CCTV vs. PRIVACY
SUPPLEMENTARY MATERIALS:

CCTV For Public Safety Summit Format

Proposed Policy on CCTV Monitoring and Recording of Public Areas for Safety and Security Purposes

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Security Industry Association  
And  
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Proposed Policy  
On  
Closed Circuit Television (CCTV)  
Monitoring and Recording of Public Areas  
for Safety and Security Purposes  

Introduction  

The manufacturers and specifiers of closed circuit television (CCTV) security products, represented by the Security Industry Association (SIA) and American Society for Industrial Security (ASIS), and members of the law enforcement and public safety communities, represented by the International Association of Chiefs of Police (IACP) and the National Sheriffs Association (NSA), are committed to enhancing the quality of life of the local community by integrating the best practices of public and private policing with state-of-the-art security technology. A critical component of a comprehensive security plan utilizing state-of-the-art technology is closed circuit television (CCTV). Although the constitutionality of video monitoring of public areas is well established, there may nonetheless be concerns within the public arena regarding the implications of video monitoring for privacy and civil rights. To consider these issues and develop policy regarding the appropriate use of video monitoring within the public sector of the local community, SIA and the IACP Private Sector Liaison Committee conceived a CCTV Summit. The Summit is to involve CCTV manufacturers, law enforcement organizations, civil rights organizations, tort lawyers, state and federal regulators, state and federal legislators, and local citizens groups.

At present (July 1998), there are an estimated 1 million + video cameras in use around the country for the purpose of security monitoring. Many of these cameras have been in use for years for applications ranging from Automatic Teller Machines (ATM's) to the monitoring of traffic. Despite the prevalence of video monitoring on the national and local levels, there are no consistent policies of procedures guiding the use of this equipment. Given the ethical, legal and other important issues implicated in the use of video monitoring, the CCTV Summit organizers recommend that public safety officials and law enforcement agencies adopt the following written policy to guide the use of video monitoring within the local community.

Background of Video Monitoring  

Video monitoring of public areas is widely used by law enforcement and private security organizations in the United States. Extensive video monitoring is currently used by city police departments such as in New York and Baltimore and on University campuses such as the University of Maryland at College Park and soon the University of Pennsylvania. Much of the existing CCTV monitoring at the local level is currently being used to fight red light running and aggressive driving.

Critics of video monitoring have raised two constitutional issues: 1.) the Fourth Amendment guarantee against unreasonable searches and seizures, and 2.) the right of personal privacy, a generic term encompassing various rights recognized to be inherent in the concept of ordered liberty under the Fourteenth Amendment. The clearly established constitutionality of video monitoring of public areas rests on the concepts of "public area" and reasonable expectation of privacy," as defined extensively in case law. Generally, public areas are those areas open for public use, including unenclosed areas (public streets, sidewalks, and parks) and enclosed areas (building
lobbies, corridors and elevators.) To qualify as a constitutionally protected "reasonable expectation of privacy," the individual must have an actual expectation of privacy and that expectation must be one which society recognizes as reasonable.

The courts have consistently found that an individual does not have a reasonable expectation of privacy when he or she is in a public place. Behavior and activity exhibited in a public area is obviously available for observation by others. Police monitoring of activities conducted in plain view in a public place, therefore, does not violate the Fourth Amendment guarantee against unreasonable search and seizure, regardless of whether the monitoring occurs with the natural eye or the assistance of a CCTV camera. Similarly, there is no violation of personal privacy rights under the Fourteenth Amendment when an individual's public behavior is monitored by a video camera.

**Common Questions and Answers**

1.) **Will there be security cameras in public bathrooms or other areas designated as "public," where an individual may expect privacy?**

No. Despite the name "public restroom" or "public bathroom," the proposed policy recognizes these spaces in which one has a reasonable expectation of privacy. The proposed policy prohibits video monitoring and recording of private areas where there is a reasonable expectation of privacy, as defined by existing law. The policy would, however, permit monitoring the hallway or area outside a public restroom or similar use facility.

2.) **If caught on camera perpetrating a criminal act that the monitoring program was not designed to track, could you be arrested for that crime?**

The proposed policy is advocating that each established video monitoring program have a corresponding "Mission Statement" which contains a "Statement of Use" clause. This "Statement of Use" clause should clearly define and outline what the video monitoring program was designed to monitor. This should then become part of the public document distributed to the community. Any criminal or alleged criminal acts subsequently observed through the video monitoring program must be measured against each video monitoring programs' "Statement of Use" clause. "Statement of Use" clauses must subscribe to existing laws and accepted procedures of evidentiary gathering.

However, if you are perpetrating a crime in a public area you may be stopped or addressed by law enforcement, but it won’t necessarily be due to the operation of the video camera. The video monitoring of public areas is designed to be an extension of that which law enforcement officers would be able to observe if they were at the actual scene. The video monitoring program is not designed to extend law enforcement's observational abilities to that of the superhuman.

3.) **How do I know law enforcement is not using video monitoring to track my normal daily activities and movements?**

The proposed policy places a great deal of emphasis on individual privacy and rights. Subsequently, the vehicles/tools used to store image data are subject to specific handling protocols. Each video monitoring program, in order to be considered valid, will be required to adhere to specific operational guidelines. Those guidelines, among other specifics, clearly state that normal surveillance images, those not containing any relevant monitoring data as outlined in the program's "Statement of Use" clause, shall be purged every 30-days. The 30-day cycle affords law enforcement fail-safe in case a monitoring video becomes a piece of evidence. Law enforcement does not have the time or the resources to monitor individuals that are not providing "just cause" for law enforcement's attention.
4.) Who is policing these video-monitoring programs?

The proposed policy is intended to serve as a precursor to future state and federal legislation that will identify penalties/fines for those law enforcement agencies that do not subscribe to the recommended program parameters.

5.) Who wrote this draft policy?

The proposed policy has been developed over many months through numerous discussions and meetings by the International Association of Police Chief’s (IACP) Private Sector Liaison Committee whose members include representatives of the law enforcement, public/private security professional, CCTV manufacturer, legal and regulatory communities. This committee considered the ethical, social, legal and practical implications of CCTV use for safety and security purposes. A draft policy was constructed based on the committee’s discussions, the University of Pennsylvania’s CCTV Monitoring and Recording of Public Areas for Safety and Security draft policy, and the United Kingdom’s Metropolitan Police Service Public Place CCTV Systems Guidance Policy. The resulting draft was prepared to be discussed and debated at a future CCTV Summit.

6.) What is the CCTV Summit and who is participating?

The proposed two-day CCTV Summit, slated for April 8-9, 1999, Washington, DC, at the Capitol Hilton, will host representatives of the CCTV manufacturer, public/private security, law enforcement, legislative, regulatory, civil-rights, and legal communities who will come together to develop a consensus CCTV for Public Safety Operational Policy document. This document will then be posted on a special review and comment web site (hosted by the Security Industry Association—www.siaonline.org) designed to accommodate comments from a broad spectrum of commentators. These comments would then be compiled and presented at a second meeting of the Summit in the Spring of 1999 for inclusion or exclusion.

The goal is to create a document that meaningfully tackles the privacy and legal issues associated with the public safety application of CCTV technology, and do it in such a way that the courts and Congress can cite it as “model law.”
CCTV for Public Safety Summit

Format

I. Overview

Objective:

The objective of the two-day Summit is to develop, debate and draft a policy on the use of closed circuit television (CCTV) in the monitoring and recording of public areas for safety and security purposes.

This draft policy document will then be circulated to police departments, public safety departments, related regulatory agencies, civil libertarian organizations, electronic security product manufacturers and legislators nationwide for comment.

The comment period will extend for approximately three months (3) starting from the end of the Summit. The resulting comments generated during this period will be compiled and reviewed by the IACP CCTV Sub-committee for substance and validity.

The CCTV Sub-committee will then revise the policy document accordingly and host a one to two day conference meeting in Washington to debate and ratify the document.

Once the document has been ratified it will be widely circulated to law enforcement agencies, federal/state legislators and civil libertarian groups by the IACP and SIA.

II. CCTV Summit Format:

- Dates

  The Summit: April 8-9, 1999 (Registration Welcome Reception on the 7th)
  Capitol Hilton, Washington, DC

  Format: Two days: Key Issues Speeches; Workshop Sessions and General Session moderated by an impartial academic/attorney.

  Where: Capitol Hilton, Washington, DC

  Costs: Room rate as of 1/27/99--$189 (this price will be reduced)

  To Participate: Contact Richard Chace, CCTV Summit Coordinator
  Phone: 703/683-0392; e-mail: rchace@siaonline.org; fax: 703/683-2469.
Day 1

Welcome and Formal Key Issue Speeches Breakfast
The first event will begin with opening Key Issue speeches from Representative leaders of the meeting’s constituencies and a review of the two day Summit’s objectives, goals and procedural rules. These opening remarks will frame the day’s debate and serve as a guide for the afternoon Workshop sessions.

There will be approximately four (4) Key Issue speeches from representatives of the Law Enforcement community, Civil Libertarian Community, Legal Community and Manufacturing Community. These speeches will be no more than 15-20 minutes each and available in the conference proceedings.

Note:
- A Summit Schedule and Attendee list will be pre-printed for all participants
- A copy of the Summit objectives, goals and procedural rules will be pre-printed for all participants
- A copy of the draft protocols will be pre-printed for all participants
- A schedule of Summit Events will be pre-printed for all participants
- A proceedings copy of all scheduled speaker’s comments will be pre-printed for all participants

Lunch Keynote
Lunch will be served with a Keynote speech (*Tentative speaker: Regulator/Legislator*)

Afternoon Breakout Sessions
The afternoon Breakout sessions will focus on key areas of the draft policy document. The document will be dissected and grouped into five (5) sections. Those sections will be as follows:

1. Policy General Principles
2. Policy Responsibilities
3. Policy Procedures
4. Policy Technical Guidance
5. Development of List of Recommended Areas for Video Monitoring and Recording in Public Areas

These sections reflect each section of the Draft Policy. The workshops will be organized and coordinated to have an impartial facilitator and at least one representative of each attending “group” (i.e.: law enforcement; civil libertarian etc.).
These Workshop groups will explore and debate the draft policy sections based on some of the following subject areas:

1. Legal/Liability Issues
2. Privacy Issues
3. Ethical Issues
4. Management, Implementation and Funding Issues
5. Technology Issues
6. Legislative Issues
7. Training Issues

Each Workshop Session’s moderator will help frame the debate/discussion and each group will select a representative to present the group’s position at the next day’s General Session.

The results of each group will be collected at day’s end and compiled into a reference document for the next days meeting.

Cocktail Reception
There will be a sponsored cocktail reception for all Summit attendees on the first night of the Summit. Dinner will be open.

- Day 2

Breakfast
Breakfast will buffet style in the General Session Hall.

General Session
An impartial moderator who will facilitate the debate/discussion and make sure Summit procedural rules are being followed will moderate the General Session.

On day two of the Summit the morning will begin with presentations by the representatives of the five- (5) Workshop groups.

After each presentation the floor will be open to all attendees, for a specified time, for debate/discussion and vote on that section of the policy.

The revisions to the policy will pass by a simple majority vote of all attendees.

If no resolution or vote is achieved within the allotted time then that section of the policy will be tabled and sent into the comment review period with the proposed changes attached.
Lunch
Lunch will be served buffet style in the General Session Hall.

End of Summit
The Summit will end with a vote by participants to approve the revised draft policy on the use of closed circuit television (CCTV) in the monitoring and recording of public areas for safety and security purposes and for its release into the comment period.

III. Comment Period

Purpose
The purpose of the comment period will be to circulate the draft policy document to as wide a spectrum of relevant groups as possible. These groups should be the constituencies of the respective summit attendees.

Comment Period Structure

Web Site Component
The draft policy will be made available on a joint web site hosted by the Security Industry Association and the International Association of Chiefs of Police. This site will be constructed so readers will be able to comment on the document as they scroll through it.

The web site comments will be collected by the Security Industry Association and disseminated, without edit, to the IACP’s PSLC CCTV Sub-committee.

Bulk Mail/Broadcast Fax Component
The IACP’s PSLC CCTV Sub-committee will coordinate with Summit attendee leaders the best way to disseminate the draft policy to their respective constituencies.

All comments will be forwarded to the IACP’s PSLC CCTV Sub-committee for compilation and review.

Comment Review
There will be a three-month time frame from the end of the Summit, for comment and review on the policy.

At the end of the comment period, the collected comments will be compiled into a review document. The IACP’s PSLC CCTV Sub-committee will review this document and select those comments, which merit consideration.
CCTV Conference Summit
The Conference Summit, may be a one or two day meeting, in which the participants of the Spring Summit re-convene to debate and ratify the draft policy. This meeting will be to discuss the merit and validity of any recommended revisions suggested during the comment review period.

The Conference Summit will close with the ratification of the policy document and vote by attendees to recommend the policy for application and practice.

III. Summit Participants

The three sponsoring Associations SIA, IACP, and ASIS will invite participants in the Summit. Letter’s from the respective association Executive Committee’s will sent to all participant’s requesting their attendance and participation in the Summit.

Potential Invitees (Agency Representatives):

- **Law Enforcement** — Chiefs and Sheriffs (IACP, NSA, SACOPs)
- **Law Enforcement** — Police (Fraternal Order of Police, etc.)
- **Law Enforcement** — Director’s of Public Safety: Foreign/Domestic
- **Law Enforcement** — (Regulatory) Department of Justice (FBI, Port Authority, Secret Service, ATF, etc.),
- **Civil Libertarian Organizations** — ACLU, NAACP, NRA
- **Citizen’s Watchdog Groups**
- **Legal** — American Bar Association, Tort Lawyers, Manufacturing Industry Legal, Law Enforcement Legal
- **Legislative** — Congressman, Senators, State/local law makers
- **Regulatory** — Department of Housing and Urban Development, Department of Transportation, Department of Energy
- **Security Product Manufacturers** — CCTV manufacturers
- **Private Sector Security Professionals** — Consultants, Public Safety Directors of Corporations (i.e.-Disney)
Tentative Name List:

- **Law Enforcement** -- Chiefs and Sheriffs (IACP, NSA, SACOPs)
  - Tom Fraizer (Baltimore, MD)
  - Bruce Glasscock (Plano, TX)
  - IACP President, Ronald Newbauer
  - NSA President,

- **Law Enforcement** -- Police (Fraternal Order of Police, etc.)
  - Jimmy Golden (NOBLE)

- **Law Enforcement** -- Director’s of Public Safety (Foreign/Domestic)
  - Frank Russo (Baltimore)
  - Capitol Hill Police,
  - New York City,
  - Chicago,
  - Miami,
  - Los Angeles,
  - Washington, DC,
  - Great Britain,
  - Belgium,
  - Japan,
  - Paul Levi,

- **Civil Libertarian Organizations**
  - ACLU (Donald Haines)
  - NAACP
  - NRA
  - Larry Gross (Gay/Lesbian Group)

- **Legal** -- American Bar Association, Tort Lawyers, Manufacturing Industry
  - Legal, Law Enforcement Legal
  - Elliot Goldstein
  - Lessing Gold
  - Bob Bickel
  - Norman Spain
  - James H. Falk, Sr.
  - Stephen Saltzburg
  - Prof. George Trubow
  - Russell W. Hahn
  - Ed Dennis (NEDA)
- Legislative -- Congressman, Senators, State/local law makers, Mayors
  - Congressman Tom Davis (R-VA)
  - Congressman Rick Lazio (R-NY)
  - Congresswoman Sue Kelly (R-NY)

- Regulatory -- Department of Justice (FBI, etc.), Department of Housing and Urban Development, Department of Transportation, Department of Energy
  - Harlan McEwen (FBI)
  - Rodney Slater (Secretary of Transportation)
  - Port Authority,
  - Secret Service
  - HUD,
  - DOE,

- Security Product Manufacturers -- CCTV manufacturers
  - Dave Smith, Pelco
  - Charlie Pierce, LTC
  - Jeff Blum, Ultrak
  - John Foster, 8x8
  - John Foster, Cohu
  - Bob Ritchie, Sensormatic

- Private Sector Security Professionals -- Consultants, Public Safety Directors of Corporations (i.e.-Disney)
  - Dick Moe
  - Ira Somerson
  - Mareen Allison
  - Tom Seamon
  - Jim Clark
  - Mike Shanahan
  - Ron Spiller
  - Mike Stack
  - Bickel’s Disney Connection

- Academics --
  - Jack Greene, Temple University
  - Bill Taffoya, University of Chicago
  - James Q. Wilson, California