DRAFT POLICY FOR THE USE OF CLOSED CIRCUIT TELEVISION MONITORING ON CAMPUS

Presenter:

THOMAS M. SEAMON
Vice President for Public Safety
University of Pennsylvania
Philadelphia, Pennsylvania

Stetson University College of Law:

20th ANNUAL LAW & HIGHER EDUCATION CONFERENCE
Clearwater Beach, Florida
February 11-13, 1999
The following draft policy is a result of over a full year's consultative process with various constituencies with the University of Pennsylvania. It was developed to control the use of closed circuit television (CCTV) already in use on and around the campus and to create ethical guidelines to maximize the use of this technology to enhance safety and security at a large urban university.

This draft is current as of December, 21, 1998 and will be submitted for final approval and adoption in January 1999.
UNIVERSITY OF PENNSYLVANIA

DIVISION OF PUBLIC SAFETY

Proposed Policy: Closed Circuit Television Monitoring and Recording of Public Areas for Safety and Security Purposes

Introduction

The Division of Public Safety is committed to enhancing the quality of life of the campus 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 University community 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 at the University, the Closed Circuit Television Monitoring Policy Committee was formed. The Committee includes faculty, staff and student members of the University community.

At present (September 1997), there are over 280 video cameras in use on campus for the purpose of security monitoring. Many of these cameras have been in use for years. Despite the prevalence of video monitoring on campus, there are no consistent policies or
BACKGROUND PAPER
TO BE DISTRIBUTED WITH DRAFT POLICY

procedures guiding the use of this equipment. Given the ethical, legal and other important issues implicated in the use of video monitoring, the CCTV Monitoring Policy Committee recommends the University adopt the following written policy to guide the use of video monitoring within the University 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 in New York and Baltimore and on university campuses such as the University of Maryland at College Park. Much of the existing CCTV monitoring at the University of Pennsylvania takes place in parking lots, on loading docks and at HUP.

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

DRAFT POLICY
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 the public bathrooms on campus?** No. Despite the name "public restroom" or "public bathroom", these are spaces in which one has a reasonable expectation of privacy. The proposed policy prohibits video monitoring and recording of private areas or areas where one has a reasonable expectation of privacy, as defined by law. The policy would, however, permit monitoring the hallway outside a public restroom, although there are currently no plans to use cameras in this manner.

*DRAFT POLICY*
2) **Can my supervisor use a camera to monitor my work performance?** No. This policy prohibits the use of security cameras or recordings of University employee to monitor or evaluate their job performance. Although this practice is legal and used by many private employers, the sole purpose of the present policy is to enhance safety and security at the University. Supervisors on campus will have to use other methods to evaluate and monitor employees. Only in the case of the legitimate criminal investigation of a suspected crime (e.g., computer theft), approved in advance by the Vice President of Public Safety, can video surveillance of an employee be used.

3) **Will I get busted if a camera catches me carrying a can of beer on Locust Walk?** No. If you are an under-age drinker, you may be stopped by a police officer or University administrator or even a member of DART (Drug and Alcohol Resources Team, a group of student peer health educators) but it won’t be because the security camera spotted you. Alcohol use is a serious issue at Penn and on college campuses across the nation but video surveillance is not useful in addressing this problem. Under the proposed policy, videotapes of students drinking alcohol will not be kept by the Division of Public Safety nor released to any other University officials for the purpose of sanctions, disciplinary procedures or "getting busted" by the school or by police. On a purely practical level, a video or still photograph of a student drinking from a Coors can does not prove the student was drinking because it cannot establish what was INSIDE the can. Video monitoring will be strictly limited to approved safety and security uses as specified in the written policy.
4) **Who wrote this draft policy?** The proposed policy has been developed over many months through numerous discussions involving faculty, staff and students. In March 1997, Thomas Seamon, Vice President of Public Safety, convened a committee of University members representing each of these groups to consider the ethical, social, legal and practical implications of CCTV use for safety and security purposes at Penn. Based on this group’s discussions, a draft policy was prepared to submit to the larger University community for consideration and debate.

5) **I am video taping the behavior of fraternity brothers upon awakening on Sunday mornings for a research project for my Psych 101 class. Do I have to get this approved by the Division of Public Safety?** No. But you had better confer with your professor about University policies governing research with human subjects. There are ethical issues inherent in any research using human subjects.
UNIVERSITY OF PENNSYLVANIA

DIVISION OF PUBLIC SAFETY

POLICY: Closed Circuit Television Monitoring and Recording of Public Areas for Safety and Security Purposes

PURPOSE: The purpose of this policy is to regulate the use of closed circuit television (CCTV) cameras to monitor and record public areas for the purposes of safety and security.

SCOPE: This policy applies to all personnel, schools and centers of the University in the use of CCTV monitoring and recording. Legitimate research uses of this technology are covered by University policies governing research with human subjects and are, therefore, excluded from this policy.

GENERAL PRINCIPLES:

A. The Division of Public Safety is committed to enhancing the quality of life of the campus community by integrating the best practices of public and private policing with state-of-the-art technology. A critical component of a comprehensive security plan using state-of-the-art technology is closed circuit television (CCTV).
B. The purpose of CCTV monitoring of public areas by security personnel is to deter crime and to assist the Penn police in protecting the safety and property of the University community. Any diversion of security technologies and personnel for other purposes (e.g., CCTV monitoring of political or religious activities, or employee and/or student evaluations) would undermine the acceptability of these resources for critical safety goals and is therefore prohibited by this policy.

C. Video monitoring for security purposes will be conducted in a professional, ethical and legal manner. Personnel involved in video monitoring will be appropriately trained and continuously supervised in the responsible use of this technology. Violations of the Code of Procedures for video monitoring referenced in this policy will result in disciplinary action consistent with the rules and regulations governing employees of the University.

D. Information obtained through video monitoring will be used exclusively for security and law enforcement purposes. Information obtained through video monitoring will only be released when authorized by the Vice President of Public Safety according to the procedures established in this policy.

E. Video monitoring of public areas for security purposes will be conducted in a manner consistent with all existing University policies, including the Non-Discrimination Policy, the Sexual Harassment Policy, Open expression Guidelines and other relevant policies. The Code of Practice for video monitoring prohibits monitoring based on the characteristics and

DRAFT POLICY
classifications contained in the Non-Discrimination Policy (e.g., race, gender, sexual orientation, national origin, disability, etc.)

F. Video monitoring of public areas for security purposes at the University is limited to uses that do not violate the reasonable expectation of privacy as defined by law.

G. To maintain an informed University community, the Division of Public Safety will periodically disseminate written materials describing the purpose and location of CCTV monitoring and the guidelines for its use. The location of outdoor CCTV cameras monitored by the Division of Public Safety will be published in the Almanac.

H. Information obtained in violation of this policy may not be used in a disciplinary proceeding against a member of the University faculty, staff or student body.

I. All existing uses of video monitoring and recording will be brought into compliance with this policy within 12 months of the approval of this policy.

RESPONSIBILITIES

A. The Division of Public Safety is the department authorized to oversee and coordinate the use of CCTV monitoring for safety and security purposes at the University. All University areas using CCTV monitoring are responsible for implementing this policy in their

DRAFT POLICY
respective operations. Public Safety has primary responsibility for disseminating the policy and assisting other units in implementing the policy and procedures.

B. The Vice President of Public Safety has the responsibility to authorize all CCTV monitoring for safety and security purposes at the University. All new installations will follow the Division of Public Safety operating principles. All existing CCTV monitoring systems will be evaluated for compliance with this policy.

C. The Division of Public Safety will monitor new developments in the relevant law and in security industry practices to ensure that CCTV monitoring at the University is consistent with the highest standards and protections.

D. A CCTV Monitoring Panel will be established to assure that the Division of Public Safety adheres to established policy and procedure in the use of CCTV and to review camera locations and request for release of tapes.

1. The CCTV Monitoring Panel will consist of five members who will serve for a term of one year:

   The chairperson of the Safety and Security Committee or his/her designee will serve as chair.

DRAFT POLICY
Two faculty members appointed by the Chair of the Faculty Senate
One member appointed by the President
The University Compliance Officer

An individual may appeal an adverse decision by the CCTV Monitoring Panel through existing University appeal mechanisms such as the Committee on Open Expression or the University Ombudsman.

2. The CCTV Monitoring Panel will review camera locations to insure the perimeter of view of fixed location cameras conforms to this policy.

The proposed location of permanent CCTV cameras will be provided to the CCTV Monitoring Committee for review and published in the Almanac before installation. A list of all University owned or controlled camera locations will be published semi-annually in the Almanac and made available by the Public Safety Division to anyone requesting the list. The location of temporary cameras to be used for special events will be reviewed by the CCTV Monitoring Committee for approval and published in the Almanac before the event if possible

(Note: "Temporary cameras" does not include mobile video equipment or hidden surveillance cameras used for criminal investigations)

DRAFT POLICY
Included with the list of CCTV camera locations will be a general description of the technology employed and the capabilities of the cameras.

Students and staff entering certain sensitive locations on campus may have an increased concern for privacy and confidentiality. In order to prevent a possible chilling effect on the use of services at these locations, concerned persons may petition the CCTV Monitoring Committee to forgo the installation of a proposed camera or for the removal of an existing camera. The CCTV Monitoring Committee will determine the appropriateness of an installation weighing the concerns of the person(s) making the requests and the safety and security of the entire community.

In recognizing students may also have an enhanced expectation of privacy in the hallways and lounges of residence facilities, CCTV monitoring for safety and security purposes will not be used in residential hallways and lounges unless the Vice President of Public Safety determines a specific safety/security risk exits.

The CCTV Monitoring Panel will review complaints regarding camera locations and determine whether the CCTV Monitoring policy is being followed. The panel should weigh whether the potential increment in community security outweighs any likely infringement of individual privacy.
3. The CCTV Monitoring Panel, with the Vice President of Public Safety, will review all requests received by the Division of Public Safety to release recordings obtained through CCTV monitoring. No releases of CCTV recordings will occur without authorization by the Vice President and the CCTV Monitoring Panel. Excluded from review by the CCTV Monitoring Panel are releases of tapes directly related to a criminal investigation, arrest, or subpoena. The CCTV Monitoring Panel may also approve release of CCTV tapes only for legitimate purposes, such as to protect the University and its members from lawsuits or harm. Three affirmative votes are necessary to approve the release of tapes. Any release of tapes will be recorded on a written log.

4. Any member of the CCTV Monitoring Panel may audit the Division of Public Safety’s CCTV monitoring operations, including videotape storage, at any time without prior notice.

5. The Chair of the Safety and Security Committee will report to the Safety and Security Committee at least four (4) times per year describing all requests for camera locations and release of tapes and disposition of those requests.

6. The CCTV Monitoring Panel will review this policy annually and recommend revisions if needed.

DRAFT POLICY
PROCEDURES

1. All operators and supervisors involved in video monitoring of public areas will perform their duties in accordance with the Code of Practice consistent with this policy developed by the Division of Public Safety.

2. Division of Public Safety management will assure that responsible and proper camera monitoring practices by control operators is continuous.

3. The Division of Public Safety will post signage at appropriate locations. Signage will state, "THIS PUBLIC AREA MONITORED BY SECURITY CAMERAS FOR PERSONAL SAFETY AND PROPERTY PROTECTION".

4. The Division of Public Safety will limit camera positions and views of residential housing. Any view given to the housing will be no greater than what is available with unaided vision. Furthermore, the view of a residential housing facility must not violate the standard of "reasonable expectation of privacy".

5. The Division of Public Safety Central Monitoring Center and other central security monitoring centers will be configured to prevent camera operators tampering with or duplicating recorded information.

DRAFT POLICY
6. Recorded videotapes will be stored for a period not to exceed 30 days and will then be erased, unless retained as part of a criminal investigation or court proceedings (criminal or civil), or other bona fide use as approved by the Vice President of Public Safety and the CCTV Monitoring Panel.

7. Video tapes will be stored in a secure location with access by authorized personnel only.

8. Camera control operators will conduct video observation of areas only in plain view of others situated in the public area or area viewable to the public.

9. Camera control operators will be trained in the technical, legal and ethical parameters of appropriate camera use.

a. Camera control operators will receive a copy of this policy and provide written acknowledgement that they have read and understood its contents.

b. Camera control operators will receive training in cultural awareness.

10. Camera control operators will not monitor individuals based on characteristics of race, gender, ethnicity, sexual orientation, disability or other classifications protected by the University’s Non-Discrimination Policy. Camera control operators will

DRAFT POLICY
monitor based on suspicious behavior, not individual characteristics.

11. Camera control operators will not spot and continuously view people becoming intimate in public areas.

12. Camera control operators will not view private rooms or areas through windows.

13. Mobile video equipment may be used in criminal investigations. Mobile video equipment will only be used in non-criminal investigations in specific instances creating significant risk to public safety, security, and property as authorized in writing by the President to the Division of Public Safety and the Open Expression Committee.

Portable hidden cameras with recording equipment will only be used for criminal investigation by the University Police Detective Unit with the approval of the Vice President of Public Safety.
EXAMPLES OF VIDEO MONITORING AND RECORDING OF PUBLIC AREAS

Legitimate safety and security purposes include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Targeted Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection of buildings and property</td>
<td>Building perimeter, entrances and exits, lobbies and corridors, receiving docks, special storage areas, laboratories, cashier locations, etc.</td>
</tr>
<tr>
<td>Monitoring of access control systems</td>
<td>Monitor and record restricted access transactions at entrances to buildings and other areas.</td>
</tr>
<tr>
<td>Verification of security alarms</td>
<td>Intrusion alarms, exit door controls, hold-up alarms, etc.</td>
</tr>
<tr>
<td>Video Patrol of public areas (enclosed and unenclosed)</td>
<td>Transit stops, parking lots, public streets, shopping areas, vehicle intersections, etc.</td>
</tr>
<tr>
<td>Criminal investigation</td>
<td>Robbery, burglary, and theft surveillance</td>
</tr>
<tr>
<td>Protection of pedestrians and vehicles in traffic areas</td>
<td>Monitor pedestrian and vehicle traffic at intersections</td>
</tr>
</tbody>
</table>

DRAFT POLICY