



Commission d'accès  
à l'information  
du Québec

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## **RULES**

for use of surveillance cameras  
with recording in public places by public bodies

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## Presentation

Camera surveillance of public places is a growing phenomenon in Québec, as the development of new technology facilitates access to this mode of surveillance. The growing sense of insecurity in modern societies has also rendered us more tolerant to the presence of cameras in public places. This tolerance, like the technology, has developed gradually.

However, the very concept of surveillance implies methods of population control associated with regimes remote from our democratic culture. On the contrary, the freedoms of citizens to circulate and assemble peacefully, and everyone's rights to privacy and personal freedom, recognized in our fundamental laws, give reason to believe that observation of the behaviour of individuals is still an act derogatory to our fundamental democratic values. With valid reason, therefore, camera surveillance has become a matter of concern for the Commission d'accès à l'information. The component of its mandate concerning protection of personal information is specifically intended to ensure that the collection, processing and retention of personal information respect the privacy of citizens in the face of the State's growing powers.

Aware of its responsibilities, the Commission d'accès à l'information has decided to issue rules for use of camera surveillance with recording. These rules provide public bodies with a common analytical framework. Their purpose is to guide decision-making by public bodies by offering them an approach that will allow them to find a fair balance among protection of personal information, privacy and security. These guidelines should be completed by a policy drafted in accordance with the Commission's current general rules.

## Scope of application

The following rules apply to camera surveillance of public places by public bodies.

Public bodies are those defined in sections 3 to 7 of the Act respecting access to documents held by public bodies and the protection of personal information. For example, they include municipalities (including their police departments), school institutions, educational institutions and transit authorities.

The public character of the place is due to its accessibility to the entire community. Streets, public parks, playgrounds, public transit systems, and common areas of educational institutions and hospitals will certainly be classified as "public places", to cite only these examples.

Similarly, it is understood that the rules do not cover surveillance of employee work areas or hospital rooms, because these places are not community spaces generally accessible to the public. Rather, by definition, they are spaces where the individual reasonably expects more privacy and solitude than in public spaces as such. The intended use of a place is therefore also a relevant indicator for recognizing a public space.

Likewise, these rules do not apply to surveillance used as an investigative method focusing on a specific individual or suspects.

In short, the following rules concern and govern the general observation of citizens by public bodies.

## **Justification**

The use of camera surveillance represents a form of intrusion by government authorities into citizens' lives. This intrusion, which absorbs the image and behaviour of individuals, is an infringement of the right to privacy. This fundamental fact shall remain a concern of government agents that is reflected on their decision to resort to camera surveillance.

One of the essential bases of the Act respecting access to documents held by public bodies and the protection of personal information is to contain and limit the power of public bodies to collect personal information on citizens. This component is the concrete reflection of the right to privacy enshrined in Section 5 of the Québec Charter of Human Rights and Freedoms.

For the purposes of the Access Act, camera surveillance shall produce documents that are recovered and stored in any form. This does not mean that surveillance without recording, used as the extension of human surveillance by technical means, does not pose any problem with regard to respect for fundamental rights.

Once camera surveillance has the effect of collecting personal information on any medium regarding identifiable individuals, public bodies shall meet the criterion of necessity set out in Section 64 of the Access Act ("No person may, on behalf of a public body, collect nominative information if it is not necessary for the carrying out of the attributions of the body or the implementation of a program under its management").

In each case, the institutions shall be able to establish that the objective pursued by the use of camera surveillance is important enough to justify the collection of personal information. Then the institution shall adjust the scope of this method to ensure that the means deployed are proportional to the objective it is seeking.

## Rules of use

### Factors to consider before opting for camera surveillance

- 1) Camera surveillance shall be necessary to achieve a specified purpose.  
It may not be used generally as a public security mechanism. The problem to be solved shall be identified, recurring and circumscribed.
  
- 2) The objective sought by the use of camera surveillance shall be serious and important.  
The prevention of minor offences or the occurrence of occasional problems cannot justify an invasion of individual privacy. Camera surveillance should not turn out to be an easy solution. In particular, the places targeted must be recognized as a source of criminal activity.
  
- 3) A report shall be produced concerning the concrete risks and real dangers presented by a situation regarding public order and the security of persons, places or property.  
This report should particularly deal with the following points:
  - the specific, serious and concordant events that have occurred;
  - clear identification of the problem to be solved;
  - the concrete and real public security requirements at stake;
  - the places targeted for camera surveillance and their relation to the grounds invoked;
  - the important, clear and precise objectives that have been identified.
  
- 4) Alternative solutions less prejudicial to privacy should have been considered or tested and have proved difficult to apply or implement or are ineffective.  
Depending on the problem to be solved and the places concerned, other solutions should have been tested or studied, particularly:
  - the presence of security guards;
  - foot patrols in key locations;
  - the involvement of street workers;
  - accompaniment to the car on request;
  - better lighting of the zone to be protected (streets, parks, corridors, etc.);
  - reinforcement of access doors;
  - installation of protective grilles and alarm systems or marking of objects related to an alarm system;
  - intervention by surveillance personnel;
  - formation of a vigilance committee.
  
- 5) The real impact of camera surveillance shall be measured.  
An analysis of the risks for protection of privacy has been completed;  
The advantages and disadvantages of the measure shall be weighed, as well as its

potentially perverse or undesirable effects, such as shifting criminal activity to another location. The effectiveness of the measure to correct the situation shall be conclusive.

6) The public body shall ensure the legitimacy of its objectives so that the purpose of camera surveillance cannot be diverted or distorted.

For example, camera surveillance shall not serve:

- to categorize or rank groups of people;
- to establish distinctions based on racial, religious, political or union affiliation or the sexual behaviour of individuals;
- to study human behaviour in order to exercise control over these persons.

7) The purpose of camera surveillance shall be transparent and explicit.

The populations concerned shall be consulted and involved before the decision is made. The use of camera surveillance shall have been approved by the accountable authorities of the public body.

8) Camera surveillance shall be considered in conjunction with at least one of the factors set out in Rule 4 or its equivalent.

#### **Rules concerning collection of information**

9) The public body shall designate from the outset a person responsible for the collection, retention and communication of data collected by means of camera surveillance.

At every step, this person shall ensure that these rules are observed.

10) Camera surveillance shall be adjusted as needed and adapted to the situation. The public body shall set limits for its use.

The periods of surveillance and eventually of recording, the area covered and the manner in which the operation will be conducted shall be designed to minimize the effects of camera surveillance and preserve the public's privacy as much as possible.

11) Camera surveillance shall be used only during critical events and for limited periods.

The use of cameras and recording shall be limited to specific times of day and periods of the year corresponding to the peak periods when crimes usually occur. For example, if it is established that offences are perpetrated on weekends, during the evening or at night, or during public holidays or specific events, camera surveillance shall not extend beyond these periods.

12) Only the necessary recordings shall be made.

When a person can permanently view the image captured by a camera, this person shall expect to have reasonable grounds to believe that an offence will be committed to start recording.

If nobody can view the screens continuously, the tape recordings shall be destroyed once they are no longer necessary.

- 13) The arrangement of the cameras and the type of technology used shall minimize the effects of camera surveillance on people's privacy.

The cameras shall not be directed at private locations, such as a home, building windows, shower rooms, toilet stalls or locker rooms. For this purpose, the new information technology of masking locations shall be adopted to avoid shooting private places or places not concerned by the camera surveillance operation.

The angles of vision, the type of cameras, and the zoom or stop image function shall be evaluated according to the ends sought and the appropriate means of achieving these ends. The same principle applies for use of equipment connected to an alarm or response centre.

- 14) The persons operating the devices shall be well aware of the rules intended to protect privacy.

The persons shall have received the appropriate training and know the limits imposed by the Act regarding protection of privacy before working as operators. The same principle applies for third parties, i.e. those not directly under the body's authority, in particular those involved by contract in camera surveillance.

- 15) The public concerned by this surveillance shall be informed by any appropriate notice.

Notices shall announce unequivocally that the place is the object of camera surveillance with recording.

These notices shall:

- be placed in visible locations, at a reasonable distance from the place under surveillance and have the format required by the spatial context;
- mention the object of the camera surveillance and the name of the person responsible.

### **Rules concerning management of information**

- 16) The equipment used for the recording or recordings shall be protected.

The material recorded shall be the object of precise retention rules to protect the confidentiality of the data.

Security measures shall be implemented to restrict access to the viewing station and the recordings to the persons expressly authorized for this purpose.

A limited number of authorized persons may have access to the premises accommodating the equipment and view the recordings.

- 17) Use of the recordings shall be limited.

Subject to the exceptions prescribed in the Access Act, the recordings shall not be disclosed to third parties. In this regard, the interconnection of surveillance systems,

whether by Internet or otherwise, constitutes disclosure to a third party.

The recordings shall not be the object of associations of images or biometric data, particularly by means of automatic image consultation or facial recognition software.

The recordings shall not be matched, linked or shared with other files, nor serve to constitute data banks.

18) The recording media shall be taken into account in the retention schedule.

The recording media shall be numbered and dated for each site that has been the object of surveillance.

Apart from judicial requirements and police or administrative investigations, the recordings are erased or destroyed as soon as their retention is no longer necessary.

19) A person is entitled to access to the information concerning him.

This person is entitled to access to the recordings made in accordance with the Access Act.

### **The decision to resort to camera surveillance shall be reviewed periodically**

20) The public body shall periodically review (at least on an annual basis) the necessity of its decisions regarding camera surveillance.

The following aspects shall be considered for this purpose:

- the initial grounds still exist;
- the expected results are achieved. Otherwise, the public body must question the actual effects of the process;
- the conditions of use are still adequate and adapted to the situation;
- the appropriateness of the type of cameras used and their number;
- a more appropriate alternative compatible with the right to privacy cannot now be envisioned;
- if applicable, the number of hours of recording per day and the recording periods during the week or the year.

### **Adoption of policy on use of camera surveillance**

The public bodies should adopt a policy on use of camera surveillance with recording in public places in the light of these rules.

In particular, this policy should define the public consultation mechanism before proceeding to use camera surveillance.