



July 25, 2013

Spokane City Council
City Hall
808 West Spokane Falls Blvd.
Spokane, WA 99201

Dear Council Members,

AMERICAN CIVIL
LIBERTIES UNION OF
WASHINGTON
FOUNDATION
901 5TH AVENUE, SUITE 630
SEATTLE, WA 98164
T/206.624.2184
WWW.ACLU-WA.ORG

JEAN ROBINSON
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

I am writing regarding proposed ordinance C-350158 that would require Council approval prior to the acquisition and use of new surveillance equipment. The ACLU of Washington is very pleased that the Spokane City Council is taking on this important issue, and we support the overall intention of the ordinance you are considering. However, the proposed ordinance excludes from its scope some key pieces of surveillance equipment and is missing some fundamental provisions related to remedies and transparency. Changes to the ordinance addressing these concerns would make it more effective.

The ACLU believes that a formal review and approval process prior to the acquisition and use of new surveillance equipment can help to ensure that the technology is necessary and that it will be used in a manner that promotes security without eroding privacy and speech rights. Below, we recommend a few adjustments that could be made to strengthen the ordinance. Attached you will find a model ordinance that we have drafted that reflects many of the suggestions below. We hope that these suggestions are helpful as you consider how best to address new surveillance technologies.

First, we recommend that the ordinance cover all surveillance equipment and activities that pose a potential threat to privacy. The proposed ordinance does not require approval or use guidelines for a number of surveillance devices regularly used by law enforcement, such as red light cameras and cameras attached to public buildings. We believe that all devices capable of collecting information about the general public should be subject to a review process and have clear use guidelines created prior to their acquisition.

Cameras installed on police vehicles or on public buildings can collect detailed information about our lives, and that collection raises privacy concerns. A recent report released by the national ACLU details how one technology currently excluded from your ordinance – automated license plate readers – poses privacy risks when its

use is not governed by basic guidelines and protocols (See: <http://www.aclu.org/files/assets/071613-aclu-alprreport-opt-v05.pdf>).

In addition, the ordinance should cover situations in which a city department does not acquire equipment itself, but outsources its surveillance needs to a third party. In such situations, the government collects the same information, and it should therefore receive Council approval and be subject to use and storage policies.

Finally, we recommend that the ordinance include a remedy provision specifying what can happen when there is a violation of the ordinance or any set of approved protocols. A reporting mechanism should be included in the ordinance requiring the Council to report annually on the number of times it was asked to approve new equipment or services. An annual report would allow the public to easily see how frequently the approval process is used and what new surveillance technologies have been acquired.

If you have any questions about these recommendations or our model ordinance, please feel free to contact me.

Thank you for considering our thoughts.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamela Debelak". The signature is fluid and cursive, with the first name "Jamela" and last name "Debelak" clearly distinguishable.

Jamela Debelak
Technology & Liberty Director

Enclosure