



Episode 1,030: We See You Watching: One Man's Campaign Against Local Surveillance

Guest: Mike Maharrey

WOODS: Let's talk about what's going on in Lexington, Kentucky. And of course you know the story much, much better than I do. I got the outline of it, but I'm glad to hear that you are making a splash, as always. So what did you see going on in Lexington that made you, well, a bit concerned, and then where did it go from there?

MAHARREY: Well, it all started kind of this summer. My wife and I like to walk in a neighborhood park that's not too far from our house, and one day we noticed all of a sudden there was an array of surveillance cameras that had been installed in our little neighborhood park. And I'd been doing some work in the realm of surveillance really for the last three or four years with the Tenth Amendment Center, and this sent up huge red flags, because I know that when you start seeing surveillance, that's the tip of the iceberg.

And so I've been doing this kind of on a national level, but it really hit me, you know, this is my own neighborhood, and if I'm not going to do something in my own neighborhood, what in the world am I doing trying to do stuff in Arkansas and California and all these other places. So I just said, you know what? We need to do something. And I created a little organization called We See You Watching Lexington to address surveillance here at the local level.

And as part of that, I started doing open records requests to the city of Lexington, the police department, some other agencies to try to get a beat on what exactly are they doing in terms of surveilling us. And that's when things got really, really interesting, because the police department for whatever reason doesn't want me to know what they're looking at and what type of surveillance they're running. And so they refused to provide some documents.

They did tell me that they have 29 mobile surveillance cameras. Now, what is a mobile surveillance camera? I couldn't tell you because they won't give me any documents on it. They refused the request under some exemptions in the open records laws, so I appealed to the attorney general, and the attorney general ruled in my favor and said, *Hey, Lexington Police Department, you need to give this guy these documents.* So instead of giving me the documents, they sued me. And so now I'm facing a lawsuit from the city of Lexington –

WOODS: Wait, wait, wait. Hold on, hold on. How can they sue you? What did you do?

MAHARREY: Yes, that's –

WOODS: You asked a question? I mean, I'm not even being facetious here.

MAHARREY: No, it is absurd and that's pretty much everybody's reaction to this. And believe it or not, this is the process that the state of Kentucky has created. Yes, it seriously is. So the process with an open records request is anybody can make an open records request. The agency can either give you the documents or they can deny the request. If they deny a request, you go to the attorney general, and the attorney general will look at both sides of it and they'll make a determination. That all makes sense.

What doesn't make sense is, if the attorney general finds that the city has denied the documents unrightly or as opposed to what the law says, the city can actually sue the individual who made the records request in order to overturn the attorney general's decision. So they can't sue the attorney general. They have to sue me. So it's really an absurd process to begin with, but you know, that's government for you.

WOODS: That's absolutely crazy. I mean, that obviously – I sound naive even pointing this out – obviously has a chilling effect on the public.

MAHARREY: Absolutely. And I really think that that's the whole idea. And this – you look at the whole situation, especially with an individual like me. I'm pretty sure that they thought, *Eh, we'll slap this dude with a lawsuit and he'll go away.* And actually, when you read the lawsuit, at the very end of it, they actually ask for the judge to award the city – the city wants the judge to award them their legal costs. So they want me to pay their legal costs. I'm a taxpayer. I just want some information. They're going to sue me and want me to pay their legal costs because I asked a question. It is absolutely insane.

And again, this is just – this is something that I don't think it's specific to Lexington. This is how government works. We're supposed to be the government. People tell me that all the time. And I asked somebody that one day when they said that; I said, "Then why am I suing myself?" It doesn't make a whole lot of sense.

WOODS: Yeah.

MAHARREY: But that's the process and I'm pretty sure it was a bullying tactic. And fortunately, I have some resources and I have some friends and I was able to reach out to some people, and the ACLU of Kentucky is going to represent me in this case so I don't have to worry about paying my own legal fees, which, you know, like I said, a normal person doesn't have deep pockets. It's not like I'm *The New York Times* or even the Lexington newspaper. But I do have these resources, and so I didn't go away. And I would love to be a fly on the wall of the city attorney when he got a response with two lawyers and an actual legal team backing this up, because I'm sure that's not what they expected.

WOODS: No, of course not. They thought you would fold immediately. Yeah, that is so great that you – Let's get to the ACLU in a minute. I want to just make sure and clarify

the nature of all this. These are not just red-light cameras, which I sort of assumed they were when I first heard about this. These are just posted here and there?

MAHARREY: Well, we really don't know. What I do know and here's what the police department told me – they told me that they are mobile surveillance cameras that are deployed for investigative purposes. And that's really all I know.

WOODS: Well, what does that tell you? I think you knew that already.

MAHARREY: Exactly. Now, I can make some assumptions based on the fact that one of the exemptions that they cited when they denied the documents was officer safety. So I'm assuming that they might have some cameras that they can actually put on an undercover officer or maybe an informant that they would use like for a drug bust, but I've also been told by other people – and I don't have any confirmation of this. This is purely speculation. And we can't know, because obviously it's a big secret. But I've been told that they do have like cameras that they can deploy to surveil crowds if there's an event.

So for instance, I've been told that there's a – well, I know there's an event called the Roots & Heritage Festival, which is kind of an African-American heritage festival, and I've been told that they've deployed these cameras at that festival to surveil that crowds – which, you know, then you start getting into the creepy types of surveillance where they're looking at certain types of people and certain crowds.

And that's the big problem with all of this, and that's really what – you know, the lawsuit is kind of peripheral to my main goal. What I really want to happen is I want there to be oversight and accountability when it comes to surveillance, so that the general public knows what the government's doing in their name, so we know what parameters are surrounding surveillance. And that's obviously not happening. It's not happening to the point that they're going to sue the poor guy that asks.

WOODS: Wow, okay. So tell me how you got to be involved with the ACLU. You just took your case, you just walked in and said, I think you should represent me?

MAHARREY: Well, no, actually, through the Tenth Amendment Center, we've been working with the ACLU for about three years on the issue of surveillance, because –

WOODS: Okay, so you used your existing contacts over there and said, *Look what they're doing to me.*

MAHARREY: Exactly. Yeah, I sent some emails out and said this is what's going on, and some emails were sent around. And fortunately, like I said, I had some connections and some resources, which probably a lot of people didn't have. But I find it interesting that the ACLU, this is something that's on their radar now and they actually told me that they had been wanting to get more into open records, because we're seeing a growth in this aggressive push back from government agencies when it comes to open records, where they're actually suing people. And there was an AP article about three or four weeks before my lawsuit was filed against me that was talking about how governments across the country have used the courts to try to crush open

records requests. And when I saw this article, I actually said to my wife, "Ha, I wonder if I'm about to get sued." It was kind of prophetic.

WOODS: That's crazy, yeah. I just — I was trying to explain this to — I was asking Heather the other day, "Did you see about Mike and some lawsuit against him?" And we could not — we hadn't clicked through yet to see what the details were, but we could not reconstruct a series of events that would culminate in you being sued. I said I think all he wants to do is request information. It would seem like he should be suing them.

MAHARREY: Right, exactly, and I guess I could have done that if the attorney general hadn't found it in my favor. And this is what's crazy. You've got the city, which is part of the government — it's a subdivision of the state — and you've got the attorney general, which is part of the government that supposedly decides what the law means in the eyes of the state, they disagree with each other so they're suing me.

WOODS: Yeah.

MAHARREY: It's interesting, in the course of emails, Edward Snowden's lawyer actually looked at my case, not on any kind of advisory level but just kind of cool that he looked at it. But he called it baffling. That was his words. "This is baffling." And I think most people would agree with that.

WOODS: I'm looking at your website, which is WeSeeYouWatchingLexington.com, and I look under at the very top here on your page on there called "The Plan."

You're saying, "The surveillance state continues to expand at breakneck speed with more and more local law enforcement agencies obtaining high-tech spy gear such as stingray devices, automatic license plate readers (ALPRs), sophisticated cameras and drones.

"Lexington is no exception.

"Law enforcement agencies use surveillance for many legitimate law enforcement purposes. But the intrusive nature of surveillance technology opens the door for abuse, including gross violations of basic privacy rights.

"We want to ensure all surveillance programs in Lexington are transparent, and that government agencies remain accountable to the public and elected officials."

I just honestly can't imagine anybody disagreeing with that.

MAHARREY: Yeah —

WOODS: Well...

MAHARREY: — it's pretty reasonable [laughing].

WOODS: [laughing] Yeah, right, yeah.

MAHARREY: And there are actually people — you know, you get that — the biggest reaction, the most frustrating reaction that I've gotten — and every once in a while, I make the mistake of looking at comment threads on the various media stories that have been out about this, and every single one of them, you'll get somebody that'll give you the, "Well, if you've got nothing to hide, then you've got nothing to fear." Which is absolutely absurd. I actually did a little video the other day and challenged anybody who thinks that to send me their email address password and their browsing history for the last month, and so far, no takers on that. But I can turn that around on the government. If they have nothing to hide, why in the hell are they suing me? It's really crazy when you think about the whole turn of events.

WOODS: Yeah, and of course, let's think back to early American history in colonial times. 1761, James Otis is arguing against the general writs of assistance on the grounds that they're general writs, that they're not specifying precisely what it is to be searched for and they don't have all the limitations that we would expect from a government document involving a search, and so therefore he objects. So could you imagine — so in other words, your friend or whoever these people are who say these things to you are basically saying the Americans were wrong about that. If they had nothing to hide, James Otis should have shut his mouth and allowed these searches of people's homes.

Now, parenthetically, they had plenty to hide because they were smuggling all of this stuff, but leave that aside. There is also principle involved here, and that is part of what it means to be an American, that, if I may cite Ralph Kramden from *The Honeymooners*, "A man's home is his castle." That really was the principle. And in fact, James Otis almost said that word for word, that a man's home is his castle. That is the principle. The principle is not that law enforcement ought to be able to do what it wants and get the benefit of the doubt and the presumption that it's behaving the right way. The presumption's got to be in the other direction. That's how a free society operates. So you're doing good work here.

MAHARREY: Yeah, absolutely. And I'll take it a step farther. I'll say it's not just an American principle; it's kind of part of being a human being. We all value privacy at some level. That's why we have curtains on our house. We have doors. There are certain things that, whether we're hiding anything or not, we just don't really want anybody to know because, quite frankly, it's nobody's business. And when you start eroding that away, society gets really, really creepy really, really fast.

Just taking these cameras that are in the local park. Okay, I can understand where people wouldn't have any objection to that because, well, it's a public place and anybody can — But imagine for a minute if I was at the park and you showed up and

you got out of your car and I started following you all around the park filming you. Now, you don't have any expectation of privacy. I have every right to film you. But at some point, that gets really creepy, and if that continued for days on end, every time you showed up at the park, there's Mike Maharrey with his camera filming me, there would be a place where it crosses the line into stalking. And I think a lot of this really invasive, perpetual surveillance that comes from the government starts to become government stalking at some point.

And there has to be limitations and controls over it. I have footage from these cameras. So if some guy, he finds out that his girlfriend hangs out at that park and they're having some kind of weird fight and he wants to stalk her, he can get footage from those cameras because they've not put any type of parameters around the sharing of that information, how it's being stored, who it's given to. And that's really what I want. I want parameters put in place, kind of like James Otis did, you know? If the government's going to surveil, if it's going to be able to look into your private world, it should have legitimate reason to do it and it should make that known before it does it. And we're at a point now where all of this stuff is happening without any type of restriction, without any oversight, and we're trying to close the door once the horse is out of the barn, and that just doesn't work.

WOODS: I get a lot of people – just today I was talking to somebody on Facebook – who ask, what kinds of things can I actually do? I mean, yes, I'm reading a lot of books and I'm learning a lot of stuff, but I would feel more fulfilled if I felt like I was doing something that could get a tangible result. And you've come up with a bunch of interesting suggestions on a new podcast series that I want to talk about after we thank our sponsor.

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All right, I want to talk about a project that you're involved in with the Tenth Amendment Center, and it is a podcast called *Activism 101*, the *Activism 101* podcast. And in these episodes, which, just week after week – so it looks to me like you're releasing – are you releasing one of these a week?

MAHARREY: Yeah, one or two –

WOODS: No, sometimes twice. Yep, okay, yeah, I see.

MAHARREY: It just depends on what's going on. It's kind of as I go, so as things happen, I do a short little podcast on it and then we put it up on the Tenth Amendment Center website and add it to the series.

WOODS: This is such a great podcast series, because in a number of these episodes, you're saying here is a practical thing you can do, here's another practical thing you can do. And then also, you have maybe higher-level episodes where you talk about – for example, let's say you've graduated to the point where, for whatever cause you're involved in, you want to hold a live event, so you're going to give advice as somebody who's been involved in that in the past. How do you put on a successful live event? Or what if your event is a big flop, what do you do then? You've got all this practical

stuff. How about using social media to promote what you're doing? Practical advice and then practical suggestions for real things you can be involved in that you can hope to see a tangible result from. Fantastic.

MAHARREY: Yeah, so this is kind of how this evolved. Like I said, at the Tenth Amendment Center – people who aren't familiar with the organization, you should be. Visit TenthAmendmentCenter.com and you'll find out about what we're doing. But our whole shtick, I guess, if you want to call it that – our whole strategy involves using state and local efforts to undermine federal power, to decentralize the system, and to restore some semblance of state and local governance in a system that has become completely centralized through Washington, D.C.

And in the past, we've primarily focused on state bills and using state power to refuse to cooperate with federal enforcement and federal implementation of programs. But over the last couple of years, we've become increasingly aware of the fact that it really starts at the local level. And the federal government, especially when it comes to policing, surveillance, police militarization, you've got the federal government that has essentially used the strings of money and toys to create what has in essence become a national police force. The federal government is influencing policing, surveillance at the local level to a tremendous degree through funding and through being able to help these local entities get these intrusive, high-tech spy toys and military weapons. And so when you start tackling it at the local level, you are in effect having an effect at the national level. So we've really started to focus more and more on this type of local activism.

And so me getting involved here in my own hometown was like, oh, we're actually going to do this for real. It's not just going to be theory. And I had no idea going into it when we started this podcast series, we didn't know how this was going to go. We didn't know there was going to be a lawsuit. We didn't know anything. We just thought, as I do this, we'll do these episodes and it'll give people kind of a blueprint on how to do activism at the local level. And it's really been cool, because like you said, we've already hit all these different topics, because as I've thought through and developed the approach of what we're trying to do, I just said, okay, social media, here's a little bit on social media, here's a little bit on putting on an event, here's a little bit on creating a strategy.

And our goal is, when this is all done and hopefully my efforts here in Lexington are fruitful and successful, we'll be able to have this whole series that we can put together in one package that we'll give people a kind of "activism in a box," here's how you do this. And it's not just for surveillance. You can apply this to any type of local issue, or at least that's the goal. So I think it's going to be really cool, and it's kind of a work in progress. It's like one of those things like we started it and we don't know how it's going to end, so it's kind of like those old – remember back in the old days and they had the radio shows – I'm showing my age here, but they had those radio shows that were serials? You know, you never knew what the next issue was going to be? Well, that's the way this podcast is, and we don't even know what the next episode's going to be [laughing].

WOODS: Well, I wonder – I'm sorry to say I haven't listened to any of the episodes, but the topics sure look good. And if you've done this already, then I'll feel a little bit silly,

but maybe you don't have to carry the whole load of this podcast. There must be activists all over the country who are doing interesting things, but more importantly, have learned how to do them effectively, have picked up advice and tips along the way. Maybe you could feature a number of guests. Now, on the other hand, I mean, you want to be promoting the Tenth Amendment Center specifically through your podcast, but I think you would be doing that sufficiently already. Have you thought about taking some of the burden off yourself by just inviting activist guests on the show?

MAHARREY: No, it's a great idea and I'm certainly open to it, so if there's anybody out there who's doing activism that wants to do your two-cents worth, we'll put my Tenth Amendment Center email address on the show notes page and people can send me an email, because I'd be very interested in doing that. Because really what we're trying to do, big picture goal is we want to get people involved. Like you said, people are always saying, "I want to do something for liberty but what can I do?" And it seems like people always want to – you know, they're going to run for the Senate or run for Congress, and I highly advise against running for office in most cases. I guess there's a few exceptions to that.

But these are things that virtually anybody can do. I'm not really special. I do have a certain set of skills. I have media background, so I can do communications and media, but I don't know anything about organizing an event and I'm not really very good at social media, so I've brought other people into my little coalition here in Lexington to help me. And anybody can do this. You can have an impact at the local level, and when you have an impact at the local level, it actually has an impact at the state level and even the national level. So if people are looking for something to do, just look around. There are things going on in your community that are a threat to liberty, whether it be stupid zoning ordinances, or in our case surveillance, or police abuses. There's all kinds of things that you could focus in on one issue and do something at the local level and have a huge impact.

And you know, I've gotten a great deal of media exposure, so people are talking about surveillance in this town for the first time ever, really. I mean, I don't think anybody's ever really thought about it. They just put these cameras up in the park and there was no discussion, no public input. Next time they try to do something, there will at least be some public input, so I've accomplished something even if it's just that.

But my message that I really want to get across to people is anybody can do this. It doesn't take a PhD in activism, because there's no such thing. You just take somebody that's willing to jump in, willing to make some mistakes – I've made some mistakes. We've made some bad moves. I mentioned the event. Our event flopped, thus the podcast about what you do when your event flops. So you learn along the way. But you can do this. Anybody can get involved and you don't have to be some kind of superhero like Michael Boldin to do it.

WOODS: Yeah. Yeah, yeah, that really is great. And in particular, the fact that you started up a website, you have a little coalition at the local level is so much better than almost anything that I've ever seen. Most people, if they did anything, would have a little public demonstration where 75 people would come out and hold signs for an

hour. Everybody would forget about it and they'd go home and that'd be the end of it and nothing would change.

But you are remaining a presence. You've got a web presence right there. You're doing local radio. You're staying in the public eye. You've gotten the services of the ACLU. You are going to get publicity for this, and you are going to force this topic into the conversation. Highly unusual. Very unusual, because you're doing things just the right way, in a way that's methodical and organized and that's results-oriented and not just make-me-feel-better, "I'm going to shout a few things in front of their building." And that's usually what these things wind up being.

MAHARREY: Right, and I'll be honest. It doesn't really make me feel better. I was not very happy to end up with a lawsuit dumped in my lap. But you know, I guess it goes to the fact that if we really do care about liberty, we do have to kind of get our hands dirty. It's not just going to happen because we have a Twitter war with somebody – not that I have anything against Twitter wars, mind you [laughing].

WOODS: [laughing] He says that very diplomatically to one of the kings of the Twitter war.

MAHARREY: Right, I love a good Twitter war. Actually, I do Facebook wars.

WOODS: Sure, I know, I know.

MAHARREY: But we have to do some things, and we've got this government thing that is intruding in our lives in so many ways. But we can take steps to push back on it. Now, you can look at it in one sense, and you can say, well, you know, it's just a few people in one little town in Kentucky and what difference does it really make. But we feel like this is something that can be multiplied and expanded beyond what we're doing. For our little coalition, our goal is to get this ordinance passed in Lexington and then start working in other communities in the state.

But beyond that, through the podcast, through what we're doing at the Tenth Amendment Center, our hope is to create a template – like I said, almost activism in a box, where everyday people who really care, who really want to do something for liberty can get engaged and have some resources that they can go to. And look, here's some steps that this guy took. This is what worked. This is what didn't work. Here's how you do this. Here's how you write a press release. Real nuts-and-bolts kind of things that can be multiplied all across the country, so we can have these little brush fires of liberty growing up all over the place. And everybody that's ever watched a little brush fire knows that with a little wind and the right climate condition, you can create this huge conflagration that will burn billions of acres. So that's what we're trying to do.

WOODS: All right, so I want people who think they might be able to contribute either as activists to your podcast or whatever, or frankly, who live in Lexington and just want to be part of what you're doing to be able to reach you. So first of all, the website again for this particular project is:

MAHARREY: WeSeeYouWatchingLexington.com. I know it's a mouthful, but it's easy to remember. WeSeeYouWatchingLexington.com. That's our website. We have an email address, which is WeSeeYouWatchingLexington@gmail.com. That's kind of a generic email for the activism work here in Lexington. And then anybody can contact me through my email at the Tenth Amendment Center, which is Michael.Maharrey@TenthAmendmentCenter.com. We'll stick that on the show notes page so people can access it, because my name's a bear to spell.

WOODS: I will spell it just for anybody who doesn't get to the show notes page. Maharrey is M-A-H-A-R-R-E-Y, so it's not as bad as they may have thought it was, but there it is. Okay, so that's all there, and of course TenthAmendmentCenter.com ought to be looked at as well, so we'll have that there also. So there it is. This is what somebody's doing about a practical, immediate problem. And wow, you are handling this so well. I'm so glad you didn't just fold and say, "Oh, all right, I'm sorry. Forgive me for asking a question."

MAHARREY: Right.

WOODS: Smashed them right back with, "Okay, here's a letter from my lawyers. Go ahead. Bring it." Ha!

MAHARREY: Anybody that knows me should have expected that. And it's kind of funny. There's a little bit of irony in this that the city dropped a surveillance pole – we call it the spy pole. We call it #spypole. They dropped a spy pole in my neighborhood. Of all the places in Lexington they could have –

WOODS: Oh my gosh.

MAHARREY: – they dropped it less than a mile from my house. And then one of my partners in crime, Clay Davis, he also lives in this neighborhood and he's been involved in marijuana legalization efforts back before it was cool, like back in the '90s. So they put it in the wrong place. And I'm a hockey player, so I have that competitive nature anyway so I'm not really one to back down from a fight. But nobody should. I mean, these people are bullies. And what do you do with bullies? You stand up to them. And that's what effectively – that's how you confront them. And they're not all as strong and powerful as you might think. And it's interesting looking at the way the city's handled it. They're not very smart. I mean, that was the stupidest thing you could have done to an activist, is sued them. And then on top of that, their lawsuit and stuff is just sloppy, and you start to realize these people aren't as all-powerful and smart as you think they are, you know? They're government employees. So go ahead and stand up to them.

WOODS: Excellent advice. All right, so I've got plenty of ways to – I've got your email address and all this stuff that people can take a look at, including that podcast, the *Activism 101* podcast. All of this stuff will be collected for you at TomWoods.com/1030. And Mike, best of luck and keep it up.

MAHARREY: Appreciate it, Tom. Thanks for having me on and thanks for doing everything you do.

