

The Relentless “Eye”

**Local Surveillance:
its impact on human rights and its relationship to
National and International surveillance**

May First/People Link

Introductory Statement from May First/People Link

While the bulk of the attention by movements for change is on national and international privacy and surveillance policies, we too often tend to ignore an equally disturbing threat: local police surveillance.

In most major cities of the United States (and many throughout the world), we are under almost constant surveillance: street cameras, police surveillance equipment, spy cams in stores and other frequented places, capture of data and email, capture of cellphone data. Most of us know this and, because it's become a way of life, we tolerate it.

The data captured is used in all kinds of repressive ways: in criminal investigations and arrests, in damaging reputations (as was the case with Michael Brown), in refusing people employment, in affecting school applications, impacting on government and public assistance.

However, what is most disturbing (and most relevant to the conversations we are having with the Rapporteur), this data is shared with authorities nationwide and internationally, including federal authorities (like the NSA), through data sharing agreements and "fusion centers" (dedicated to facilitating the combining and sharing of local, state and federal information on people).

This is a profile of a police state and it's real. But there's a flip side. The most aggressive and impassioned opposition to surveillance is taking place in local struggles all over the country in cities like New York, Los Angeles, Boston, Chicago and so many others: grassroots organizations in cities and towns that are taking this issue on.

We are offering, with this package, some statements from some of the grass-roots (and national) organizations struggling against local surveillance abuses.

We believe this issue, this material and this consideration should be part of any conversation and report on the issue of privacy and surveillance.



Stop LAPD Spying Coalition

June 30, 2016

Los Angeles has been at the center of the U.S. government's "anti-terrorism" effort and has served as a staging ground for numerous national security programs that threaten human rights and civil liberties. The Stop LAPD Spying Coalition was started in the summer of 2011 by a group of individuals and organizations deeply concerned with the rapid expansion of the surveillance state and the incorporation of counter-terrorism and counter-insurgency tactics and programs into domestic/local policing. The coalition is a grass root organization engaged in community education and outreach, organizing, coalition-building, and policy advocacy efforts toward the goal of dismantling the Los Angeles Police Department's (LAPD) Architecture of Surveillance which includes several surveillance, spying and infiltration programs.

The LAPD Architecture of Surveillance consists of several human based programs such as the Suspicious Activity Reporting (SAR) program, Predictive Policing, Intelligence Gathering Guidelines, and an extensive electronic surveillance apparatus that includes Automatic License Plate Readers (ALPR), Body Cameras, Hi-Definition Cameras, Stingray Technology, Digital Receiver Technology (DRT Boxes), and Trapwire Technology. The ubiquitous use of such programs and technologies give LAPD unprecedented access into our lives and the ability to constantly trace, track and monitor not only our movements but our habits, our social networking, our leisure time, and many other every day activities.

For example, suspicious activities listed under the SAR program include using cameras in public, shooting videos, using binoculars, drawing diagrams, taking notes, and inquiring about a building's hours of operation.

The iWATCH program recruits community informants to report perfectly legal activities. Information gathered by various agencies around the country is transmitted to sites such as Fusion Centers (*spy centers*) which tie local collectors and users of intelligence data into a national information sharing network called the Information Sharing Environment (ISE).

The LAPD SAR and other intelligence gathering programs are problematic because they erode the principle of *innocent until proven guilty*. This style of speculative and hunch-based policing treats people primarily as guilty and suspicious, creating conditions for human and civil rights violations. Many of these programs are not an evidence-based practice, they criminalize innocent behavior, create a culture of suspicion and fear, promote racial profiling, invade privacy, and waste precious resources.

The suspicion cast on benign, daily behaviors and the completely speculative and arbitrary nature of "intelligence" is exactly what opens the door for racial profiling and for normal activities to be used as a pretext to open investigations and spy on people who are simply living their lives and abiding by the law. The occurrence of racial and ethnic profiling became apparent in a March 2013 release of the Office of Inspector General audit of the LAPD SAR program followed by another audit released in January 2015. The March 2013 audit revealed that out of a four month sample of race/descent data, over 82% of the SARs were filed on individuals identified as non-white. The largest number of SARs were filed on African-Americans. The January 2015 audit which covered LAPD fiscal year July 2013 to June 2014 revealed that over 30% of SARs that went to fusion centers were written on African-Americans. Los Angeles has less than 10% African-American population, the audit showed a 3 to 1 disproportionate impact on LA's black community. In the gender count 50% of SARs were opened on black women.

¹ <http://stoplapdspying.org/policing-strategies-and-tactics/>



Statement to United Nations Special Rapporteur on the rights to privacy

July 6, 2016

The Media Action Grassroots Network (MAGNet) is a national advocacy network of over 100 grassroots community organizations working together for communication rights, access and power to end poverty, eliminate racism, and ensure human rights. In line with this purpose, we are fighting for a media system with diverse representation and ownership that leads to greater economic opportunity, political power, and stronger communities for people of color, poor and struggling families.

In the United States, racebased discrimination and control has always been at the center of surveillance. From slave pass laws to Jim Crow laws in the 19th century that enforced racial segregation at the state and local level to the 20th century where federal and local agencies targeted political activists and civil rights leaders. In the 21st century, a new, racialized system of mass surveillance has brought racial segregation into the digital age by expanding the carceral state and fueling growing income inequality all of which threatens human rights for all people.

Racial and ethnic minorities now represent a staggering 60% of the 2 million people in prison in the U.S. A broken immigration system deported a record 438,421 migrants in 2013 alone , and both immigrant and youth detention is at all time high. Mass incarceration is now the vehicle through which racial inequity remains codified in law and culture. Technological solutions are being considered to depopulate overcrowded jails and prisons. In a digital age and era of big data, policing practices are increasingly driven by digital technologies that facilitate the speed, secrecy, and scale of policing. The unaccountable adoption of surveillance and police technologies disproportionately disadvantages Black survivors of mass incarceration, migrants, Muslims, those working at or below the minimum wage, and the movements that represent these groups.

From data collection and analysis/prediction to police intervention and impacts, predictive policing is now a booming industry and increasingly ubiquitous practice. Whether in direct use by police departments, or indirectly by local governments through smart city civic technologies predictive analytics reproduce racial bias by using historical crime data to predict future occurrences of crime. This can lead to forced displacement, redirecting of public resources, bulk collection of personal data by unaccountable institutions, and mass incarceration via racially biased over policing.

At the same time, local law enforcement agencies are rapidly adopting a host of surveillance technologies without the knowledge or consent of local communities. While legacy civil rights advocates have advanced civil rights principles and policies that reform and restrain the use of these technologies, many 21st century civil and human rights leaders are advancing reforms that dismantle and ultimately abolish the use of these surveillance technologies as part of a larger effort to end mass incarceration and weaken the police state.

There is a false notion that technology can undo over three centuries worth of racial bias and discrimination that are steeped in the fabric of all our institutions. These technologies, and the predictive policing practices which give them context, are not race neutral, but in fact advance a system of racial bias that threatens the civil and global human rights gains of the 20th century.

The Media Action Grassroots Network is a project of the Center for Media Justice.

Tracy Rosenberg
Executive Director
Media Alliance

In the Bay Area and Northern California, surveillance became a very local issue when Homeland Security grants to protect Oakland's port morphed, in the mind of the city's planners, into a vast citywide surveillance system integrating hundreds of public and private cameras, license plate readers, Shotspotter sound recorders and facial recognition software. The vendor was military contractor Science Applications International Corporation (SAIC). Opposition slowly grew to this fusion-center-on-steroids in the town with a long history of political activism, much of it centered in the Muslim and African-American communities, which recognized themselves as the canaries in the coal mine. But after "Stop The Spy Center" became a rallying cry, something unique happened when a small group of people and some community organizations including Mag-Net's Media Alliance and remnants of the city's Occupy movement began meeting weekly as the Oakland Privacy Working Group not just to try to roll back the proposed dragnet this one time, but to make sure this police state apparatus would never happen again.

Digging into public policy, the group peppered the city with public records requests and became some of the most knowledgeable people in the country on the flow of Homeland Security funds and military-grade equipment to US cities through the UASI (Urban Areas Strategic Initiative) program. Working with attorneys, legacy civil liberties organizations like the ACLU and state legislators, they drafted and implemented a series of public policy initiatives including municipal citizen privacy commissions and equipment use ordinances for city, county and statewide governments in California.

- In March of 2014, Oakland's City Council reversed course and voted to rein back the Domain Awareness Center (DAC) to only the property of the Port of Oakland. The DAC was later defunded and has never been used by the City of Oakland.
- In June of 2015, Oakland's City Council approved a Privacy Policy governing fusion center operations with use restrictions and annual public transparency reports—the only fusion center subject to a privacy policy in the U.S.
- In October of 2015, California Governor Jerry Brown signed into law three bills mandating surveillance transparency: SB 741 on the use of cell phone interceptors (stingrays), SB 34 on the use of automated license plate readers (ALPRS) and SB 187 (CAL-Electronic Communications Privacy Act).
- In June of 2016, Santa Clara County became the first municipality in the United States to approve a surveillance equipment transparency ordinance requiring pre-purchase approval, usage policies, annual audits and criminal penalties for the misuse of surveillance equipment.

This series of policy victories over a three-year period is unrivaled in scope and represents the most definitive public response to the 2013 Snowden revelations in the country. The transparency theory of fighting surveillance locally is based on these principles of change.

- (1) Anti-surveillance work is better poised for success in the United States on the local and state level than on the federal level at this time. It is harder for law enforcement to fight against calls for transparency.
- (2) The process of transparency legislation specifically turns the focus to preventing

abuse,
over-reach, and discussion of the implications on people guilty of no crimes and
changes
the prevailing threat-based conversations.

- (3) By piercing the veil of secrecy and forbidding technical jargon, transparency legislation
builds
a movement for more community control of surveillance equipment and activities.

Generation Justice - New Mexico

New Mexico experiences many different types of surveillance. As a multicultural state that has a violent history of colonization, there are many different methods of targeted surveillance. Our location on the border, our military bases, and national research labs along with being a majority/minority state set up New Mexican youth to be under surveillance more frequently under the guise of "monitoring suspicious behavior". The Albuquerque Police Department is the most violent per capita in the U.S., and was the first to adopt a requirement for officers to use body-cams to document civilian encounters, since 2012. APD has not admitted to their usage of Automatic License Plate Readers, although they are visible on traffic lights.

Many of New Mexicans are vulnerable to monitoring and surveillance technology because we are in the dark of what is being used against us. It is hard to believe that our people of color, in a militarized state, are not being monitored. From protesting the Albuquerque Police Department, to the recent protests over Trump, it is clear that technology is being used to target our young people of color.

As young people, we are especially vulnerable to digital surveillance. Our social media is tracked from a young age. Our schools are using different methods to watch and predictively police our youth. As young people of color, our actions are deemed suspicious and warrant the need for increased surveillance. What we do know is that the more people are surveilled the more public and private jails and prisons fill up. There appears to be a direct correlation between surveillance and the prison pipeline for youth of color. The UN could help to look into this correlation and provide a more neutral perspective of the impact of surveillance of youth of color. Our freedom is not real if we do not know the conditions of which we are being watched.

Media Mobilizing Project - Philadelphia PA

Philadelphia has one of the highest per capita population of pre-trial detainees of any big city in the US. This is primarily because of cash bail and the almost universal poverty of the people caught up in the criminal justice system - people who are overwhelmingly Black, young, and other folks of color.

The City of Philadelphia recently won a major award for moving our massive population of people held pre-trial back into the community - a multi-million dollar award from the MacArthur foundation. You can read the summary of what they're planning to do here.

Of the multiple tacks they're taking to reduce the pre-trial prison population, they're planning to institute a machine-learning risk assessment algorithm to create profiles of people's "risks" if being monitored in the community, and to push folks who are determined to be low risk back into the community for at-home monitoring. Organizers working with low-income communities, and with people directly impacted by mass incarceration, have a number of questions about how that targeting will work. Based on our read of the data they are inputting into the algorithm, an algorithm and series of weighted metrics identical to one piloted in the Philadelphia parole and probation system in 2009, they plan to use zip code as one of the highest weighted metrics for whether or not someone gets to go home.

At the same time, for many of the folks who are then able to remain in the community before trial, instead of locked up, the City plans to use extensive at-home electronic monitoring of these prisoners as a part of their plan to reduce the prison population. This monitoring has multiple challenges, including that up until now, at-home detainees needed to have a landline before they could go home, and that they would be returned to jail if they couldn't afford their landline connection.

Organizers are working to determine what the impacts of increased at-home community monitoring of pre-trial detainees and their families will be, especially if the City switches its monitoring from landlines to wireless monitoring, as has been reported.

Brian Dolinar -- Champaign-Urbana Indymedia Center

In Illinois, development and use of powerful police surveillance technologies have been among most widespread in the nation, but it has also been met with significant resistance by community activists and lawmakers.

In 2012, discovery of a drone in Champaign-Urbana, Illinois led to its being grounded. A year later, a bill was passed in the Illinois legislature regulating drone use in the state. In 2015, the Illinois state police announced they had acquired a drone. To date, the state police have operated their drone more than 200 times, including 16 criminal cases, one of which involved police killing an unarmed black man.

In Chicago, those at Lucy Parsons Labs (<https://lucyparsonslabs.com/>) have filed a lawsuit for further information on Black Lives Matter activists that have been spied on according to "First Amendment Worksheets" (<http://inthesetimes.com/article/17808/who-do-you-protect-who-do-you-surveil>) produced by the Chicago Police Department. Evidence suggests police may have used Stingrays in these investigations. Recently, the Illinois General Assembly cast a unanimous vote for a bill limiting the use of Stingray technology which is expected to be signed by the Governor.

The surveillance and monitoring practices of the Federal Bureau of Investigation, the Department of Homeland Security and other federal, state, and local law enforcement entities are chilling the protected activities of organizers, activists and members of the public at large who are or who wish to speak out publicly in opposition to the alarming – indeed crisis-level – trend of police brutality and killing in the United States. The FBI, DHS, and local law enforcement have embraced a highly militarized, counter-terrorism related approach – both in terms of resources and strategy – to monitoring and surveillance of the grassroots movement for Black lives.

By way of example, in July 2014, newspaper articles pointed to the NYPD and FBI Joint Terror Task Force jointly using their counterterror units to monitor movement for Black lives protests and organizers.ⁱ Further, e-mails from New York City's Metropolitan Transit Authority (MTA) and the Metro-North Railroad showed that undercover police officers monitored the activities of known organizers at Grand Central Station during police brutality protests.ⁱⁱ The monitoring was part of a joint surveillance effort by MTA counterterrorism agents and NYPD intelligence officers. In April 2015, activists released a cache of emails showing that the California Highway Patrol in conjunction with the Northern California Regional Intelligence Center – a federally funded counterterrorism fusion center – used counterterror units to monitor the social media activity of movement for Black lives activists in the Bay Area.ⁱⁱⁱ Furthermore, in emails obtained by *The Intercept*, members of an FBI Joint Terrorism Task Force tracked the time and location of a December 2014 movement for Black lives protest at the Mall of America in Bloomington, Minnesota.^{iv}

In addition, several prominent movement for Black lives organizers in Baltimore, New York City, and Ferguson, Missouri, have shared first-hand accounts of being monitored and harassed by law enforcement even when not actively engaged in protests or other constitutionally protected activities. One activist recounted to a reporter that on a day in 2014, a National Guard Humvee threateningly followed her during the Ferguson unrest, tracking her along her route home, turn for turn. In what unmistakably signals a pattern of monitoring and intimidation, another Ferguson organizer was greeted by dozens of officers during a routine trip to an area Wal-Mart, despite having never made public where she was going.^v

The revelations of FBI, DHS, and local law enforcement surveillance of movement for Black lives, only briefly summarized above, leads us to fear that the current surveillance of the emerging movement for political accountability and justice is more coordinated, extensive, and systematic than has been revealed thus far and that it is intended to silence the demands of the movement for Black lives and related movements.

Brandi Collins
Campaign Director
ColorOfChange

- i See, e.g., Alex Kane, *How the NYPD's Counterterrorism Apparatus is being Turned on Protestors*, Vice, Jan. 18, 2015 available at: <http://www.vice.com/read/how-the-nypds-counter-terror-apparatus-is-being-turned-on-police-protesters-119>
- ii See George Joseph, *Undercover Police Have Regularly Spied on Black Lives Matter Protestors in New York*, The Intercept, Aug. 18, 2015, available at: <https://theintercept.com/2015/08/18/undercover-police-spied-on-ny-black-lives-matter/>
- iii See Darwin BondGraham, *Counter-Terrorism Officials Helped Track Black Lives Matter Protesters*, East Bay Express, April 15, 2015, available at: <http://www.eastbayexpress.com/oakland/counter-terrorism-officials-helped-track-black-lives-matter-protesters/Content?oid=4247605>
- iv Lee Fang, *Why Was an FBI Joint Terrorism Task Force Tracking A Black Lives Matter Protest?*, The Intercept, Mar. 12, 2015, available at: <https://theintercept.com/2015/03/12/fbi-appeared-use-informant-track-black-lives-matter-protest/>
- v See Brandon Ellington Patterson, *"Black People Need Encryption," No Matter What Happens in the Apple-FBI Feud*, MotherJones, Mar. 12, 2016, available at: <http://www.motherjones.com/politics/2016/03/black-lives-matter-apple-fbi-encryption>



National Lawyers Guild

Los Angeles

Ameena Qazi, Esq
3916 Sepulveda Blvd
Culver City, CA 90230
310-313-3700
ameena@nlg-la.org

July 6, 2016

Prof. Joseph Cannataci
UNOHC Special Rapporteur On The Right To Privacy

Dear Prof. Cannataci:

The Los Angeles chapter of the National Lawyers Guild, primarily through our work with the Stop LAPD Spying Coalition, has learned that conversations about privacy are substantially more nuanced when looking at privacy through the lens of social change and movement building versus the more common lens of civil rights/civil society.

Our experience with privacy in relation to movement building and social change highlights that privacy is often a legal fiction to traditionally marginalized communities. Via policing and accessing public benefits, these communities have elements of their lives scrutinized in ways that, but for their marginalization, would lead to great outrage. An immediate and timely example is the over-policing of the Skid Row community in Los Angeles. By some estimates, it is the area in the country with the highest police to civilian ratio¹. The mass police presence in a community where many unhoused or homeless individuals live puts that community at harm due to the oversaturation of police; police proclivity to issue citations; and police practices that "inspect" and sometimes destroy personal property without due process.

Our experience has also taught us that opaque standards or practices by law enforcement entities don't improve over time: once a deficient standard or practice is implemented, law enforcement entities, and the government officials charged with overseeing them, generally relinquish effective control or oversight once privacy depriving tools/technologies/practices are implemented. In Los Angeles, police officers routinely disabled vehicle "dashboard" cameras without any sanction or disciplinary action. Police officers can also review body camera footage before making a report and ostensibly present selective footage which is detrimental or prejudicial to the civilian who had an encounter with the police.

Finally, the Los Angeles chapter of the National Lawyers Guild, in all our work, centralizes organizing in the struggle for social justice. It is through on-the-ground organizing that many stories come to light and which community members can feel supported in their struggles to reassert their rights. We believe that while litigation and public policy work are important, supporting and taking cues from communities allows us to be more effective.

Respectfully submitted,

**The Board of the Los Angeles Chapter of National Lawyers
Guild**

¹ By some estimates, it's has the highest police to civilian ratio in the world

Participating organizations' URLs

Color of Change

<http://www.colorofchange.org/>

STOP LAPD Spying Coalition

<http://stoplapdspying.org/>

Media Alliance - California

<http://www.media-alliance.org/>

Generation Justice - New Mexico

<http://www.generationjustice.org/>

Media Mobilizing Project -Philadelphia, PA

<http://mediamobilizing.org/>

Champaign Urbana -Indymedia Center - IL

<http://www.ucimc.org/>

Media Action Grassroots Network

<http://mag-net.org/>

National Lawyers Guild - LA Chapter

<http://www.nlg-la.org/>