



The ACLU report titled “Making Smart Decisions About Surveillance”<sup>1</sup> has made painfully clear that the ACLU ignores and silences--whether intentionally or unintentionally--the voices and concerns of diverse and impacted communities with regards to policing policies which threaten their human and civil rights. This report, and subsequent admissions and documents uncovered, demonstrates that the ACLU, while doing some positive legal work in the field, has created a model ordinance that demobilizes real calls for transformation in regards to the growing surveillance state while increasing the impact of surveillance on communities who have no real outlet for recourse.

ACLU, in its current practises within the context of the *Model Ordinance on Surveillance* included in the report, and many other past issues (e.g. Suspicious Activity Reports, body cameras, Safer City Initiative), has heavily relied on reports, input, and/or research from law enforcement. Much of the research used in “Making Smart Decisions About Surveillance” came from the Police Executive Research Forum (PERF) or through governmental entities deeply involved in the tracking, targeting, apprehending and/or prosecution of human beings.

ACLU’s notions of “community” highlight city and federal institutions first and foremost, and the public last of all.

It is necessary to question what and how the process of accountability established itself for this model ordinance. Firstly, the oversight process outlined in the “Model Ordinance” is based on assumptions that the city and the council/board are capable of self-auditing in regards to surveillance programs, and that the concerns of the most impacted communities are well understood and represented by the city and its council/board. The experiences of many communities is completely the opposite - city councils, commissions, boards are civic bodies are deeply beholden and have very cozy relationship with law enforcement. Secondly, ACLU has consulted with the institution it is supposed to hold accountable, specifically asking the LAPD what provisions should be added removed to the ordinance. Ethically, this type of partnership nullifies any meek attempts at accountability.

ACLU portrays community resistance as evidence of a misinformed community. Rather than paying deference to communities’ overwhelming rejection of massive surveillance apparatuses and learning from their lived experiences with violent policing, ACLU consistently frames instances of poor communication or lack of information that caused unfortunate setbacks on the road to city-community consensus, as operating from the basis of ignorance. These kind of setbacks could be easily rectified through public debates.

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<sup>1</sup> <https://www.aclunc.org/sites/default/files/Smart%20About%20Surveillance.pdf>

Mission Creep into communities: top down discourse of purpose and use of surveillance. Federal policies governing funding for surveillance technology mandate the use of open-ended words like terrorism and prevention in their explanation of purpose, which facilitates mission creep. We must detect, document, and dispute case by case, analyzing categorizations of surveillance technology in order to identify mission creep and not attempt to merely legislate it away. ACLU would have to work with community partners who organize on the ground at the grassroots level to accomplish this end.

The exposed emails not only demonstrate ACLU and LAPD collaboration on the report and subsequent “Model Ordinance” but also ACLU’s fundamental agreement with and legitimization of the existence and need for a massive state surveillance apparatus. However, these programs<sup>2</sup> have been shown repeatedly to expand racial profiling,<sup>3</sup> invade privacy,<sup>4</sup> promote a culture of fear and suspicion,<sup>5</sup> waste public resources,<sup>6</sup> have no scientific basis,<sup>7</sup> and bolster corporate profit making.<sup>8</sup>

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2 <http://stoplapdspying.org/resources/architecture/>

3 <http://stoplapdspying.org/lapd-inspector-general-absurdly-denies-evidence-of-racial-profiling-in-the-sar-audit/>

4 <http://www.laweekly.com/news/forget-the-nsa-the-lapd-spies-on-millions-of-innocent-folks-4473467>

5 <http://stoplapdspying.org/wp-content/uploads/2013/04/PEOPLES-AUDIT-UPDATED-APRIL-2-2013-A.pdf>

6 <https://www.documentcloud.org/documents/446073-10-2-12-psi-staff-report-re-fusion-centers.html>

7 <http://hamidkhan.mayfirst.org/wp-content/uploads/2013/03/Summary-National-Academy-of-Sciences-Report.pdf>

8 <http://projects.washingtonpost.com/top-secret-america/>