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Opinion | OP-ED CONTRIBUTOR

# When It Comes to Surveillance, Watch the Watchmen

By MATTHEW FEENEY OCT. 23, 2017

The Los Angeles Board of Police Commissioners voted this month to allow the Police Department to use drones in a one-year pilot program. Whatever one thinks of this technology, the public debate about the issue and the vote by the board, a five-member civilian oversight group, was refreshing — but all too rare. Americans deserve transparency and detailed information about the surveillance tools the police are using or considering, and they're often denied it.

That's because there's intense resistance to offering this information. For instance, a New York City Council bill introduced in March, would require the New York Police Department to disclose any surveillance technology it uses and to make public the policies about restrictions on the use of this technology. But Mayor Bill de Blasio said the bill “provides a road map for the bad guys,” potentially aiding criminals or even terrorists by making them privy to information about law enforcement tactics.

This concern is misplaced. The real risk is that without this type of legislation, the good guys — everyday citizens — will be left in the dark. Police departments should be doing more, not less, to keep the public informed about what tactics they're using and why.

This is a nationwide issue. That's why, last year, the American Civil Liberties Union began the Community Control Over Police Surveillance legislative effort, seeking to increase surveillance transparency and allow for input from the

communities in cities across the country. This transparency is urgently needed because of something Mr. de Blasio and other opponents of transparency legislation are unwilling to acknowledge: that many modern law enforcement surveillance devices collect information about innocent citizens.

One such device, the StingRay, mimics a cell-tower and allows law enforcement to track targets' phones. This lets them collect information about people's whereabouts and their communication metadata. A Freedom of Information Law request by the New York Civil Liberties Union revealed that from 2008 to May 2015 the New York Police Department used StingRays more than 1,000 times. The A.C.L.U. has identified 72 state and municipal law-enforcement agencies in 24 states and the District of Columbia that have StingRays.

Facial recognition is another troubling surveillance technology whose use is on the rise. Half of American adults are already in a law enforcement facial recognition network. Merged with police body camera technology, facial recognition could facilitate increased surveillance and the erosion of the anonymity most citizens assume when they go about their business. The New York Police Department's body camera policy, which was adopted after consulting with the public, does not prohibit the use of facial recognition.

The Leadership Conference on Civil and Human Rights and Upturn, a technology and policy research group, last year examined the body camera policies of 51 police departments across the country, including those in Chicago, Los Angeles and Houston. Of the 51 departments, none put strict limits on the merger of facial recognition and body camera technology, and only six departments had even partial limitations in place.

Americans should be aware of the rules governing this type of surveillance in their jurisdiction. It's one thing to be identified by the police once you're detained; it's another for the police to be able to identify you at a distance without having to say a word to you.

This use of facial recognition could potentially have a stifling effect on First Amendment-protected activity such as protests. Citizens may be less willing to take

part if they think the police are able to catalog their participation and see where else they've appeared in public.

The same concern applies to drones, which, although still comparatively rare, will also be a regular part of police departments' tool kits soon. The New York Police Department has in the past strongly resisted calls for information about its drone records.

Americans care about this. Analysis of online behavior suggests, unsurprisingly, that some changed their online search behavior after Edward Snowden's revelations that the National Security Agency had engaged in widespread internet surveillance.

The relationship between security and liberty is often described as a balancing act. This act can't take place if we're not informed about the technology used to safeguard our security.

That's why, when it comes to surveillance technology, the American people should demand to know whether the police are spying on them. At the moment, those who are suspected of being Muslim extremists are prime targets, and innocent people caught in this effort face immediate concerns. In the past, Communists, civil rights leaders, feminists, Quakers, folk singers, war protesters and others have been on the receiving end of law enforcement surveillance.

No one knows who the next target will be. What we do know is that it's difficult to put surveillance equipment back in the box it came from.

***Correction: October 26, 2017***

An Op-Ed article on Tuesday about police surveillance incorrectly characterized the 72 agencies in 24 states and the District of Columbia that the A.C.L.U. identified as having StingRay trackers. They are state and local law-enforcement agencies, not federal agencies.

Matthew Feeney is a policy analyst at the Cato Institute.

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