

IN ORDERS



9 June 2006

2006/13

Current national security alert level: Medium

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Overt video surveillance policy

This instruction rescinds In Orders 2006/1, *Overt video surveillance policy*.

1. Scope and application

This policy applies to the use of overt video surveillance by the NSWFB in NSWFB workplaces.

Overt video surveillance is the use of video surveillance in the workplace where:

- employees have been notified in writing at a reasonable period of time before the cameras are used
- the cameras, or camera casings or other equipment that would generally indicate the presence of a camera, are clearly visible to a person in the area which is under surveillance, and
- there are signs which are visible to both employees and visitors which notify them that they may be under surveillance in an area.

Note: Covert video surveillance is not covered by this policy. Covert video surveillance is surveillance that does not meet the above conditions. Under the *Workplace Surveillance Act 2005*, the NSWFB can only use covert video surveillance if:

- it is only for the purpose of establishing whether or not the employee is involved in any unlawful activity while at work, and
- it is authorised by a covert video surveillance authority issued by a magistrate.

2. Consultation

The NSWFB will consult with employees and/or their representatives before installing overt video surveillance equipment.

This consultative process will give individual employees the opportunity to comment on:

- the purposes for the installation of video surveillance equipment
- the nature and capacities of the equipment being installed
- the location of cameras
- the hours in which cameras will be operated
- the circumstances in which video recordings will be used
- the mechanisms for ongoing consultation on the use of video surveillance equipment, and
- how any disputes arising from the use of video surveillance will be settled.

3. Notification

At least 14 days before the use of overt video surveillance, the NSWFB will:

- display written notices and a copy of this policy on noticeboards in the affected workplaces, and
- publish notification in In Orders.

The notification will include:

- the area/s in which the surveillance will be conducted
- the specific purpose of the surveillance, and
- the position responsible for the conduct of the surveillance.

4. Signs

On NSWFB premises where overt video surveillance equipment is installed, the NSWFB will display signs informing employees and members of the public that the area is under video surveillance.

5. Ethical use of overt video surveillance

- 5.1 The NSWFB will not install overt video surveillance cameras in toilets, showers, change rooms or locker rooms in NSWFB workplaces.
- 5.2 Cameras will not be used to zoom in on individuals or pry on a person's activities without cause.
- 5.3 Overt video surveillance will not be used to monitor work performance.

5.4 The NSWFB will not use overt video surveillance to monitor NSWFB employees for evidence of minor misdemeanours.

5.5 However, overt video surveillance recordings may be used as evidence in disciplinary or legal proceedings if:

- the employee who is subject to the complaint has reviewed and given consent to the use of the recordings, or
- an officer conducting a preliminary or formal inquiry under the *Fire Brigades (General) Regulation 2003* or inquiry under the *Public Sector Employment and Management Act 2002* requires a copy of the recording for the purposes of the inquiry, or
- recordings are subpoenaed,

on the condition that a copy of the recording of the incident will be made available to the employee or their authorised representative within fourteen days of the warning, commencement of disciplinary proceedings or legal action.

5.6 In accordance with section 3 above, notifications of overt video surveillance will include the specific purpose of the surveillance. Use for purposes other than the notified purpose or section 5.5 above is unauthorised use.

5.6 Action will be taken against anyone involved in unauthorised use of video surveillance equipment or recordings. Complaints of unauthorised use of video surveillance equipment or recordings should be sent to the Professional Standards and Conduct Officer.

6. Access to video recordings

Employees are entitled to access videos recordings of their actions in the workplace. With the consent of the individual concerned and the approval of the Commissioner, recordings may also be provided to the individual's representative or agent.

The following positions are authorised to access recordings:

- the Commissioner
- Deputy Commissioners
- the Director or Regional Commander responsible for the area under surveillance, and
- the Senior Legal Officer.

Other staff or external parties who need to access recordings may do so on request to one of these authorised positions, subject to the requirements of section 18 of the *Workplace Surveillance Act 2005*, which states that the recordings are not to be used or disclosed unless the use or disclosure is:

- (a) *use or disclosure for a legitimate purpose related to the employment of employees of the employer or the legitimate business activities of functions of the employer, or*
- (b) *disclosure to a member or officer of a law enforcement agency for use in connection with the detection, investigation or prosecution of an offence, or*
- (c) *use or disclosure for a purpose that is directly or indirectly related to the taking of civil or criminal proceedings, or*
- (d) *use or disclosure that is reasonably believed to be necessary to avert an imminent threat of serious violence to persons or of substantial damage to property.*

Internal requests for access to recordings should be submitted to the position responsible for the video surveillance concerned. External requests for access to recordings should be made in writing to the Senior Legal Officer.

7. Security of recordings

Recordings are classified at a minimum as NSWFB-In-Confidence and may have a higher classification. Recordings must be kept secure in accordance with In Orders 2003/26, *Information security policy*.

Before a recording is disclosed to a party external to the NSWFB, that party must give a written undertaking to maintain the security of the information.

Records must be kept of who has accessed recordings and the purpose of the access.

8. Retention of recordings

Recordings will be kept for a period of time specified in the notification in In Orders on that type of surveillance.

After the specified period of time has expired, the recordings will be erased or securely destroyed, unless they have been identified as evidence relating to a disciplinary proceeding or legal action.

9. Issues

Whenever possible, issues relating to overt video surveillance should be resolved directly with the position responsible for the video surveillance concerned or the chain of command above that position.

Staff who are concerned about privacy issues may contact the Privacy Contact Officer, Anne Pickles, on (02) 9265 2971 or anne.pickles@fire.nsw.gov.au for advice. Privacy complaints should be sent to the Professional Standards and Conduct Officer.

Contact Officer: Anne Pickles, Information Coordinator, (02) 9265 2971

File Reference: CHO/05572

Policy and procedure for the use of video recordings collected at incidents

This instruction rescinds In Orders 2006/1, *Operational use of video technology*.

1. Scope and application

In accordance with the *Overt video surveillance policy*, this instruction notifies employees of the operational use of NSWFB video technology at incidents.

This policy is to be read in conjunction with:

- In Orders 2006/13, *Overt video surveillance policy*
- In Orders 2003/26, *Information security policy*
- In Orders 2002/18, *Photographs and videos of dead or injured people*
- In Orders 2004/15, *Operational Debriefs*

2. Purpose

The NSWFB can only use video surveillance and recordings made at incidents for the purposes of:

- incident management;
- risk management;
- live monitoring of safety;
- protecting buildings, vehicles and equipment;
- supporting tactical operations, eg using thermal imaging or USAR search cameras;
- gathering information for use in
 - operational debriefs;
 - training; and
 - post incident analysis by the Fire Investigation and Research Unit; and
- discipline in accordance with the *Overt video surveillance policy*.

3. Deployment

The NSWFB has the capability to deploy:

- masthead cameras mounted on Incident Control Vehicles (ICVs)
- portable cameras, and
- specialised cameras, eg thermal imaging cameras and USAR search cameras.

Video images may be streamed to the ICV, the Major Incident Coordination Centre or other locations for the purpose of incident management.

Signs must be placed on the ICVs warning that video cameras may be in use.

4. Responsibilities

The Incident Controller is responsible for initiating and directing the use of video/camera technology at an incident.

The Incident Controller is to notify all Sector Commanders that video recording is going to take place prior to video recording commencing. Sector Commanders are to ensure that firefighters are notified of the same as soon as possible.

The ICV crew is responsible for adding the tag 'VCAM' to the FireCAD Incident Log to facilitate the retrieval of information related to the incident at which recording has occurred.

At the conclusion of the incident, the ICV Officer is responsible for:

- securing a DVD copy of any recorded vision taken at an incident
- labelling the DVD copy with the name, number and date of the incident
- delivering the DVD under security to the Assistant Director Operational Communications, and
- after confirming the quality of the copied DVD, deleting all recorded vision from surveillance equipment.

5. Security of recordings

5.1 When a recording is forwarded to the Assistant Director Operational Communications for storage, the recording will be kept secure unless accessed in accordance with this policy.

5.2 All recordings are classified at a minimum of NSWFB-in-Confidence and must be kept secure in accordance with In Orders 2003/26, *Information security policy*.

- 5.3 Recordings that include images of dead or injured people must be managed in accordance with In Orders 2002/18, *Photographs and videos of dead or injured people*.
- 5.4 The Assistant Director Operational Communications is required to make the following entries on a central file that is kept with the DVD recordings:
- date recording was taken
 - address of incident
 - FireCAD incident number
 - date access was authorised
 - date recording was returned
 - date recording was disposed of
 - Disposal Authority and Disposal Class authorising the destruction.
- 5.5 All operational video recordings will be securely stored with the Assistant Director Operational Communications for 28 days. Recordings may be retained longer if they are accessed in accordance with this policy.
- 5.6 Following that 28 day period, all recordings will be transferred to secure off-site storage and retained and disposed of in accordance with the NSWFB's Functional Retention and Disposal Authority (FRDA).
- 5.7 During the period of retention specified by the FRDA, the recordings may only be accessed where they are subject to legal proceedings.
- 5.8 In all cases, the FBEU will be notified when an application has been made to access the operational video recordings.

6. Access to recordings

- 6.1 All requests for access to recorded vision must be in writing to the Director State Operations.
- 6.2 The Incident Controller may make application to access and review the footage collected at a particular incident and must do so by completing the form [*Application for access to operational video recordings*](#) which is available on Station Portal.
- 6.3 The application must be authorised by the Incident Controller's Director or Regional Commander before being submitted to the Director State Operations for approval.
- 6.4 The application must state the intended use of the footage before the Director State Operations can approve it.
- 6.5 The applicant must agree not to copy or distribute the provided material.
- 6.6 Whenever a recording is released by the Director State Operations, a copy of this policy will also be provided to the recipient of the recording.

- 6.7 The Incident Controller may, in accordance with this policy, recommend that footage be kept for use at an operational debrief or for use in training material or post incident analysis.
- 6.8 Parties external to the NSWFB will not have access to video recordings unless it is required for the purpose of legal proceedings.

7. Use of recordings in training material

Where the Incident Controller identifies that some of the footage contained on the recording would be useful for future training it may be retained by the Assistant Director Operational Communications subject to the following:

- 7.1 Only the portion that the Incident Controller deems useful will be retained and/or released for the purpose of future training.
- 7.2 The Director State Operations must give approval before the original copy is released to the relevant training section.
- 7.3 Use of a training material which contains video footage must be approved by the Training Review Committee prior to its use.
- 7.4 Where individual firefighters can be identified from the footage intended for use in training material, the agreement of those individuals is required prior to its use.

8. Use of recordings for post incident analysis

Where the Incident Controller identifies that some of the footage contained on the recording would be useful for post incident analysis by the Fire Investigation and Research Unit it may be retained by the Assistant Director Operational Communications subject to the following:

- 8.1 Application must be made to the Director State Operations via the [Application form for access to operational video recordings](#) available on Station Portal.
- 8.2 On approval, the Director State Operations will specify a return date by which the recording will be returned to the Assistant Director Operational Communications for relocation to off site storage.
- 8.3 Where recordings are approved footage will only be viewed by the investigating officer/officers in the Fire Investigation and Research Unit.

9. Use of recordings during operational debriefs

Where an Incident Controller has been given access to recordings the use of the recorded vision during an operational debrief it will be conditional on the following:

- 9.1 The Incident Controller must review all footage and must select those aspects of the footage that are intended for use at the Operational Debrief before showing it to anyone else. Footage selected should be in relation to the following:

- NSWFB operations
 - equipment
 - operational safety
 - building construction and performance, and
 - incident management.
- 9.2 Subject to 9.3, where individual firefighters can be identified from the footage, the Incident Controller will not use that footage at the operational debrief.
- 9.3 Where the Incident Controller wishes to use a piece of footage where a firefighter can be identified during an operational debrief, the identified firefighter will be asked if they consent to the footage being released. If they do not consent then the use of that portion of the footage will not be permitted.
- 9.4 Recordings that contain footage of a sensitive nature will not be permitted for use at any operational debriefs, however may, where required, be used for post incident analysis in accordance with Clause 8 of this policy.
- 9.5 Recordings will not be used at Type 3 debriefs where other agencies are present.
- 9.6 Access to recordings will be authorised once only for use at an operational debrief and must be returned to the Assistant Director Operational Communications within 28 days of the date of recording.
- 9.7 Where an operational debrief has been conducted and the recording is no longer required it must be returned to the Assistant Director Operational Communications as soon as practicable.

Contact Officer: Chief Superintendent Mark Whybro, Assistant Director Operational Communications, (02) 9318 4353

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Commissioner
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