

London Borough of Waltham Forest

Closed Circuit Television Operators Procedural Manual

Preface

This Procedural Manual, in conjunction with the Code of Practice, is intended as far as reasonably practicable, to safeguard the integrity of any CCTV System, whilst ensuring the right to privacy is not breached.

Whilst the content of this document is thought to be accurate at the time of publication, differences and alterations to laws of evidence and procedural matters will inevitably arise. The content of this document is not intended to form a contract. This is a 'Restricted' document; each copy will be numbered and recorded on issue.

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Section 1

Introduction and Administration

I Introduction

A Closed Circuit Television System is a range of equipment and procedures designed to collect and process information. Regardless of the complexity or simplicity of the System, its effectiveness will depend entirely upon the management of that information.

This Procedural Manual should not be read in isolation and is intended to compliment the Code of Practice. It is intended as a reference document by offering procedural guidance and instructions on all aspects of the operation of the System; it is based upon the contents of the Code of Practice.

II Ownership

(See **Section 1 (I)** of the CCTV Code of Practice)-April 2012

III Administration

a. Maintenance

The maintenance of the system in its entirety is the sole responsibility of the appointed maintenance contractor. Section 8 to this manual includes details of action to be taken in the event of service/repairs being required. A log of all requests for service/repairs and subsequent results will be maintained (Appendix F).

b. Time and Date Accuracy

Trained staff on a monthly basis will check the time & date of all equipment and a record of subsequent results will be maintained (Appendix D).The systems time clock is run digitally from the server room in located B15. This is connected to the Rugby clock.

IV Communications

Various forms of direct communications are provided within the CCTV Control Room including (*radio, telephone, fax, & e-mail*).

Radio: CCTV monitoring room exclusive call sign – ‘Waltham Forest CCTV’

Retail Radio- Not on line

Telephone: Extension 5208 (direct dial – 020 8)

Telephone: Extension 6410 (direct dial – 020 8)

Telephone: Extension 7839 (direct dial – 020 8)

Telephone: Extension 8275 (direct dial – 020 8)

Telephone: Extension 5104 (direct dial – 020 8)

E-mail Address: CCTV@walthamforest .gov.uk

Section 2

Human Resources

(See **Section 6** of the CCTV Code of Practice) –April 2012

Section 3

Control and Operation of Cameras

I Guiding Principles

(See **Section 7 (I)** of the CCTV Code of Practice –(April 2016)

II Primary Control

(See **Section 7 (II)** of the CCTV Code of Practice —(April 2016)

III Secondary Control

(See **Section 7 (III)** of the CCTV Code of Practice —(April 2016)

- a. Secondary monitoring/control facilities, in respect to Waltham Forests Council's CCTV system is provided at the following locations:
 - Low Road depot
 - Parking Services
- b. Whenever the control of a camera is requested, one of the CCTV operators at the Control Room will record details of both the request and subsequent usage in the incident log. Recorded details will include the identity of the person making the request, the time and duration of secondary control being exercised, the camera/s concerned and brief details of the purpose. The person originating the request, as soon as secondary control is no longer required will advise the CCTV operator.
- c. Secondary monitoring will not take place as a matter of course, or for prolonged periods of time, without direct reference to the System Manager.
- d. In the event of inappropriate actions being taken by monitoring staff in secondary monitoring sites, staff in the Control Centre should override the control of those cameras and immediately inform their supervisor of the event. The supervisor will then inform the System Manager.

IV Operation of the System by the Police

- a. In the event of authority being granted to the police to assume control of the CCTV System in accordance with Section 7 of the CCTV Code of Practice, the Control Room will continue to be staffed, and equipment operated by, only those personnel who are authorised and trained to do so.
- b. If extreme circumstances are applied in accordance with Section 7 of the CCTV Code of Practice whereby the police take total control of the system, the following will apply:
 - i. The System Manager will be fully briefed and, if possible, will attend the Control Room at the relevant time;
 - ii. The written approval for police control will be retained within the Control Room;
 - iii. A detailed entry will be made in the incident log, which will include:
 - ◆ Full details of all personnel involved;
 - ◆ The names and positions of those granting the application.
 - ◆ All relevant times.
- c. On re-occupation of the room, all systems should be checked to ensure they are in proper working order. An appropriate entry should be made in the Control Room incident log noting relevant times,, status of recording in operation, etc.
- d. Consideration shall be given to the requirements of the Regulation of Investigatory Powers Act, 2000, before control of the system is handed over.

Section 4

Access to and Security of the Control Room (*and / or*) Associated Equipment

I Authorised Access

(See **Section 8 (I)** of the CCTV Code of Practice April 2012)

II Public Access

Public access to the Control Room or will be prohibited except for lawful, proper and sufficient reasons. Visits will not take place as a matter of routine and no visit will comprise more than (*six*) people. Visits will only take place with the approval of the System Manager and with the prior knowledge of the authorised CCTV operator/s on duty at the time. Visitors will always be accompanied by the manager or designated representative, who is not a CCTV operator. Although a visit will only take place in the presence of an authorised operator, they will not be expected to take responsibility for such visits but will record the visit as follows:

- ◆ Time, date and duration of visit
- ◆ Authorised person accompanying the visitor/s
- ◆ Names and status of visitors
- ◆ Purpose of visit
- ◆ Any occurrence, which leads to comment during the course of the visit, will also be the subject of record.

III Authorised Visits

Visits by authorised inspectors and auditors do not fall into the scope of this section and may take place at any time unaccompanied and without prior warning. No more than (*two*) inspectors or auditors will visit at any one time. Inspectors or Auditors will not influence the operation of any part of the system during their visit. The visit will be suspended in the event of it being operationally inconvenient. Any such visit should be recorded in the same way as that described above and every visitor, regardless of status, will be required to sign a declaration of confidentiality. Visits can comprise of only 1 monitor as set out in the Code of Practice.

IV Maintenance Visits

Maintenance visits should, wherever practicable, only be carried out in the presence of an authorised operator or the System Manager.

V Declaration of Confidentiality

(See Section 8 (IV) of the CCTV Code of Practice–(April 2016)

VI Security

(See Section 8 (V) of the CCTV Code of Practice- –(April 2016)

VII Incident Logs

Control Room incident logs will be maintained within the CCTV Control Room by the personnel authorised to operate the equipment. These will indicate all occurrences within the room including all visitors, telephone calls, audits, checks and maintenance visits etc.

VIII Emergency Procedures

- a. If the need arises to evacuate the CCTV monitoring room by virtue of either a security alert or fire alarm; all monitoring station staff will act in accordance with local instructions. CCTV Control Room staff will act in accordance with the guidelines listed at Section 9.
- b. If possible, but without risking the safety of any member of staff, the room should be secured on leaving. Any operations or procedures under way at the time of evacuation should be abandoned.
- c. On returning to the room all systems should be checked to ensure they are in proper working order. An appropriate entry should be made in the incident log noting relevant times and check that all NVRs are functioning.

Section 5

Management of Recorded Material

I Release of Recorded Material

- a. Those individuals with a statutory responsibility to investigate alleged criminal offences may release details of recorded information to the media only in an effort to identify alleged offenders or potential witnesses. The criteria laid down in Appendix C of the Code of Practice will always be followed. Under those circumstances full details of all information which is released, to whom, when and how published must be recorded and made available to the prosecuting authority and the defence.
- b. If material is to be shown to potential witnesses, which includes Police Officers, for the purpose of obtaining identification evidence, it must be shown on an individual basis in accordance with the Police and Criminal Evidence Act, Code of Practice D 2.21a. (Appendix B).
- c. Any request to record specific premises or persons received from a police officer shall be considered under the requirements of the Regulation of Investigatory Powers Act, 2000. All such requests shall be referred to the System Manager.
- d. Requests will from time to time be received from the media for recorded material of a particular occurrence, (usually in respect of criminal proceedings). The criteria laid down in Appendix C of the Code of Practice will be followed meticulously at all times. In addition, if consideration is being given to releasing material to the media, the following should also be taken into account
 - i. Any relevant court proceedings must have been concluded for a minimum of 28 days.
 - ii. There must be no appeal lodged or pending and no associated proceedings pending.
 - iii. Consideration must be given to screening the identity of third parties and innocent parties.
 - iv. The release of the information must be in the public interest having passed the 'disclosure in the public interest test' referred to in the Code of Practice, Appendix C.
 - v. Copyright of all recorded material rests with Ealing Council.

II CDs/DVDS - Provision & Quality

Every CD/DVD used in conjunction with Waltham Forest's Council's CCTV System has the potential of containing material, which has to be admitted in evidence at some point during its life span. It is therefore essential to maintain, and be in a position to prove, an effective audit trail.

- a. Each time a recording is removed from the system, as a DVD/CD the operator should examine the recording briefly to ensure quality.
- b. Only DVD/CDs provided are to be used in any of the CCTV Control Room equipment. Only those CDs provided by the Council are to be used in conjunction with the system. They will not be used for any other purpose, (such as making a copy of a 'foreign' tape containing material recorded elsewhere).
- c. The Council will provide sufficient CDs/DVD to ensure compliance with this CD/DVD handling policy. In the event of additional CD/DVD being required, contact will be made with the System Manager.

III CD/DVDs - Retention

- a. The retention period is controlled by the recording system and can from time to time vary however the period of retain should be no less than 30 days.
- b. The System Manager will be responsible for the destruction of CDs/DVDs at the end of their life

IV CDS/DVDs – Numbering

Each DVD/CD will numbered sequentially and a register detailing that information will kept with in the Control room for audit purposes

V CD/DVD Register

Each CD/DVD will have an individual log sheet, kept in a loose leaf folder which will be retained securely by the CCTV operators, who will be responsible for its accuracy at all times. The sheets will be kept for 3 years after the CDs/ DVDs has been destroyed. (A specimen audit sheet is attached at Appendix F.)
Each CD /DVD created will have a unique reference number which will be stored within a register log kept in the Control Room in a secure cabinet.

VI CD/DVD Storage

A secure cabinet, to which only authorised personnel have access, will be used exclusively for the storage of CD/DVD used in conjunction with this system. The cabinet will be located within the confines of the viewing suite of the Control Room. The CD/DVDs will not be generally accessible but arrangements will be made for access to the CD/DVDs in the event of an emergency.

VII Recording Policy

- a. Subject to the equipment functioning correctly, images from every camera will be recorded throughout every 24-hour period, in 12.5 frames per second onto a DVR recording system.

VIII Evidential Procedures

- a. **ONCE A DVD/CD IS RECOGNISED AS BEING OF EVIDENTIAL VALUE IT MUST NOT BE REPLAYED UNLESS OF ABSOLUTE OPERATIONAL NECESSITY.** Even then the fact that it has been replayed, to whom and for what purpose, must be recorded by the individual responsible for the replay.
- b. Section 72(1) Police and Criminal Evidence Act, 1984 holds that a statement has the same meaning as in part 1 of the Civil Evidence Act, 1968. Section 10 of that Act holds that a 'statement' includes any representation of fact whether made in words or otherwise and specifically includes film, (including microfilm), negative, tape or other device by which visual images may be produced. An evidential *CD/DVD* must therefore be considered as a document within the terms of the Police and Criminal Evidence Act, 1984.
- c. In any court proceedings the evidence of witnesses (including the police, private investigators or other individuals with a statutory responsibility to carry out criminal investigations) must be prepared as if video evidence did not exist and therefore be complete and descriptive. The DVD/CD will be produced as evidence having been exhibited as with any other form of documentary exhibit. At the conclusion of the case the evidential DVD/CD must be resealed and returned to storage where it will be retained in accordance with retention policy, (see below). Under no circumstances will individuals retain evidential CD/DVDs.
- d. In the event of an alleged offender being formally interviewed in connection with an offence, which may have been recorded on DVD/CD, **A separate interview confronting him/her with evidence should take place only after the normal interview is complete.** (This practice rules out any inadmissibility concerning RECORDED evidence put to the defendant affecting the remainder of the interview).

IX Criminal Procedures and Investigations Act, 1996

A résumé of the Criminal Procedures and Investigations Act, as far as it may be applicable to the gathering, recording and retention of evidence by way of CCTV systems, is attached as Appendix C. It is imperative that the provisions of that Act are strictly complied with by CCTV operators at all times.

X Evidential DVD/CDs

- a. In the event of a police officer, or authorised representative of another statutory prosecuting authority, (the 'investigator') requiring *CD/DVDs* for evidential purposes the original *CD/DVDs*, will be removed from storage.

(i) If the original *CD/DVD* is to be handed over to the investigator, the following will apply:

- a. The original (master) evidential *CD/DVD* will be sealed and exhibited. The person to whom the *CD/DVDs* is passed then accepts responsibility for maintaining its integrity, including a provable audit trail from the point of acceptance of the *CD/DVD* to its final return to the CCTV monitoring room. A working copy of the same event will also be produced and issued with the Master.
- b. The *CD/DVDs* register will be endorsed accordingly.
- c. The CCTV operator must complete a *CD/DVD* Release Statement, as attached at Appendix G.
- d. The person to whom the *CD/DVDs* was passed must complete a Witness Statement, as attached at Appendix D.
- e. The person to whom the *CD/DVDs* was passed becomes responsible for treating that *CD/DVDs* in the same way as any other documentary evidence.
- f. If the recorded evidence is required for the preparation of a Court file, (against an alternative form of finalisation such as formal caution, etc.), the 'investigator' should arrange for the master *CD/DVD* to be copied in accordance with local procedures.
- g. Before the *CD/DVDs* can be removed from the Control Room all the paper work must be photocopied. The original statement forms and the copy of the *CD/DVD* log must be sealed in a signed evidence bag with the *CD/DVD*

(ii) If the master *CD/DVDs* is to be retained in the CCTV monitoring room, the following will apply:

- a. The original evidential *CD/DVDs* should be sealed in an evidence bag and stored securely. Both the *CD/DVDs* log and incident log should be annotated accordingly.
- b. If the recorded evidence is required for the preparation of a Court file, (against an alternative form of finalisation such as formal caution, etc.), the 'investigator' should make a request to the monitoring room for the master *CD/DVDs* to be copied.
- c. The manager of the CCTV Control Room will undertake to produce the master *CD/DVDs* in court if required.

XI Preparation and Provision of Copies

In either (i) or (ii) above, the criteria laid down in Appendix C of the Code of Practice – April 2016 will apply, together with the following:

- a. One copy of **the relevant section only** will be made which will be known as the 'prosecution copy'. An identical copy, known as the 'defence copy' will be provided for **each defendant**. The original evidential *CD/DVDs* will be resealed and retained. The master *CD/DVD* should have already been 'exhibited', given a unique exhibit reference, (which usually reflects the initials of the originator and a sequential number). Any copies, which are made, must also be given a unique exhibit reference, which should identify the person making the copy. The seal of the master copy must never be broken unless directions to the contrary are given by a Court.
- b. The defence copy should be handed to a defence solicitor only upon instructions from the Crown Prosecutor, it will not be handed to individual defendants. In the event of a defendant representing him or herself, they will be given the opportunity to view the tape under supervision and advised that the police (*or prosecutor*) will take the responsibility of ensuring the production of the relevant tape/s in Court.
- c. Copies of *CD/DVDs* over and above those outlined above will not be made unless requested by the investigator in writing and in that event a charge may be levied at the current rates.

XII Retention Policy

- a. All *CD/DVDs* and written records, which may be relevant to an investigation, must be retained until a decision is taken whether to institute proceedings against a person for an offence.
- b. If a criminal investigation results in proceedings being initiated, all material, which may be relevant, must be retained at least until the

accused is acquitted or convicted or the prosecutor decides not to proceed with the case.

- c. Where the accused is convicted, the original evidential *CD/DVDs* must be resealed and securely, together with relevant written records, at least until:
 - i. The convicted person is released from custody, or discharged from hospital, in cases where the court imposes a custodial sentence or a hospital order. (If the person is released or discharged within six months, all relevant material will be retained for six months from the date of conviction);
 - ii. Six months from the date of conviction, in all other cases, or
 - iii. An appeal against conviction has been determined;
- d. The above periods are the minimum periods of retention. Alternative directions may be given to retain the material for longer periods by a member of the judiciary, the manager or owner of the system, or a senior police officer.
- e. Under no circumstances will individual investigators retain evidential *CD/DVDs*.

Observed Occurrence/Incidents – Action to be taken

I Live Observation

- a. In the event of an incident being observed by a CCTV operator, contact will be made with the relevant authority *e.g. police etc*, by whichever method is most appropriate to the circumstances, (e.g. radio or telephone).
- b. The (*police / security control room*) operators will respond by resourcing the incident in accordance with their own procedures and will grade the incident accordingly.
- c. Any occurrences which may be defined as a matter for (*e.g. town centre management or anti-graffiti team*) will also be recorded by way of a record sheet and copied to the relevant individual for appropriate follow up action. Urgent matters should be transmitted by (*e.g. telephone or radio*) as appropriate.

II Record of Occurrences

The CCTV operators will maintain a record of all occurrences. The information to be recorded should include anything of note, which may be useful for investigative and evidential purposes or future system assessment and evaluation.

III Disclosure of Evidence Rules

Due consideration must be taken of the obligations placed upon investigators by the Criminal Procedures and Investigations Act. It is good practice to assume that all recordings and all written records made in connection with the CCTV surveillance system will be material obtained '*in the course of a criminal investigation*' which may be relevant to the investigation and therefore will be disclosable to the defence in the event of a prosecution being undertaken. (An example of an incident log sheet may be found at (Appendix E).

Section 7

Fault Reporting Procedure

I CCTV System Equipment Fault

- a. The CCTV operators will be responsible for the reporting of faults which manifest themselves in any equipment housed within the CCTV Control Room or any of the associated equipment located elsewhere, including cameras and secondary monitoring and control equipment. A separate log containing all material relevant to the current maintenance regime e.g. maps, contract details etc will be maintained and secured within the Control Room.
- b. Having identified the fault as accurately as possible, and in relation to the equipment for which the system owner or supplier is responsible, the following action should be taken:

Complete the 'Record of Faults, Maintenance and Service' log on the electronic system located on the main console in the control room.

- i. Report the fault direct to the maintenance/installation contractors nominated fault-reporting line. (The nature of the fault will dictate whether an out of hours call is required). The operator reporting the fault will complete the relevant section of the fault reporting form.
 - ii. On rectification of the fault, and when carrying out routine servicing, the engineer will endorse the relevant section of the form, (an evidential requirement). In the event of a subsequent visit being required all information must be included on the form.
 - iii. The maintenance/installation contractors own form may be left by the attending engineer, whenever a service has been carried out and a CCTV operator may be asked to sign that form for and on behalf of the customer.
 - iv. A photocopy of both forms will be forwarded to the System Manager who, after verification, will forward the form to the system owners.
 - v. The original form will be filed in the CCTV Control Room.
- c. In the event of a fault occurring in any other equipment which is not the responsibility of the maintenance/installation contractors, (e.g. radio, telephone, lighting, etc.) the appropriate authority will be contacted by a CCTV operator, if necessary via the System Manager.
 - d. Machine Room Faults criteria.

The owner of the equipment will attend to any faults within the Machine room under guarantee/ maintenance agreement.

EMERGENCY PROCEDURES

I The Control Room will not be left unmanned, except in circumstances requiring evacuation of the building or when there is a risk of life. Before evacuation, Control Room staff should endeavour to place the cameras on the area of risk, record activities and inform the Bow CCC room. This procedure is to be followed in any unforeseen event that the Control Room should be left unmanned.

II Fire Alarms

In the event of the building Fire Alarm sounding the Control Room staff should advise the Metcall communication room at Hendon of the situation. Control of the system will be transferred to the police and the Control Room will be secured. If the fire alarm is a false alarm or an exercise staff should only return to the Control Room when advised it is safe to do so and resume control of the system.

III Duress Alarms

In the event of a Duress Alarm being activated the Security Guard on duty shall attend, informing the Control Room staff if possible. If the Emergency so warrants it, the Control Room staff should inform the Metcall communication room at Hendon. The Control Room is not to be left unmanned, additional Control Room staff may be required to assist in the Emergency as backup by attending the scene or manning other security posts.

IV Building Alarms

In the event of a Building Alarm being activated the Security Guard on duty shall attend, informing the Control Room staff and transferring the Emergency Phone to the Control Room. If the Emergency so warrants it, the Control Room staff should inform the Metcall communication room at Hendon. The Control Room is not to be left unmanned, additional Control Room staff may be required to assist in the Emergency as backup by attending the scene or manning other security posts.

V Bomb Threats

If the Control Room is the recipient of a Bomb Threat, staff should endeavour to obtain as much information from the source of the call using the guidelines at Annex H. On completion of the call staff should immediately inform one of the following; Control Room supervisor or manager, Incident Officer or Duty Officer out of working hours. Staff should then advise the Metcall communication room at Hendon that they are evacuating the Control Room if there is a requirement to do so. If possible the area of threat should be monitored and a real time recording initiated.

Alarm Monitoring

Intro

The CCTV control room monitors alarms of fire , intruder, burglary across for the Borough for internal Council buildings and secure areas. This is control and administrated through Facilities Management.

These are monitored via a “BOLD” system and also using “Lineload” for roof top management.

List: as below

A full list of the alarms is available via FACILTIES MANAGEMNENT

A full list of roof top entry gates is listed below.

Response

The control room responds to the incoming alarm and posts an acknowledgement on the computer based response system. Some of these alarms need to be ack with in a certain period ie 60 sec. All the reaction info is stored with in the computer system.

Actions on

Once an alarm has been tripped the system will tell the operator what action are to be taken ie – call fire Brigade – operator call 999, Keyholder – this will give the operator a number to call . All actions are documented in the NSI. .

Faults

Any faults that occur over a 24 hour period are to reported to the following number. 1925713224 online Tec support and are actioned immediately and a log is made in the Daily Occurrence book .

Appendix A

Regulation of Investigatory Powers Act, 2000

The Regulation of Investigatory Powers Act, 2000 came into effect in October of that year and introduced a statutory framework for the use of surveillance, both overt and covert, by the Police and other agencies. Section 26 of this Act defines **directed** surveillance as:-

*Subject to subsection (6), surveillance is directed for the purposes of this Part if it is **cover but not intrusive** and is undertaken:-*

- a. for the purposes of a specific investigation or a specific operation;*
- b. in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation);*

and

- c. otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.*

CCTV being used intrusively will be authorised other than by this section of the Act. Appropriate guidelines already exist for intrusive surveillance.

The impact for staff in CCTV monitoring centres (and Police control rooms) is that there might be cause to monitor for some time a person or premises using the cameras. In most cases this will fall into sub-section (c) above, i.e. it will be an immediate response to events or circumstances. In this case the surveillance would not require authorisation under the Act unless it were to continue for some time. "Some time" is defined as hours rather than minutes.

In cases where a pre-planned event or operation wishes to make use of CCTV for such monitoring, an authority will almost certainly be required.

Slow time requests shall be authorised by a Superintendent or above.

If an Authority is required immediately, an Inspector may grant this. The forms in both cases must indicate the reason for the surveillance and should fall within one of the following categories:-

An Authorisation is necessary on grounds falling within this sub-section if it is necessary:-

- a. *in the interests of national security;*
 - b. *for the purpose of preventing or detecting crime or of preventing disorder;*
 - c. *in the interests of the economic well-being of the United Kingdom;*
 - d. *in the interests of public safety;*
 - e. *for the purpose of protecting public health;*
 - f. *for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;*
- or;
- g. *for any purpose (not falling within paragraphs (a) to (f) which is specified for the purposes of this sub-section by an order made by the Secretary of State.*

In cases where there is doubt as to whether an Authorisation is required or not it may be prudent to obtain the necessary authority verbally and then in writing by way of the forms. Any Authority given should be recorded appropriately for later reference. This should include the name of the authorising officer.

Forms should be available at each CCTV monitoring centre.

Some examples of the application of the Act are:-

1. Where a car known to belong to drug dealers is found in a car park late at night by a patrolling police officer, the officer might task CCTV to watch the vehicle of a period of time to note who goes to and from the vehicle. This would require **Inspector** Authorisation.
2. Where crime squad officers wish to have shop premises suspected of being used for dealing in stolen goods monitored from the outside over a period of days. This would require **Superintendent** Authorisation.
3. Where officers have come across a local drug dealer sitting in the town centre and wish to have a camera monitor them so as not to divulge the observation taking place. This would **not** normally require Authorisation.

Appendix B

Extracts from the Police and Criminal Evidence Act, 1984

Section 78(1) PACE states:

"In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it".

Codes of Practice: April 1995

Code D 2.21A states:

"Nothing in this code inhibits an investigating officer from showing a video film or photograph of an incident to the public at large through the national or local media, or to police officers, for the purpose of **recognition** and tracing suspects.

However when such material is shown to a potential witness, (including police officers) for the purpose of obtaining **identification** evidence, it shall be shown on an individual basis to avoid any possibility of collusion, and the showing shall, as far as possible, follow the principles for video film identification or identification by photographs".

Code D 2.10 states:

"The identification officer may show a witness a video film of a suspect if the investigating officer considers, whether because of the refusal of the suspect to take part in an identification parade or group identification or other reasons, that this would, in the circumstances be the most satisfactory course of action".

Code 2.18 states:

"A witness must not be shown photographs, photo-fit, identikit or similar pictures if the suspect is known to the police and he is available to stand on an identification parade. If the identity of the suspect is not known, the showing of the pictures to a witness must be done in accordance with annex D".

Note: These extracts are for guidance only. To avoid the likelihood of a court considering the provisions of Section 78(1) PACE the full most recently published Codes of Practice must be referred to.

Appendix C

The Criminal Procedures and Investigations Act 1996

The Criminal Procedures and Investigations Act 1996 (CPI) came into effect on 1 April 1997 and introduced a statutory framework for the disclosure to defendants of material which the prosecution would not intend to use in the presentation of its own case, (known as unused material).

Previously there had been no statute governing the disclosure of unused material, only common law rulings. During the years leading up to the CPI it may have been argued that those 'common law' rules had become unwieldy and almost unworkable. It was recommended in 1993 that a new Act of Parliament supported by a Code of Practice was required to standardise the procedures and to address the need for a balance of the exchange of information between the defence and the prosecution agencies.

There had been 'rules of disclosure' for some time, in terms of the recording of evidence by way of video equipment, it is thought that the CPI may necessitate minimal alterations to previously existing practice. However the Act introduced some fundamental changes which have an impact upon how investigating officers gather and deal with potential evidence which, in turn, will almost certainly have an impact on CCTV operations - both in the public and the private sector.

The three key words are; **RECORD, RETAIN, REVEAL**, the first two of which may well be relevant to the way in which CCTV operatives deal with their evidence handling procedures.

RECORD

When and how should material be recorded?

"Information should be recorded at the time it is obtained or as soon as practicable after that. Material should be recorded in a durable or retrievable form"

RETAIN

What material should be retained?

*"All **material**, including information (which would include that recorded by way Hard Drive media) and objects, which is **obtained in the course of a criminal investigation** and which **may be relevant to the investigation**".*

What is the test for relevance?

*"Material **may be relevant to the investigation** if it appears to have some bearing on any offence under investigation or any person being investigated, or to the*

surrounding circumstances of the case **unless it is incapable of having any impact on the case**".

REVEAL

Responsibility for the revelation of material rests with the disclosure officer, who may also be the investigating officer, but should not normally be the responsibility of CCTV operators.

The test for disclosure

*"... any prosecution material which has not previously been disclosed to the accused and which in the prosecutors opinion **might undermine the case for the prosecution against the accused**".*

DEFINITIONS

Whilst this Act specifically refers to criminal investigations being carried out by police officers, it also states that **'Persons other than police officers who are charged with the duty of conducting an investigation are to have regard to the relevant provisions of the code, and should take these into account in applying their own operating procedures'**.

An investigator is defined under this Act as: *'Any police officer involved in the conduct of a criminal investigation'*. The definition continues by stipulating that; *'All investigators have a responsibility for carrying out the duties imposed on them under this code, **including in particular recording information, and retaining records of information and other material**'*.

Material may be **'relevant to the investigation** if it appears to an investigator that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case'. **(The high possibility of the relevance of material not being realised until the conclusion of a case must not be forgotten).**

RESPONSIBILITIES

In conducting an investigation, the investigator should pursue all reasonable lines of enquiry, whether these point towards or away from the suspect. What is reasonable in each case will depend on the particular circumstances.

There is now an onus upon the investigator to ensure that **all** potential evidence is retained. If he/she believes that other persons are in possession of material which may be relevant to the investigation, that other person must be contacted and invited to retain the material in case a request is received for disclosure.

In view of the statutory requirement to **record** information at the time it is obtained or as soon as practicable afterwards in a durable and retrievable form, CCTV operators are likely to find themselves being required to make more written records and to submit written

statements more frequently than has been practised in the past. This is especially relevant when descriptions of people, vehicles and events are being recorded or monitored. Initial reports are now extremely important and should be carefully recorded - they are very likely to become discloseable. An investigation begins at the moment of instigation, even though the actual crime may not be reported for several days. If an 'area search' were to be generated by the circulation of a description resulting in the CCTV operator making a negative search of the area, the details of that search, including details of which streets, etc must be recorded.

DISCLOSURE PROCESS

The mechanics of the disclosure of unused material will rest with the disclosure officer, but there is a need for CCTV operators to have an awareness of the process:

Primary Prosecution Disclosure The disclosure officer must reveal any prosecution material which has not previously been disclosed to the accused and which, in the opinion of the prosecutor, might undermine the case for the prosecution against the accused.

Defence Disclosure The defence **must** provide a defence statement in all cases which are to be dealt with by the **Crown Court**, and **may** do so in cases which are to be dealt with at **Magistrates Court**.

Secondary Prosecution Disclosure Once a defence statement has been received, the secondary prosecution disclosure must take place as soon as reasonably practicable. At this stage the prosecution must disclose any prosecution material which has not previously been disclosed, and which might reasonably be expected to assist the defence of the accused as disclosed by the defence statement.

It will be recognised from this process that there are effectively two stages at which requests for a search of video recorded evidence may be made; at any point during the initial investigation up to the point of primary disclosure, and secondly immediately after the provision of a defence statement. It is not possible to foresee the length of an investigation, neither is it possible to dictate the length of time that a video recording should be kept pending the possibility of a requirement being made for further video searches subsequent to the provision of a defence statement. However, if a statutory requirement is placed upon the three stages referred to, it may be anticipated that the policy of retention contained within the CCTV Code of Practice will need to be reviewed.