

## CCTV Cameras Policy

### Policy Guidelines

To assist in providing the safe physical environment a CCTV surveillance system has been installed at Sydney Central on the ground floor. The area covered includes the reception desk, waiting area, interview and conference rooms.

A separate policy and procedures has been developed to govern the use of CCTV cameras, which has the primary purpose of providing an additional risk management tool to the others included in the Client Service Strategy. The Client Service Strategy is available on the Intranet under Ops Support – Client Services. The CCTV Policy and Procedures is also available under Ops Support – Client Services – CCTV Cameras.

### Purpose

The purpose of this policy is to govern the use of a CCTV system on Legal Aid NSW premises as an incident risk management tool under the requirements of the OH&S Act 2000 and the Regulations 2001 as well as the Workplace Surveillance Act.

### Scope

These guidelines focus only on the use of CCTV cameras at Sydney Central client service area on the ground floor.

In implementing the policy the requirements of the Workplace Surveillance Act and Regulations 2005 as well as the OH&S Act 2000 and regulations were considered. The OH&S Committee is considered to be the representative body under the team of the Workplace Surveillance Act and Regulations.

The operation of CCTV is strongly governed by Sections 11, 14 and 16 of the Workplace Surveillance Act and the following requirements:

- ◆ CCTV cameras will be clearly visible.
- ◆ Signs will be at each entrance to notify people that they may be under surveillance.
- ◆ Legal Aid NSW will not use CCTV to conduct surveillance of employees who are not at work. An employee will be considered to be “at work” when they are at the workplace of the employee or they are anywhere else whilst performing work for the employer.

### Legislative Framework:

#### Workplace Surveillance Act 2005

The Workplace Surveillance Act 2005 replaces the Workplace Video Surveillance Act 1998, and commenced on 7 October 2005. The 2005 Act has much broader coverage, in that it applies to camera surveillance, computer surveillance and

tracking surveillance of staff. The Act regulates the use of both overt and covert surveillance and the use and disclosure of the records obtained from surveillance.

### **Listening Devices Act 1984**

When conducting workplace camera surveillance, if the camera is used to record private conversations, the camera surveillance will also be regulated by the Listening Devices Act 1984.

### **Privacy legislation**

Personal information collected by surveillance will be protected by the Privacy and Personal Information Protection Act 1998.

### **Guidelines**

LANSW will operate only overt camera surveillance to observe personal or property security and unlawful activity

#### **Overt camera surveillance:**

Risk Assessment:

LANSW has incorporated recommendations from two independent risk assessments to identify security risks, and determine and implement appropriate controls to eliminate or minimise the risks.

As camera surveillance is considered to be a risk control strategy that is toward the lower end of the hierarchy of risk controls eg an administrative control, LANSW must ensure that, as far as practicable, all other appropriate risk control strategies higher up the hierarchy are put in place to control security risks. The existing *Client Service Strategy* and *Head Office Duress Procedures* provide these strategies.

Employee Notification:

Section 10 of the Workplace Surveillance Act 2005 provides clear direction on the requirements for notifying employees where an employer wishes to undertake overt workplace camera surveillance.

The use of cameras to undertake workplace surveillance will be lawful under the Workplace Surveillance Act 2005 only if all of the following conditions are met:

- ◆ Employees have been notified, in writing, at least 14 days before the cameras are used. New starters must be advised prior to commencing work (Section 10)
- ◆ The cameras are clearly visible to people in the area that is under surveillance (Section 11)
- ◆ Signs notifying people that they may be under camera surveillance are clearly visible at each entrance to the area under surveillance (Section 11).

Notification Exemption Clause:

Section 14 of the Workplace Surveillance Act 2005 allows for an exemption from the employee notification requirements where the surveillance:

- ◆ Is conducted with the agreement of the employee or a body representing a substantial number of employees at the particular workplace e.g. a union or representative body, for a purpose other than surveillance of staff (e.g. security purposes) and
- ◆ Is carried out in accordance with that agreement.

Failure to meet all the requirements for overt surveillance will constitute covert surveillance, which is in breach of the Act in the absence of a covert surveillance authority.

### **General Issues for Overt Camera Surveillance:**

#### **Security related workplace camera surveillance**

Objectives of camera surveillance

In the security context, camera surveillance is generally used to achieve the following objectives:

- ◆ To deter security incidents e.g. theft, vandalism, violence etc.
- ◆ To gather information that may be used in evidence if a crime is committed within view of the camera (assuming the camera is recording)
- ◆ To allow a security incident to be viewed as it is occurring and an appropriate response to be raised.

#### **Monitoring of camera surveillance**

Continuous Monitoring:

In the situations listed above, the camera will only achieve its objectives if it is being continuously monitored or being managed in a way that ensures an appropriate response is activated in the event of a violent incident.

LANSW has adopted a strategy of continuous monitoring via a control panel and will ensure that employees involved in these surveillance activities are appropriately licensed and trained, as required by security industry legislation.

Non Continuous Monitoring:

Where continuous monitoring of CCTV in higher risk areas is not feasible the following strategies, as a minimum, are to be implemented:

- ◆ The CCTV is continuously recorded with archived images stored for up to 7 days.
- ◆ A fixed duress alarm is installed within the vicinity of the CCTV.

- ◆ A physical security response is mobilised where the fixed duress alarm is activated.
- ◆ Protocols advising staff and others of the need to activate the fixed duress alarm in the event of an incident are provided within the Head Office Duress Procedures.
- ◆ Regular review of the effectiveness of the above strategies is undertaken to ensure risk and liability are being appropriately managed in a way that maintains the security of staff and others.

### **Placement of cameras**

Where a security risk assessment results in the decision to use overt camera surveillance in a particular location, effective placement of the camera within this location is critical to the success of a surveillance strategy aimed at controlling security risks.

- ◆ Lighting levels, including shadowing, minimum lux levels, type and height including varying lighting levels in open areas as opposed to under awnings etc and obstructions to fields of view.
- ◆ Pedestrian thoroughfares, including analysis of the amount of pedestrian access throughout each day.
- ◆ The recommended height of equipment above ground to deter potential vandalism (while noting that position height of cameras needs to allow adequate identification of persons).
- ◆ The view from the recommended camera height, taking into account building structures and awnings.
- ◆ Direction of the sun, including sunrise and sunset 'blooming' and the possible effect on the cameras.
- ◆ Whether private premises would come within the view of the cameras.
- ◆ The accessibility of equipment for maintenance purposes including any safety issues for staff undertaking the maintenance.
- ◆ Possibility of accompanying lighting intruding upon the surrounding area.
- ◆ Access to power supply
- ◆ Cabling routes and distances
- ◆ Availability of existing cables and conduits

### **Related procedures**

LANSW should also develop effective procedures for:

- ◆ Ensuring camera surveillance equipment remains appropriately placed, and continues to be pointed in the necessary direction.
- ◆ Maintenance and testing of the equipment - a maintenance log is recommended. Currently procedures ensure duress alarms are tested daily; it will be a requirement that the CCTV system is also tested daily.

- ◆ Undertaking regular risk assessments to ensure that the introduction of camera surveillance has not created new or different security risks e.g. moved potential illegal activity from the area now under surveillance to other surrounding areas, or created expectations in relation to a duress response that may be unrealistic or unable to be met.

### **Use and disclosure of surveillance records**

The Workplace Surveillance Act 2005 (Section 18) requires that any record made as a result of surveillance not be used or disclosed unless the disclosure is:

- ◆ For a legitimate purpose related to the employment of staff or the legitimate business activities of LANSW.
- ◆ To a member or officer of a law enforcement agency (eg Police) for use in connection with the detection, investigation or prosecution of an offence.
- ◆ For a purpose that is directly or indirectly related to the taking of civil or criminal proceedings.
- ◆ Reasonably believed to be necessary to avert an imminent threat of serious violence or of substantial damage to property.

As it is in the public interest to assist law enforcement agencies to pursue their law enforcement and public protection activities, LANSW will assess requests for surveillance records in the absence of a warrant on a case by case basis.

In deciding whether to provide surveillance records LANSW will balance this need with its own obligations of confidentiality to its clients and the sensitive nature of legal information.

Factors that should be considered prior to disclosing surveillance records without a warrant include:

- ◆ The seriousness of the alleged offence.
- ◆ The degree of evidence available that suggests the surveillance record contains information that will assist with law enforcement.
- ◆ Whether significant personal information relating to third parties will be disclosed.
- ◆ How well sign posted the camera surveillance is i.e. will staff and visitors to the area have a reasonable expectation that they will be captured in surveillance records.
- ◆ Any industrial arrangements as the surveillance records may also include footage of staff.

LANSW has developed protocols for determining whether such records should be provided to other parties, and identify who within LANSW has the authority to approve the release of those records.