



# DIGITAL FOURTH

The Massachusetts campaign to protect digital data  
from unconstitutional government surveillance

Legislative Matters Committee  
Somerville City Council

February 27, 2024.

## **RE: Item 24-0145: Annual Surveillance Report**

Dear Chair Davis, Vice-Chair Burnley, and Councilors Mbah, Ewen-Campen and Scott;

Digital Fourth is a volunteer-based civil liberties organization in Greater Boston, founded in 2012, that focuses on issues of privacy, surveillance and the Fourth Amendment; we have members who live and work in Somerville, and we helped the City formulate its Surveillance Oversight Ordinance. Below are our comments on the City's Annual Surveillance Report.

The Committee should not approve Somerville PD's Surveillance Reports till they provide accurate and thorough information that enables Councilors to independently assess the costs and effectiveness of the technologies, and any disparate impacts on their districts.

The reports from departments other than Somerville PD are generally adequate.

Currently, several reports' **information on costs is gravely deficient** (Advanced/Next Gen 911, GLX Cameras, Homeland Security Cameras, GrayKey, ShotSpotter). Either the costs are incorrectly listed as "None", or the costs are vaguely described as being covered by "grants."

Currently, the reports' **information on disparate or privacy and civil liberties impacts is gravely deficient**. Even in contexts where it is plain that the privacy impacts will burden some parts of the City more than others (GLX Cameras, Homeland Security Cameras, ShotSpotter, GIASDS), Somerville PD baldly asserts that there are no impacts worth considering.

With respect to GrayKey, we refer the Committee to our thorough comments on that technology.<sup>1</sup>

With respect to ShotSpotter, there is also critical information missing on Somerville PD's plans for the technology's deployment. The UASI grant approved February 1 by the Boston City Council, and including funds for Somerville's deployment of surveillance technologies, includes a \$90,000 line item for "Somerville Gunshot Detection Expansion." We can find nothing that suggests that Somerville PD has brought any plan for such an expansion to your Committee. Such plans should be brought before your Committee and thoroughly evaluated; if they are not, Somerville PD will be violating the terms of the Ordinance.<sup>2</sup>

Before your Committee approves these reports, Somerville PD should remedy these deficiencies.

## **DETAILED COMMENTS**

### **Advanced/Next Gen 911 (pp. 7-8)**

*"7. An estimate of the total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known: The E911 services budget for fiscal year 2023 was \$1,297,215. Funding for E911 technology services and personnel is obtained from **a variety of sources to include direct municipal funding and various state grants.**"*

This is vague and lazy. All surveillance technologies should have their funding sources identified and quantified.

### **GLX Cameras (pp. 10-11) and Homeland Security Cameras (pp. 17-18)**

*"8. Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the city are disproportionately impacted by the deployment of the surveillance technology:*

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<sup>1</sup> Digital Fourth, comments "RE: Item 23-1354 (GrayKey surveillance impact report): OPPOSED", submitted to the Legislative Matters Committee on October 16, 2023 and, it appears, entirely ignored by Somerville PD, available at [https://docs.google.com/document/d/1kYZatYmt3\\_PtTD0GMi5qb2me5GmuU7T65LfCkAWJqh0/edit?usp=sharing](https://docs.google.com/document/d/1kYZatYmt3_PtTD0GMi5qb2me5GmuU7T65LfCkAWJqh0/edit?usp=sharing).

<sup>2</sup> Surveillance Ordinance section 10-65(a): "any city department intending to acquire new surveillance technology or surveillance data, including but not limited to procuring that surveillance technology without the exchange of monies or other consideration, **or use approved surveillance technology or surveillance data for a purpose, in a manner not previously approved**, shall, prior to acquisition or use, obtain council approval of the acquisition or use." (Text of ordinance available at [https://library.municode.com/ma/somerville/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH\\_10PO\\_ARTIIIPUOVSTUTE](https://library.municode.com/ma/somerville/codes/code_of_ordinances?nodeId=PTIICOOR_CH_10PO_ARTIIIPUOVSTUTE)).

*None.*”

Whether there are disparate civil liberties impacts on any particular group of people cannot be assessed without knowing exactly where the GLX/Homeland Security cameras are. Logically, the people disproportionately impacted by the deployment of fixed surveillance cameras, are the people who live and work in the areas the cameras surveil, but the Green Line Extension goes through a large part of Somerville. Somerville PD should disclose the location of these cameras to the nearest census block, as required by the Surveillance Ordinance.

In both reports, Lt. Sheehan argues that the only relevant costs are if a camera is moved, and that, as none of these cameras were moved during this year, there are no costs. This is obviously false. Costs associated with cameras include the costs of replacement and maintenance, as well as the cost of staff time spent monitoring and reviewing camera footage that, but for the cameras, would not exist. Only if the Committee understands these cost elements, will they be able to fairly judge those costs against the benefits fairly attributable to the cameras.

**“Grey Key” [sic, actually “GrayKey”] (pp. 15-16)**

Lt. Sheehan’s reports regarding this intrusive technology continue to be gravely deficient. We refer the Committee to our thorough, nine-page testimony on GrayKey from October 16, 2023, advising the City against purchasing it (link here: [https://docs.google.com/document/d/1kYZatYmt3\\_PtTD0GMI5qb2me5GmuU7T65LfCkAWJqh0/edit?usp=sharing](https://docs.google.com/document/d/1kYZatYmt3_PtTD0GMI5qb2me5GmuU7T65LfCkAWJqh0/edit?usp=sharing)). This prior testimony explains what GrayKey does, and examines what Lt. Sheehan wrote to the Committee, how it resembles or differs from what his predecessor wrote in 2021, the ways in which what they wrote fails to inform the Committee of crucial aspects of the technology, and the ways in which Lt. Sheehan’s report could be revised and improved. Though the questions to be answered in this report are different, sadly, the laziness remains.

For example, even though those following this issue are well aware that the City expended \$38,000 to acquire its own GrayKey during 2023, this report lists the costs of this technology as “None.” “Community complaints and concerns” are listed as “None”, even though our extensive testimony would surely qualify. It is on Lt. Sheehan to demonstrate that he has seen, read through, and thought about community concerns, by summarizing those concerns in this report.

No effort has been made, in this report or in any other, to address or explain what Somerville PD does with incidentally collected data from these phones that is outside the scope of the warrant or the consent under which the GrayKey was used to access the phone’s contents. What happens to that data is key to understanding whether Somerville PD is using it appropriately.

### **ShotSpotter (pp. 21-22)**

This controversial and ineffective technology is given perhaps the worst treatment of any of Lt. Sheehan's reports. Here's what Sheehan has to say as to costs:

*"An estimate of the total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source(s) of funding will fund the technology in the coming year, if known:*

*ShotSpotter is paid for by the Urban Area Security Initiative (UASI)."*

As we consistently have told Somerville PD for years, the purpose of the Ordinance is not simply for Somerville PD to identify that a given technology doesn't come out of the City budget, but out of a federal grant. It's for Somerville PD to identify how much it costs - *including* "personnel and other ongoing costs." Somerville PD ignores this language across all of its reports.

If they were less lazy, they would pull the actual figures from the FY23 UASI Plan, which would tell you that **there is now a proposed "Somerville Gunshot Detection Expansion" costing \$90,000**. Where is this expansion happening? Who has discussed or approved it? Have there been any hearings? Does the affected community know that they will be subjected to real-time audio monitoring? If not, why not?

Lt. Sheehan answers "8. *Whether the civil rights and liberties of any communities or groups, including communities of color or other marginalized communities in the city are disproportionately impacted by the deployment of the surveillance technology:*", with "None." Thanks to explosive new journalism from WIRED last week, we can prove he's wrong. We now know for the first time every census tract in Somerville where at least one ShotSpotter sensor is located; these lie in Ten Hills, Assembly Square, heavily Hispanic East Somerville, Winter Hill, Prospect Hill and Boynton Yards (Wards 1-4).



Map showing census tracts containing at least one ShotSpotter sensor, from <https://www.wired.com/story/shotspotter-secret-sensor-locations-leak/>, Feb. 22, 2024

It should not be hard for Lt. Sheehan to understand that there is an equity issue here. The poorer and more diverse folks of East Somerville, living in neighborhoods with constant high levels of traffic noise, including cars backfiring, get constant audio monitoring from “35 sensors” in case there is a “gunshot-like sound.” The richer folks of West Somerville don’t. There’s no reporting from Somerville PD on false positives or false negatives; no data on whether anybody was arrested, prosecuted, or convicted for any gun-related crimes in response to a ShotSpotter alert; no data on whether there were even any incidental arrests, and if so, what for. Cambridge PD provided information of that kind; why can’t Somerville? One wonders what it would take for Somerville PD to acknowledge any need even to consider disproportionate impacts, because for none of the technologies in this Report do they even state that there are any disproportionate impacts at all, let alone suggesting that there’s anything that they should do to mitigate them.

### **GIASDS (pp. 23-24)**

This is the gunshot detection technology installed at the High School. As far as we understand it, GIASDS’s technology is somewhat less invasive than ShotSpotter, because it does not record audio in the same way. However, the report itself is confusing on one point. Under the response to question 4, Lt. Sheehan writes, “No incidents have occurred that would violate the privacy rights of City employees or surveillance use policy.” But under the response to question 2, he writes, “No information was shared with any other local, state, or federal entity when the system was triggered during the aforementioned incident.” No “incident” was “mentioned” in the report. This inconsistency has two potential explanations:

- (a) There was no incident this year at the high school that triggered the sensors, and Lt. Sheehan’s response to question 2 is inaccurate.
- (b) There was an incident this year at the high school that triggered the sensors, but in Lt. Sheehan’s opinion, the incident did not “violate the privacy rights of City employees or surveillance use policy.” He does not state whether the privacy rights *of the high school students* were violated. Perhaps it was a false alarm.

Before approving this Report, the Committee should find out what actually happened, and ideally get information on false positives.

### **Conclusion**

In short: Lt. Sheehan and Somerville PD are once again not taking their obligations seriously, to report the actual costs of technologies, and to consider the technologies’ disparate impacts.

Sincerely,



Alex Marthews, Chair, Digital Fourth.