

**NEW
ERA
OF
PUBLIC
SAFETY**

AN ADVOCACY TOOLKIT FOR FAIR, SAFE,
AND EFFECTIVE COMMUNITY POLICING



FIRST AMENDMENT PROTECTIONS

First Amendment rights to free speech, a free press, to peaceably assemble, to petition the government, and to practice religion lie at the heart of our democracy. Yet, they can be a source of tension between police departments and the communities they serve.



In recent years, officers used force against protesters in cities like Ferguson, Missouri, and Baltimore, Maryland; surveilled Black Lives Matter activists; targeted immigrants' rights activists for deportation; used social media profiles in gang prosecutions and border enforcement; and used drones, facial recognition software, and license plate recognition software. Activities such as these have raised concerns about the expression of free speech and protest, and the reach of surveillance.

Regulating surveillance and protecting the right to expression and protest are essential to the protection of civil and human rights. Furthermore, the money that law enforcement agencies spend on these technologies, and on acquiring and using military equipment (for example, against protesters in Ferguson), has raised concerns about protecting civil liberties and avoiding unnecessary expenditures of public resources by law enforcement agencies.

Furthermore, "predictive policing" technologies focus primarily on communities of color, the use of "big data" (i.e., drones, facial recognition software, cell-site simulators, license plate recognition software), and increased collaboration between police departments have had little to no demonstrable impact on public safety and are subject to the same racial and ethnic biases as other policing strategies.⁵⁶

Key Challenges

Inhibition of free speech and assembly:

Police surveillance and militarized police responses to demonstrations discourage people from exercising their constitutionally protected rights to free expression and assembly.

Discriminatory use of surveillance technologies:

Discriminatory surveillance of Black, Latinx, Muslim, and immigrant communities violates the U.S. Constitution and does not promote public safety. Technologies such as drones, facial recognition software, cell-site simulators, and license plate recognition software present significant risks to privacy and increase police power to surveil people and communities.

People should be able to exercise their rights without fear of retaliation.

Police should not interfere with, or retaliate against, individuals exercising their constitutional right to observe, document, or film police activity.



Making Change

Establish guidance for demonstrations.

Clear guidance regarding protection of constitutional rights during demonstrations benefits members of the public, media, and law enforcement. Instead of blocking peaceful assemblies, police officers should engage in cooperative and strategic advance planning with community members to ensure public safety before, during, and after demonstrations.

Reallocate resources.

Communities should carefully consider whether acquisition of military weaponry and surveillance equipment is the best use of resources given other needs, which, if met, would reduce law enforcement engagement.

Train officers to use less lethal force.

All officers policing a mass demonstration should understand department policies and procedures for engagement, use of force, and mass arrest. Departments should develop clear policies for managing disorderly individuals in otherwise large, peaceful protest while limiting the use of force. Policies should strictly regulate the use of pepper spray, tear gas, and rubber bullets during protests.

Limit information gathering and surveillance.

Community members should collaborate with police departments to set clear limitations on the use of military and surveillance equipment and information gathering. This should include surveillance of individuals engaged in activities protected by the First Amendment, including filming police officers' activities, protesting, and practicing religion.

Prohibit use of canines and military equipment.

Department policy should prohibit the use of canines, water cannons, and acoustic instruments during demonstrations because they are dangerous and usually constitute excessive force.

How to Advocate for Change

Change the law.

Require police departments to obtain legislative approval for the acquisition of new equipment after conducting a thorough needs assessment and an assessment of the fiscal and social impacts of the proposed acquisition.

Strengthen policies.

Ensure that your department's policies clearly and strictly limit policing of protests, retaliation against people who record police officers' activities or who exercise free speech, and surveillance of activists, and religious practices and institutions.

Restrict data sharing and collaboration across police departments.

Ensure that policies and regulations limit the amount of data collected about people that departments can share with other agencies, including border patrol and U.S. Immigration and Customs Enforcement (ICE).

Challenge the purchase and use of military equipment.

Monitor police department budgets and request that funds to acquire military or surveillance technology be reinvested.

Talking Points

First Amendment rights should be protected.

The right to protest, speak, observe public officials, and practice religion are cornerstones of our democracy and must be protected.

Advanced technologies do not advance public safety.

Advanced technologies are expensive and do not represent the best use of our communities' resources to advance public safety.

Surveillance hinders trust-building.

Being surveilled by or being "under the watchful eye" of government does not foster a sense of public safety. Rather, it makes people feel like authorities are suspicious of them and believe they are untrustworthy.

Overcoming Opposition

The Opposition:

“Protesters need to be kept under control, and police should be able to do what they need to do.”

Overcoming the Opposition:

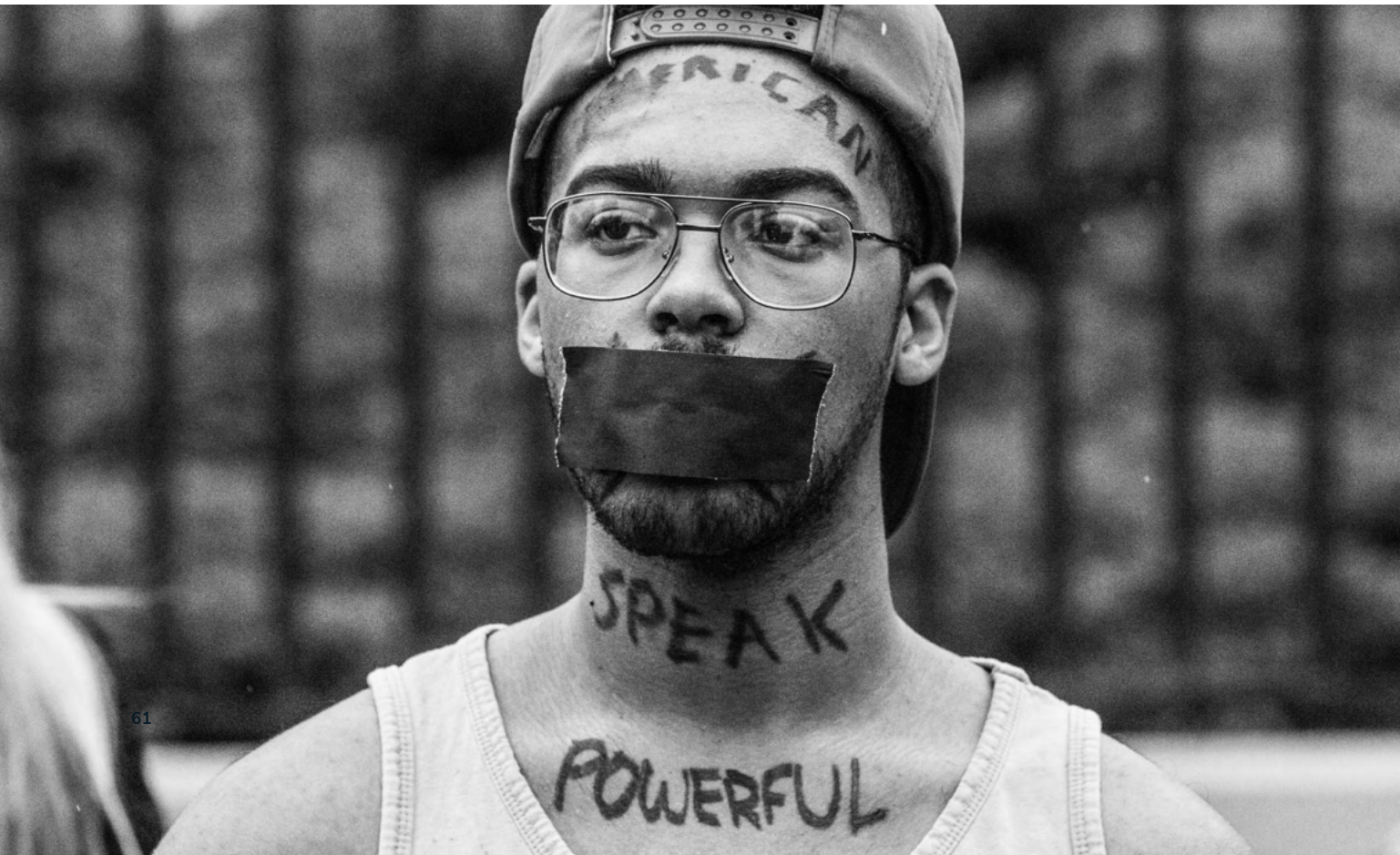
“Over-aggressive and militarized responses to public demonstrations increase the risk of public and officer injury, escalate conflict, and suppress speech. Working with communities to execute strategies and plans for peaceful demonstrations increases public and officer safety.”

The Opposition:

“If people are not doing anything illegal, they should not be worried about being surveilled.”

Overcoming the Opposition:

“Police surveillance and data collection, like all police strategies and practices, are subject to biases and target marginalized communities. Surveillance has been proven to be ineffective, to be used without proper limits or controls, and to have a negative impact on public life.”⁵⁷





IX. ENDNOTES

III. I am Concerned

About ...

⁵⁶ See "Predictive Policing Today: A Shared Statement of Civil Rights Concerns." The Leadership Conference on Civil and Human Rights. August 31, 2016. Retrieved from http://civilrightsdocs.info/pdf/FINAL_JointStatementPredictivePolicing.pdf.

⁵⁷ See "What's Wrong with Public Video Surveillance." ACLU. Retrieved from <https://www.aclu.org/other/whats-wrong-public-video-surveillance>.



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