



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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October 5, 2007

Catherine M. Papoi
Deputy Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Drive SW, Building 410
Washington, D.C. 20528-0550

*Re: Freedom of Information Act Request for Records Concerning
“Lower Manhattan Security Initiative”*

Dear Ms. Papoi:

This letter constitutes a request to the Department of Homeland Security under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), by the New York Civil Liberties Union (NYCLU).

A. The Request for Information

The NYCLU requests the following records:

1. Records received by the United States Department of Homeland Security from the City of New York or the New York City Police Department concerning the “Lower Manhattan Security Initiative.” All records¹ received by the United States Department of Homeland Security (DHS) from the City of New York, the New York City Police Department (NYPD), or any entities acting on their behalf or as their agent(s) since January 1, 2002 about the NYPD plan to place a system of surveillance cameras in lower Manhattan in New York City. (Public reports have referred to this program as the “Lower Manhattan Security Initiative.” *See, e.g.,* Buckley, Police Plan Web of Surveillance for Downtown, *New York Times*, July 9 2007 at A1 (copy enclosed)). This request specifically includes, but is not limited to, records or portions of records relating to privacy protections, such as provisions concerning types of information collected, access to information collected, use of information collected, retention of information collected, and destruction of information collected. This request also includes, but is not limited to, records

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, e-mails, faxes, files, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, or studies.

relating to the \$15 million of DHS funds reportedly being used for the NYPD system (see attached *New York Times* story).

2. Records sent by the United States Department of Homeland Security to the City of New York or the New York City Police Department concerning the “Lower Manhattan Security Initiative.” All records sent by the United States Department of Homeland Security to the City of New York, the New York City Police Department, or any entities acting on their behalf or as their agent(s) since January 1, 2002 about the NYPD plan to place a system of surveillance cameras in lower Manhattan in New York City, as described in request number 1. This request specifically includes, but is not limited to, records or portions of records relating to privacy protections, such as provisions concerning types of information collected, access to information collected, use of information collected, retention of information collected, and destruction of information collected. This request also includes, but is not limited to, records relating to the \$15 million of DHS funds reportedly being used for the NYPD system (see attached *New York Times* story), or any documents that authorize the expenditure of funding for the system.

3. Records Assessing the Proposed “Lower Manhattan Security Initiative.” All records, not covered by requests 1 or 2 above, in the possession or control of the Department of Homeland Security (whether created by DHS or not) that evaluate, assess, describe, authorize, or otherwise discuss the NYPD plan to place a system of surveillance cameras in lower Manhattan in New York City, as described in request number 1.

4. Records Assessing Surveillance Camera Systems. All records, not covered by requests 1-3 above, in the possession or control of the Department of Homeland Security (whether created by DHS or not) that evaluate, assess, describe, authorize, or otherwise discuss surveillance camera systems proposed or employed other than in New York City. This request includes but is not limited to records concerning the so-called “Ring of Steel” system in London, England.

B. Waiver of all Costs

The NYCLU requests a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”) (citation omitted).

Disclosure of the requested information is in the public interest. This request will further public understanding of government conduct; specifically, the implementation of law-enforcement systems intended to monitor and record the lawful and constitutionally protected activity of hundreds of thousands of New Yorkers. The records requested are not sought for commercial use, and the NYCLU plans to disseminate the information disclosed as a result of this FOIA request to the public at no cost via its website and other means.

If this request is denied in whole or in part, we ask that you justify all deletions and exemptions by reference to specific exemptions to FOIA. The NYCLU expects the release of all segregable portions of otherwise exempt material.

We appreciate your prompt attention to this matter. Please furnish all applicable records to me at the above address. If you would like to discuss the scope or any other aspect of this request, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Dunn", with a long horizontal flourish extending to the right.

Christopher Dunn
Matthew Faiella

POLICE PLAN WEB OF SURVEILLANCE FOR DOWNTOWN

LIKE LONDON RING OF STEEL

A Call for 3,000 Cameras — New York Seeking More Antiterror Aid

By CARA BUCKLEY

By the end of this year, police officials say, more than 100 cameras will have begun monitoring cars moving through Lower Manhattan, the beginning phase of a London-style surveillance system that would be the first in the United States.

The Lower Manhattan Security Initiative, as the plan is called, will resemble London's so-called Ring of Steel, an extensive web of cameras and roadblocks designed to detect, track and deter terrorists. British officials said images captured by the cameras helped track suspects after the London subway bombings in 2005 and the car bomb plots last month.

If the program is fully financed, it will include not only license plate readers but also 3,000 public and private security cameras below Canal Street, as well as a center staffed by the police and private security officers, and movable roadblocks.

"This area is very critical to the economic lifeblood of this nation," New York City's police commissioner, Raymond W. Kelly, said in an interview last week. "We want to make it less vulnerable."

But critics question the plan's efficacy and cost, as well as the implications of having such heavy surveillance over such a broad swath of the city.

For a while, it appeared that New York could not even afford such a system. Last summer, Mr. Kelly said that the program was in peril after the city's share of Homeland Security urban grant money was cut by nearly 40 percent.

But Mr. Kelly said last week that the department had since obtained \$25 million toward the estimated \$90 million cost of the plan. Fifteen million dollars came from Homeland Security grants, he said, while another \$10 million came from the city, more than enough to install 116 license plate readers in fixed and mobile locations, including cars and helicopters, in the coming months.

The readers have been ordered, and Mr. Kelly said he hoped the rest

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Security Plan In New York Calls for Web Of Cameras

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of the money would come from additional federal grants.

The license plate readers would check the plates' numbers and send out alerts if suspect vehicles were detected. The city is already seeking state approval to charge drivers a fee to enter Manhattan below 86th Street, which would require the use of license plate readers. If the plan is approved, the police will most likely collect information from those readers too, Mr. Kelly said.

But the downtown security plan involves much more than keeping track of license plates. Three thousand surveillance cameras would be installed below Canal Street by the end of 2008, about two-thirds of them owned by downtown companies. Some of those are already in place. Pivoting gates would be installed at critical intersections; they would swing out to block traffic or a suspect car at the push of a button.

Unlike the 250 or so cameras the police have already placed in high-crime areas throughout the city, which capture moving images that have to be downloaded, the security initiative cameras would transmit live information instantly.

The operation will cost an estimated \$8 million to run the first year, Mr. Kelly said. Its headquarters will be in Lower Manhattan, he said, though the police were still negotiating where exactly it will be. The police and corporate security agents will work together in the center, said Paul J. Browne, the chief spokesman for the police. The plan does not need City Council approval, he said.

The Police Department is still considering whether to use face-recognition technology, an inexact science that matches images against those in an electronic database, or biohazard detectors in its Lower Manhattan network, Mr. Browne said.

The entire operation is forecast to be in place and running by 2010, in time for the projected completion of several new buildings in the financial district, including the new Goldman Sachs world headquarters.

Civil liberties advocates said they were worried about misuse of technology that tracks the movement of thousands of cars and people,

Would this mean that every Wall Street broker, every tourist munching a hot dog near the United States Court House and every sightseer at ground zero would constantly be under surveillance?

"This program marks a whole new level of police monitoring of New Yorkers and is being done without any public input, outside oversight, or privacy protections for the hundreds of thousands of people who will end up in N.Y.P.D. computers," Christopher Dunn, a lawyer with the New York Civil Liberties Union, wrote in an e-mail message.

He said he worried about what would happen to the images once they were archived, how they would be used by the police and who else would have access to them.

Already, according to a report last year by the civil liberties group, there are nearly 4,200 public and private surveillance cameras below 14th Street, a fivefold increase since 1998, with virtually no oversight over what becomes of the recordings.

Mr. Browne said that the Police Department would have control over how the material is used. He said that the cameras would be recording in "areas where there's no expectation of privacy" and that law-abiding citizens had nothing to fear.

"It would be used to intercept a threat coming our way, but not to collect data indiscriminately on individuals," he said.

Mr. Browne said software tracking the cameras' images would be designed to pick up suspicious behavior. If, for example, a bag is left unattended for a certain length of time, or a suspicious car is detected repeatedly circling the same block, the system will send out an alert, he said.

Still, there are questions about whether such surveillance devices indeed serve their purpose.

There is little evidence to suggest that security cameras deter crime or terrorists, said James J. Carafano, a senior fellow for homeland security at the Heritage Foundation, a conservative research group in Washington.

For all its comprehensiveness, London's Ring of Steel, which was built in the early 1990s to deter Irish Republican Army attacks, did not prevent the July 7, 2005, subway bombings or the attempted car bombings in London last month. But the British authorities said the cameras did prove useful in retracing the paths of the suspects' cars last month, leading to several arrests.

While having 3,000 cameras whirling at the same time means loads of information will be captured, it also means there will be a lot of useless data to sift through.

"The more hay you have, the harder it is to find the needle," said Mr. Carafano.