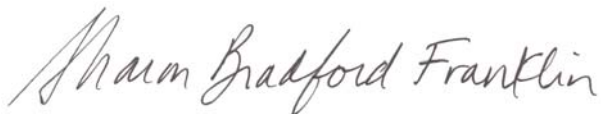
- **Consider the financial impact of the system.** Consider what the system (or any expansion of it) will really cost in comparison to less invasive forms of protecting residents, such as improved lighting or additional police officers.
- **Limit the deployment and use of cameras** to the places and situations in which they are necessary to achieve the system's purposes. It is easy for well-intentioned scope-creep to transform a narrowly-designed system into something much more invasive.
- **Ensure that access to and use of recorded footage is limited**, and that it is disposed of when it is no longer needed.

This is only a start. Our *Guidelines* report, available on the Constitution Project's website (http://www.constitutionproject.org/pdf/Video_Surveillance_Guidelines_Report_w_Model_Legislation4.pdf), explains these recommendations in detail, and includes others. Our report also includes model legislation to serve as a technical blueprint for implementing the *Guidelines*.

Both you and the Council have demonstrated a commitment to protecting both the safety and civil liberties of your constituents. This is particularly admirable in an environment where fear—of crime, terrorism, and other disasters—can lead people to wrongly conclude that they must sacrifice liberty for security.

We look forward to continuing to work with your office and the Council on this important issue. If we can be of further assistance, please contact Sharon Bradford Franklin at 202-580-6928 or sfranklin@constitutionproject.org.

Sincerely,



Sharon Bradford Franklin
Senior Counsel
Constitution Project



Will DeVries
Outside Legal Counsel
Wilmer Cutler Pickering Hale & Dorr LLP
1875 Pennsylvania Ave. NW
Washington DC, 20006

cc: Members of the District of Columbia Council