Surveillance Creep, from Nogales to Pawtucket

By Paul Best

As the backlash against Flock Safety cameras grows, Americans are challenging surveillance powers long familiar to border communities. Some of the dissent is coming from inside law enforcement.

On a weekday morning in summer 2022, residents in the border town of Nogales, Arizona, woke up to find a massive surveillance aerostat staring them down from above.

Deployed without notice for local officials or the public, US Customs and Border Protection (CBP) eventually explained that the 22-meter aerostat was equipped with "day and night cameras to provide persistent, low-altitude surveillance." It was just the latest addition to the border's ever-expanding surveillance network of autonomous towers, ground sensors, predator drones, automated license plate readers (ALPRs), and other technologies.

David Hathaway, the sheriff for Santa Cruz County, where Nogales is located, told *Nogales International* that it's yet more evidence of "blatant spying in our community."

"I think it's disgusting," he told the local newspaper. "I don't know why Americans aren't more upset about that."

Four years later, Americans have finally lost their patience. The recent proliferation of Flock Safety cameras is forcing communities across the country to confront constitutionally fraught surveillance powers that law enforcement agencies have acquired with little public debate.

It's a concern that border communities like Nogales know all too well. Hathaway, who grew up on his family's cattle ranch







TOP/RIGHT: A surveillance aerostat deployed by Customs and Border Protection looms over a neighborhood in the border community of Nogales, Arizona. (Photos by Electronic Frontier Foundation)

LEFT: During a House Committee on Homeland Security hearing in September 2024, Santa Cruz County Sheriff David Hathaway told lawmakers he's concerned about the "growing police state and surveillance state" in the US. (Photo by Tasos Katopodis/Getty Images)

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along the border and spent three decades as a Drug Enforcement Administration agent before becoming sheriff, has witnessed the evolution of border surveillance firsthand.

"The police state in the US is largely arriving via immigration enforcement," Hathaway told *Free Society*.

CBP agents have long had extended powers "within a reasonable distance from any external boundary" of the US. In 1953, the Department of Justice (DOJ) unilaterally defined "reasonable distance" as within 100 miles of the border, including the coasts—an area encompassing nine of what are now the 10 largest US cities, roughly two-thirds of the US population.

"This zone also includes myriad aerial-deployed, ground-deployed, vehicle-deployed, smartphone-embedded, and device-embedded surveillance platforms," Hathaway said. "Since this has become 'normal' and legal within this 100-mile zone covering most people in the US, it is now becoming accepted and commonplace within the whole United States beyond that zone."

In addition to aerostats, CBP has also used Predator drones for aerial surveillance along the border since 2005, but has deployed them farther inland in recent years. In May 2020, CBP used a Predator drone to monitor protests in Minneapolis, which is about 250 miles from the Canadian border. In June 2025, CBP deployed another Predator drone to monitor protests in Los Angeles.

The first ALPRs in the United States were deployed by Border Patrol in 1998, but the technology was not yet sufficiently advanced to create a nationwide surveillance network. A 2014 report commissioned by the DOJ noted that a lack of record standardization hindered cooperation between agencies. Earlier ALPRs also struggled with false reads and other technical issues. One system, for example, routinely picked up wrought-iron fences as "111-1111" plates.

Since the company's founding in Atlanta in 2017, Flock has leveraged new technology to solve many of those problems. Whereas earlier ALPR systems struggled to distinguish between license plates from different states, Flock's "vehicle fingerprint" technology allows it to catalog a car's make, model, type, and other unique details like roof racks and bumper stickers. Flock combines these ALPR records with data from drones, body-worn cameras, and other systems to create what it calls "the central nervous system of modern public safety ecosystems."





TOP: The border wall separating the US and Mexico in Nogales, Arizona. (Photo by Max Herman/NurPhoto via Getty Images)

LEFT: A surveillance tower equipped with multiple cameras overlooking the US-Mexico border in Yuma, Arizona. (Photo by John Moore/Getty Images)

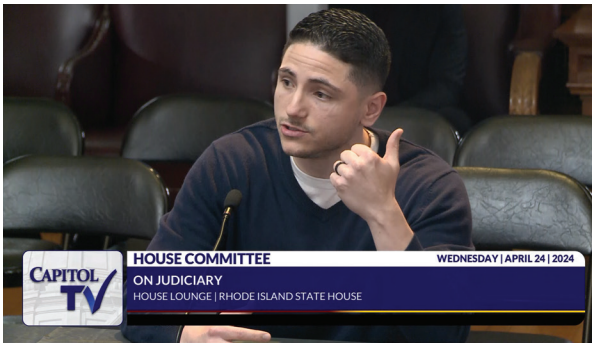
Law enforcement agencies say they find the system useful, as Flock now has more than 120,000 cameras across 49 states.

But Flock and other ALPRs are still far from perfect. Since 2018, there have been at least 27 cases in which machine or human error resulted in officers wrongfully detaining or jailing innocent people, according to an Institute for Justice review. In two-thirds of those cases, officers drew their guns before realizing their mistake. The potential for abuse has also become difficult to dismiss: At least 50 law enforcement officers have been accused of using ALPRs for unauthorized purposes, including 26 who allegedly stalked an intimate partner such as a wife or ex-girlfriend, according to a recent *Washington Post* report.

Some law enforcement officials have accused Flock of misrepresenting how it uses data. Specific tools have also raised alarm bells. *Wired* reported in August that Flock's new AI-powered tool OS Investigate "can pick out potential witnesses by how often their cars pass through a neighborhood, or surface a driver's 'associates' from the cameras they pass together."

Flock paused its federal pilot programs last year, but Border Patrol and other federal





TOP: Flock Safety has installed more than 120,000 automated license plate reader camera systems in 49 states since the company's founding in 2017. (Photo by Charles-McClintock Wilson/NurPhoto via Getty Images)

LEFT: Noel Pichardo, a former police officer in Pawtucket, Rhode Island, testified before the state legislature in 2024 about the potential for abuse and misuse of Flock cameras.

agencies can still access Flock's trove of data through state and local partners. The federal government has also funded the purchase of Flock cameras and other ALPRs for sheriff's offices and police departments through various grant programs. Operation Stonegarden, a Department of Homeland Security (DHS) program with $85.5 million in funding this year, gives grants to police departments around the country to improve coordination between federal and local agencies. A DHS notice for Stonegarden this year specified that "recipients are encouraged to prioritize" projects that "maximize interoperability and coordination capabilities," such as license plate reader networks and other surveillance systems.

Grants from other federal agencies, such as the DOJ's Byrne Justice Assistance Grant and the DOJ's Community Oriented Policing Services program, have also been used by police departments to purchase Flock and other ALPRs. Some cities have even used pandemic-relief funds from the American Rescue Plan Act to purchase Flock cameras.

For law enforcement officers who have spoken out against Flock, the professional consequences have been dire.

> **"'The state will always expand to utilize more intrusive options if not restrained from doing so** by a populace jealous of its freedom,' Hathaway said."

Noel Pichardo, a former police officer in Pawtucket, Rhode Island, recalled that he and many of his colleagues were uneasy about Flock when they first encountered the technology during a pilot program in 2021, but the trial ended without a contract. Two years later, Pichardo was shocked when he noticed Flock cameras set up in his district without any notice for the city's patrol officers or the public.

"Putting these up without notifying the public was just unacceptable," Pichardo told *Free Society*. "At the very least, it should be a public discussion."

Pichardo took his concerns to the local media in 2023, telling *Valley Breeze* that the cameras posed a "grave threat" to privacy. The backlash was immediate.

"It was easy for them to ostracize me and punish me because it wasn't a national conversation yet," Pichardo said. "I was certain that this was a huge mistake, and that if the public was made aware of this, that they would probably be on my side."

Pichardo was initially suspended for 30 days for speaking to the media without approval. Other internal investigations followed over what Pichardo believed to be relatively minor issues used as pretexts for retaliation. During the last investigation, higher-ups tracked him throughout the day using the GPS on his own body-worn camera, according to a copy of the complaint. After being surveilled for speaking out against surveillance, Pichardo decided his position was untenable and resigned last year.

While Pichardo was a lonely voice when he first spoke out in 2023, he feels vindicated by the public's turn on ALPRs more recently.

"I'm glad I followed that intuition because this is the first time in my life that I saw Americans really come together on an issue," Pichardo said. "I knew what my profession was capable of, and I knew what my government was capable of—I knew that with this type of technology, we were going to see gross abuse immediately, and I didn't want that to happen."

As public alarm mounted over Flock this year, in August Rhode Island Gov. Dan McKee issued a pause on new ALPR installations. That's the "democratic process" that Pichardo said he had wanted to see from the beginning.

For Sheriff Hathaway, that type of accountability is the only way to keep the government in check.

"The state will always expand to utilize more intrusive options if not restrained from doing so by a populace jealous of its freedom," Hathaway said. ✦

ABOUT THE AUTHOR

Paul Best is the managing editor and senior writer for the Cato Institute's *Free Society* magazine.