



**Commission d'accès  
à l'information  
du Québec**

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## **PUBLIC CONSULTATION**

USE OF SURVEILLANCE CAMERAS  
BY PUBLIC BODIES  
IN PUBLIC PLACES

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### **SUMMARY OF THE REPORT ON THE PUBLIC CONSULTATION**

June 2004

Surveillance cameras in public places are now part of Québec's urban landscape. Benefiting from the sense of insecurity, inexpensive and easy to install, cameras are generating appreciable enthusiasm. Can a democratic society like ours remain insensitive to this?

In 1992, the Commission d'accès à l'information (the "Commission") discussed the question of the use of surveillance cameras. The first case study was based on a complaint filed against Ville de Sherbrooke. The Commission then commented on the use of camera surveillance at the Summit of the Americas held in Québec City in 2001. The following year, it drafted the *Minimum Rules Applying to the Use of Surveillance Cameras* (the "Minimum Rules"), which it adopted in spring 2002 before launching the investigation that summer on the use of a camera by Ville de Baie-Comeau.

### **A Commission and a consultation**

A surveillance camera captures images and sometimes sounds coming from the persons filmed. When this information is recorded, it becomes personal information contemplated in the Act respecting access to documents held by public bodies and the protection of personal information<sup>1</sup> (the "Act"). In fact, information that allows a person to be identified, even indirectly, qualifies as personal and confidential on the same basis as a social insurance number.

As the body responsible for applying the laws on protection of personal information in Québec, the Commission took the initiative of initiating the debate by holding a public consultation on the use of surveillance cameras. It chose to focus its efforts on the use of surveillance cameras by public bodies<sup>2</sup> in public places<sup>3</sup>.

Thus, three main reasons impelled the Commission to hold this consultation: to produce a report on the situation concerning the use of surveillance cameras by Québec public bodies (a non-scientific survey was conducted in winter 2003 of government departments, municipalities, schools, police departments, health care institutions and public transit systems), to begin a discussion, hitherto nonexistent, on the issues regarding camera surveillance by public bodies, and to generate solutions that will serve to establish criteria or a Québec policy in this matter.

In all, 21 organizations and individuals expressed their opinions and ideas on the questions put forward by the Commission, 16 of whom presented and defended their points of view in person in September 2003 before the Commissioner responsible for this consultation, M<sup>e</sup> Michel Laporte.

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<sup>1</sup> R.S.Q., c. A-2.1.

<sup>2</sup> Section 3 of the Act. Public bodies are: the Government, the Conseil exécutif, the Conseil du Trésor, government departments and agencies, municipal and school bodies, and health and social services institutions. Likened to public bodies for the purposes of this Act are: the Lieutenant-Governor, the National Assembly, agencies whose members are appointed by the Assembly, and every person designated by the Assembly to an office under its jurisdiction, together with the personnel under its supervision. Public bodies do not include the courts within the meaning of the Courts of Justice Act (Chapter T-16).

<sup>3</sup> In the ordinary meaning of the words, a public place is a place "for the use of everyone, accessible to all".

## The situation in Québec

Camera surveillance has been part of the surveillance methods of Québec public bodies for the past 28 years. The survey conducted by the Commission found that the respondent bodies used nearly 5,000 cameras throughout the province. It appears that this number is likely to increase over time. Moreover, the representatives of the security industry estimate that the camera surveillance market is growing by approximately 10% per year and that practically all large new buildings erected in Québec have cabling allowing the installation and use of cameras.

The use of such a large number of surveillance cameras, though far less than the 2.5 million cameras in operation in England, is primarily related to the safety and security of the public and property as well as crime prevention. Thus, the public does not seem to oppose the use of surveillance cameras when the purpose is public security, defence or national security, but only when a real, concrete and major risk exists.

However, it is observed that citizens are not always sensitive to this phenomenon and its impacts, even if it infringes on their rights and privacy. The Supreme Court of Canada has already established that a person's right to his image is an intrinsic component of the right to privacy, as defined in the Charter of Human Rights and Freedoms<sup>4</sup>. It is therefore important to preserve freedom of action and movement in a democratic and open society.

Despite the imposing number of cameras in England, France and the United States, few studies are conducted prior to their installation and few analyses are produced showing their impact on the crime rate. According to various sources, camera surveillance gives a false sense of security and does not really contribute to crime reduction. For example, at the 2001 Summit of the Americas, surveillance cameras did not dissuade the perpetrators of acts of vandalism and limit outbursts. Moreover, it is observed that the deviant situation justifying the use of camera surveillance will tend to move to another location rather than fade away.

Several of the participants in the fall 2003 Public Consultation argue that the use of camera surveillance is the most economical solution for dealing with potential acts of vandalism, theft, assault or public mischief, even though no study supporting this assertion was submitted. Another result is that surveillance cameras are often installed without testing any other alternatives less invasive of privacy, particularly an increase in patrols or improvement of lighting.

### Surveillance cameras: a necessary evil?

When a camera becomes an instrument of surveillance, its use must respond to a clear, transparent, explicit and legitimate objective. Some stakeholders suggest that the use of surveillance cameras remain an exceptional procedure, a rigorously supervised practice, with provision for specific sanctions for the offending bodies. Well before installation of camera surveillance, the bodies will have to consider alternatives that are just as effective but do not infringe on citizens' rights.

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<sup>4</sup> R.S.Q., c. C-12.

An analysis of the risks to protection of personal information is unavoidable before resorting to the use of a surveillance camera. This preliminary evaluation will allow the public body to think more deeply about the balance between respecting the protection of people's privacy and public security.

It is important to point out that the use of camera surveillance solely for reasons related to racial affiliation, sexual orientations, or the religious, political or union convictions of a group of persons must be prohibited. The ends pursued must be legitimate.

### **The stakeholders' requests**

The participants in the Public Consultation do not contest the Minimum Rules and do not oppose in principle the use of camera surveillance in certain situations. However, the need for new supervision to govern the use of camera surveillance was mentioned by several participants.

The very principle of transparency, essential to maintaining a relationship of trust between the State and the citizens, is not contested by the participants. Thus, many stakeholders hope for the adoption of uniform rules to make the camera surveillance actions of public bodies public and transparent. The source of these rules would be the Minimum Rules already issued by the Commission.

For some, the stakes involved in protecting human rights and freedoms are too serious for the decision whether to use this tool to be left to the sole discretion of administrators of public bodies. Consequently, some participants favour the idea that an independent body, such as the Commission, be mandated to assess the use of camera surveillance based on the criterion of necessity, the basis of the Act with regard to the collection of personal information by public bodies.

Finally, some participants suggest more rigorous and restrictive legislative supervision, which should respond to the threat represented by surveillance cameras to citizens' privacy. In their opinion, a legislative framework will fill the legal vacuum and close the door to abuses.

### **In conclusion: a real concern**

Every opinion counts in a democratic society such as ours, and it is essential to find a reasonable balance within the context of the existing legislation between the obligations and duties of the various parties. Through the Public Consultation, the Commission has sought to force a discussion of the stakes involved in the use of camera surveillance, an issue little discussed or analyzed up to now in Québec.

Camera surveillance must respond to a real need of the bodies that have to monitor areas with recurring crime. Thus, installing a camera should not be an easy solution to solve minor problems or balance an operating budget. Above all, it should not replace the necessity for police control.

A surveillance camera is an extension of the human eye to the extent that it remains an act of observation by a body monitoring the actions of individuals, regardless of whether it is done without their knowledge or with their complete awareness. The image then recorded by a camera is

considered to be personal information and the Act's basic principles governing its collection, retention, communication and use may therefore apply.

The participation of a large number of stakeholders in the Public Consultation and the media coverage show the conclusive interest in the impacts of this current issue. The debate has modestly allowed us to better define how we see the future and the tools and means by which we intend to take on the challenges related to public security.