

**Consultation on a Code of Practice relating to Surveillance Cameras
Consultation Response Submitted by No CCTV – May 2011**



Summary

- 1 We submit that within the context of the protection of freedoms the proposed Surveillance Cameras Code of Practice is deeply flawed in both content and concept. We submit that the aims of such a Code are to entrench and expand the use of surveillance, and that this is the only role this proposed Code will serve.

Full Response

- 2 Having given substantive consideration to the consultation document for the proposed Surveillance Cameras Code of Practice as a whole, it appears that the Code is intended to be little more than a re-branding of the National CCTV Strategy¹ produced by the Home Office/Association of Chief Police Officers (ACPO) in 2007. The Home Office might claim that this is not necessarily a bad thing but it is clearly disingenuous to re-write the CCTV Strategy as a code of practice enacted by a piece of legislation entitled the Protection of Freedoms.
- 3 The similarity between the consultation document and the National CCTV Strategy was highlighted to the Protection of Freedoms Public Bill Committee by our colleague Steve Jolly in his written² evidence to them. The table below illustrates a few of the similarities between the proposed Code consultation document and the National CCTV Strategy.

2007 Strategy	2011 Code Consultation
Recommendation 2: "Agree on digital CCTV standards and digital video formats for public space CCTV, police, and CJS use"	Page 14: "The Government has no intention of requiring that all users must upgrade their systems, but the adoption of industry standards would not only provide assurance for customers that their systems would operate as claimed;"
Recommendation 3: "Seek to influence national and international CCTV standards".	Page 14: "The Government would therefore wish to engage with manufacturers businesses and users on the merits and feasibility of developing a range of technical standards for equipment, at national or international level"
Recommendation 27: "Develop CCTV image retention and disclosure guidance."	Page 15: "One area in which it may be particularly helpful for the new Code to provide further or refined guidance is in relation to recommended data retention periods"
Recommendation 24: "Protocols should be developed allowing the use of Airwave radio in town centre CCTV control rooms and the sharing of intelligence between the Police and Town Centre CCTV monitoring staff."	Page 15: "Guidance on data sharing provisions and restrictions in the context of surveillance camera systems is likely also to be of value."
Recommendation 17: "Develop minimum training requirements and ultimately an accredited training programme for all those engaged in CCTV."	Page 14: "As well as the technical aspects the concept of standards could also be extended to the operation of CCTV systems (e.g. the standards expected of staff, training etc.)."

¹ <http://webarchive.nationalarchives.gov.uk/20100413151441/http://www.crimereduction.homeoffice.gov.uk/cctv>
² <http://www.publications.parliament.uk/pa/cm201011/cmpublic/protection/memo/pf20.htm>

- 4 It is our view that the regulation of surveillance cameras via voluntary codes does not address the core issues of removal of personal freedom, anonymity and other rights. All such regulation does is to endorse acceptance of CCTV by formalising its "proper use", leaving no room for the rejection of such technology. Indeed the consultation document states that this is the aim of the proposed Code: "The initial focus is the development of a new, comprehensive, Code of Practice designed to promote clarity and consistency in the future use of such technology."
- 5 The Ministerial Forward to the consultation document states: "We are committed to restoring and preserving our historic and valued traditions of freedom and fairness." This is a laudable aim, but unfortunately the rest of the document pays no heed to this commitment. The proposed Code outlined in the consultation document is concerned with how to administrate and manage the surveillance state, not how to restrict or control it.
- 6 If the government wishes to restore and preserve freedoms then the starting point for any Surveillance Cameras Code should be to demand evidence based decision making and to stress that surveillance cameras should only be used as a last resort in circumstances where evidence shows that cameras will be an effective tool.
- 7 To understand how such a Code might look, the government need only look to Canada, where the Office of the Privacy Commissioner of Canada (OPC) has published the 'OPC Guidelines for the Use of Video Surveillance of Public Places by Police and Law Enforcement Authorities'³. The OPC guidelines contain fifteen key points to be considered before using surveillance cameras. The first guideline states that:
"Video surveillance should only be deployed to address a real, pressing and substantial problem."
- 8 The first OPC guideline goes on to place stringent requirements that should be met, it states:
"Accordingly, concrete evidence of the problem to be addressed is needed. This should include real evidence of risks, dangers, crime rates, etc. Specific and verifiable reports of incidents of crime, public safety concerns or other compelling circumstances are needed, not just anecdotal evidence or speculation."
- 9 The second OPC guideline states: "Video surveillance should be viewed as an exceptional step, only to be taken in the absence of a less privacy-invasive alternative."
- 10 In addition, in each of the Canadian provinces the Office of the Information and Privacy Commissioner (OIPC) has produced guidelines for the use of cameras which also take a strong stance with regard to protection of freedoms. For example the Office of the Information and Privacy Commissioner of British Columbia has produced a set of 'Public Surveillance System Privacy Guidelines'⁴. In the preamble to the British Columbian guidelines it states:
"It is not sufficient to say that citizens need not fear surveillance if they have nothing to hide. This misses the point. [...] The right to privacy must not be eroded simply because there is supposedly nothing to fear if you have nothing to hide."
- 11 By contrast the existing UK Information Commissioner's Office (ICO) CCTV Code of Practice⁵ only contains a passing mention of the impact of cameras on personal freedoms

³ http://www.priv.gc.ca/information/guide/vs_060301_e.cfm

⁴ <http://www.oipcbc.org/advice/VID-SURV%282006%29.pdf>

⁵ http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/cctv.aspx

and a weak plea in section 4 'Deciding whether to use CCTV or continue using CCTV' to consider whether camera surveillance is appropriate, when it states:

“You should carefully consider whether to use it; the fact that it is possible, affordable or has public support should not be the primary motivating factor. You should take into account what benefits can be gained, whether better solutions exist, and what effect it may have on individuals.”

- 12 The 'Pre-planning' section of the Surveillance Cameras Code consultation document does little to strengthen the existing guidance in section 4 of the ICO Code.
- 13 The Foreword to the ICO Code points out that the objective of the Code is “helping ensure that good practice standards are adopted by those who operate CCTV. If they follow its provisions this not only helps them remain within the law but fosters public confidence by demonstrating that they take their responsibilities seriously.” This very much echoes the objectives laid out in the consultation document for the proposed Surveillance Cameras Code.
- 14 Clearly the powers of the ICO are insufficient to protect people from state (or indeed non-state) surveillance, which then begs the rhetorical question as to whether the Data Protection Act itself is fit for purpose.
- 15 Despite the strong rhetoric that features in the various Canadian video surveillance guidelines, there are still concerns in Canada that cameras are being installed without proven need or proper consultation. Referring to the Canadian guidelines in his book 'Panoptic Dreams - Streetscape Video Surveillance in Canada', Sean P. Hier writes: "the principles informing the guidelines are neither as clear nor as comprehensive as they could be, leaving them open to multiple interpretations and adaptations."
- 16 If the government is serious about protecting freedoms then they should improve upon the Canadian guidelines, seeking to strengthen the principles upon which they are based.
- 17 The Automatic Number Plate Recognition (ANPR) camera network that has been constructed across the country by ACPO is of great concern. The system has been introduced without proper, if any, debate and the implications of such mass surveillance have not been considered. Simply adding ANPR cameras to the definition of surveillance cameras that will be covered by the proposed Code does not begin to address the impact on freedoms that this network represents.
- 18 We are concerned that there is no requirement for the Secretary of State to consult with civil liberties groups or concerned members of the public in preparing a Surveillance Cameras Code, but there is a requirement to consult with the Association of Chief Police Officers. It seems strange that a Code claiming to protect freedoms will need to be checked by one of the very bodies that many consider seeks to curtail those freedoms.
- 19 We would hope that a Surveillance Cameras Code of Practice would not be about giving law enforcement agencies unhampered use of cameras just so long as they play the prevention or detection of crime card. However, the Ministerial Foreword in the Code consultation document states:
“We do not intend therefore, that anything in our proposals should hamper the ability of the law enforcement agencies or any other organisation, to use such technology [surveillance cameras] as necessary to prevent or detect crime, or otherwise help to ensure the safety and security of individuals. What is important is that such use is reasonable, justifiable and

transparent so that citizens in turn, feel properly informed about, and able to support, the security measures that are in place.”

²⁰ It is our view that the proposed Surveillance Cameras Code will do nothing to protect the freedoms of the people of this country, rather by adding another voluntary code to the already existing codes it will simply serve to increase confusion and allow the erosion of freedoms to continue.

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