

METROPOLITAN POLICE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The Chief of the Metropolitan Police Department, pursuant to the section 2(a) of D.C. Act 14-302, the Metropolitan Police Department Video Surveillance Regulations Emergency Act of 2002, effective March 25, 2002, and pursuant to the authority established in Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), hereby gives notice of his intent to adopt a new Chapter 25 of Title 24 of the District of Columbia Municipal Regulations (Public Space and Safety).

The proposed new chapter will provide guidelines for the Metropolitan Police Department's use of closed circuit television cameras. Pursuant to section 2(b) of the Metropolitan Police Department Video Surveillance Regulations Emergency Act of 2002, the proposed rulemaking is being transmitted to the Council of the District of Columbia for a 45-day period of review. Final rulemaking action shall be taken in not less than thirty (30) days from publication of this notice in the *D.C. Register*, or upon approval by the Council by resolution, whichever occurs later. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within the 45-day review period, the proposed rules shall be deemed disapproved.

Title 24 DCMR is amended by adding the following new Chapter 25.

**CHAPTER 25 METROPOLITAN POLICE DEPARTMENT USE OF CLOSED
CIRCUIT TELEVISION**

2500 PURPOSE

- 2500.1 The Metropolitan Police Department (MPD) has employed an internal network of closed circuit televisions (CCTV) within the Synchronized Operations Command Complex (SOCC) that are highly secured and protected against unauthorized access.
- 2500.2 MPD shall comply with all federal and District law applicable to the use of CCTV cameras in public space.

2501 POLICY

- 2501.1 The policy of MPD is to utilize CCTV in its mission to safeguard the District of Columbia.
- 2501.2 The CCTV systems represent a valid use of a government's power to protect its citizens and will be utilized to enhance public safety.
- 2501.3 MPD's CCTV systems are intended to augment its efforts to prevent crime and fear of crime in the District of Columbia.

- 2501.4 The technology will not be used to replace current policing techniques nor utilized where there is a reasonable expectation of privacy.
- 2501.5 MPD is authorized to enter into agreements with public and private entities to access their external video feeds.
- 2501.6 MPD shall only receive CCTV feeds from other agencies, jurisdictions, or entities as authorized by law or regulation.
- 2501.7 MPD shall abide by these regulations if it receives CCTV feeds from another agency, jurisdiction, or entity.

2502 AUTHORIZATION TO RECORD FROM CCTV FEEDS

- 2502.1 Except in exigent circumstances, members of MPD shall receive written authorization from the Chief of Police prior to recording CCTV feeds.
- 2502.2 An official of the rank of Lieutenant or above shall supervise and monitor CCTV activities conducted in the SOCC.
- 2502.3 All recorded CCTV footage shall be maintained and secured by the official in command of the SOCC.
- 2502.4 MPD shall not use audio in conjunction with the CCTV unless appropriate court orders are obtained.

2503 USAGE

- 2503.1 Operators of the CCTV systems shall not target/observe individuals solely because of their race, gender, ethnicity, sexual orientation, disability or other classifications protected by law.
- 2503.2 CCTV systems shall be used to observe locations that are in public view and where there is no reasonable expectation of privacy.
- 2503.3 CCTV will not focus on hand bills, fliers, etc., being distributed or carried pursuant to First Amendment rights.
- 2503.4 Anyone who engages in the unauthorized use or misuse of CCTV systems may be subject to criminal prosecution and/or administrative sanctions, including termination.
- 2503.5 All operators of the CCTV systems shall sign a certification that they have read and understand the CCTV regulations and acknowledge the potential criminal and/or administrative sanctions for unauthorized use or misuse of the CCTV systems.

2504 PROCEDURAL GUIDELINES

- 2504.1 The objectives of the CCTV program are to prevent crime and provide increased security and public safety. Video images are actively monitored for crime detection and observation, evidence of crime or criminal activity, and traffic coordination.
- 2504.2 The CCTV system will not record on a continuous basis. SOCC personnel will enter usage information, including the disposition of any observed incidents, into the running resume of the daily SOCC report.
- 2504.3 When the cameras are recording, the recording must be documented.
- 2504.4 A law enforcement officer will be dispatched when appropriate to any area in which further investigation is warranted.

2505 RETENTION

- 2505.1 Video recordings shall be indexed, stored and maintained for 10 business days after which time they will be recorded over or destroyed. Retention of any recording beyond that time limit must receive written approval by the Chief of Police.
- 2505.2 Approval to retain recordings must be requested in writing to the Chief of Police. Upon written approval, recordings may be retained for training purposes, because the recordings contain evidence of criminal activity, or because the recordings capture an occurrence that may subject MPD to civil liability. Recordings in the latter two categories shall be maintained until final case disposition.
- 2505.3 Requests for retention of recordings must include the purpose, nature of the recording, and length of time for the retention.
- 2505.4 A video catalog shall be maintained by the SOCC to include a description of the recordings as well as when and why the recording began and stopped.

2506 MAINTENANCE

- 2506.1 MPD shall be responsible for the safekeeping, maintenance and servicing of MPD equipment (*i.e.*, cameras, cables, monitors, recorders, etc.)

2507 PUBLIC NOTIFICATION

- 2507.1 Public notice will be given when CCTV systems are deployed in residential and commercial areas, except under exigent circumstances and when the CCTV systems are deployed pursuant to a court order.
- 2507.2 Cameras may be deployed only in those residential and commercial areas experiencing a distinct pattern of crimes being committed on public space where utilization could detect and/or eliminate such crimes.

- 2507.3 Except under exigent circumstances and/or when the CCTV systems are deployed pursuant to a court order, the Chief of Police shall provide public notice of MPD's intention to deploy a camera in a residential or commercial area.
- 2507.4 The public shall have thirty (30) days to submit comments regarding a proposed deployment to the Chief of Police. The public may submit comments to the Chief of Police at any time regarding a particular camera deployment or the CCTV system in general.
- 2507.5 The Chief of Police shall consider the comments submitted by the public in determining whether to go forward with deployment of the camera. The Chief of Police will provide public notice of his decision and provide an explanation.
- 2507.6 In exigent circumstances, the Chief of Police is authorized to deploy cameras in residential or commercial areas without first consulting or soliciting comments from the public. However, after conclusion of the exigent circumstance or when otherwise feasible, the Chief of Police shall provide public notice and consider the comments subsequently submitted by the public in determining whether the camera(s) will remain in place. The Chief of Police will provide public notice of his decision and provide an explanation.
- 2507.7 When cameras are deployed in a residential or commercial area pursuant to a court order, no notification is required.
- 2507.8 MPD will provide public notice regarding the general capabilities of CCTV systems, their general locations, and their use in departmental operations. The precise location of a camera may be disclosed if the Chief of Police determines that disclosure will not undermine the security of the camera and the efficacy of the deployment.
- 2507.9 MPD will post and maintain signage indicating the presence of CCTV systems in the District of Columbia. If utilized in residential or commercial areas, MPD also will post signage indicating the presence of CCTV systems in those areas with the exception of those deployed pursuant to a court order.
- 2507.10 On a semi-annual basis, MPD will provide updates on the CCTV system at community meetings to be announced to the public.
- 2507.11 MPD will provide information surrounding the CCTV system and its usage in its Annual Report. MPD shall not include any information pertaining to cameras deployed pursuant to a court order or deployed as part of an on-going criminal investigation.

2508 AUDITS

2508.1 MPD’s Office of Professional Responsibility will conduct periodic audits, at least quarterly, to ensure compliance with these regulations.

2508.2 The audits conducted pursuant to 2508.1 shall be provided to the Mayor and the Council of the District of Columbia.

2599 DEFINITIONS

2599.1 When used in this chapter, the following words and phrases shall have the meanings ascribed:

Closed-Circuit Television – Any live video link that is electronically received into the SOCC.

Exigent Circumstances – Situations that demand unusual or immediate action. Exigent circumstances shall include undercover investigations.

External Video Feeds – Any video link received in the SOCC on a live basis from outside sources to include other law enforcement agencies, Departments of Transportation, METRO, D.C. Public Schools, etc.

Public notice – Shall at a minimum include, but is not limited to, publication in the D.C. Register, posting on the MPD website, written notice to the relevant ANC Commissioner, and issuance of a press release.

DRAFT

DRAFT

DRAFT

Any person desiring to comment on these proposed rules should submit comments in writing no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Comments should be filed with Terrence D. Ryan, General Counsel, Metropolitan Police Department, Room 4125, 300 Indiana Avenue, N.W., Washington, D.C. 20001. Copies of the proposed rules may be obtained without charge at the same address.

DRAFT

DRAFT

DRAFT