

## If You are Recorded by a Video Camera

This fact sheet is intended for the *data subject*, i.e. the individual whose personal data is being used.

THIS FACT SHEET WILL ANSWER THE FOLLOWING QUESTIONS:

Cameras in shops

Cameras in the workplace

Cameras in and around the home

Cameras and the government

Which rights do you have?

What should you do if you would like to know more or have a complaint?

Video cameras are increasingly being used for security and surveillance purposes. Perhaps your housing corporation is planning to install cameras in the block of flats where you live. Or perhaps your neighbour has installed a webcam near his front door. In many cases, the use of cameras is permitted, but anyone installing a camera must comply with a number of conditions. This fact sheet will discuss four situations in which video camera surveillance is often used and explain your rights in these situations.

### Cameras in shops

Suppose you decide to spend the day shopping. You go into a shop and see a number of video cameras, some of them even in the changing rooms. You wonder whether this is allowed.

Shop owners are only permitted to install video cameras where this is necessary for the protection of their goods, customers and staff. This usually means that cameras are installed at the entrance to the shop, near shelves and at the cash desk. It is also normal for the owners of petrol stations to film you and their staff during opening hours in order to prevent hold-ups and to be able to use the images made as evidence later on. The important point is that it must be clear to everyone, before or when entering a shop, that video cameras have been installed. Shopkeepers might do this by displaying boards or stickers informing customers that video camera surveillance is used. Shopkeepers that fail to do this will be liable to punishment.

As a rule, the use of hidden cameras is not permitted. However, exceptions will apply where a high level of theft is experienced in a shop. Shopkeepers will only be permitted to use hidden cameras if they are unable to put a stop to the thefts occurring in their premises despite numerous other efforts on their part. Added to this, their use of hidden cameras must be temporary and infringe as little as possible on customers' privacy.

You are entitled to expect the protection of your privacy when using changing rooms. Given this requirement, the use of cameras in changing rooms would be considered unacceptable.

### Cameras in the workplace

Video cameras may be installed where necessary to protect a company or organisation's legitimate interest. A legitimate interest could be protection against theft or damage. This usually means cameras are installed at the entrance, in the warehouse or in the workshop, for example. The important point is that it must be clear to everyone, before or when entering the workplace, that video cameras have been installed. Employers that fail to do so will be liable to punishment. Your employer could notify you that video camera surveillance is being used by means of boards or stickers to this effect.

As a rule, the use of hidden cameras is not permitted. However, where a high level of theft is being experienced within the organisation and your employer has a well-founded suspicion that one of his employees is committing an offence, he will be able to use a hidden camera. Your employer will only be permitted to do this if he is unable to put a stop to the thefts occurring in his premises despite numerous other efforts on his part. Added to this, his use of hidden cameras must be temporary and infringe as little as possible on his employees' privacy. You are entitled to expect the protection of your privacy when using staff toilet facilities. Given this requirement, the use of camera surveillance in staff toilets would be considered unacceptable. Where an organisation has a works council, the employer must obtain its consent before using (hidden) video camera surveillance. Where an organisation does not have a works council, the contracts of employment issued to employees could contain a clause providing for the temporary use of (hidden) video camera surveillance in special circumstances, for example. In any event, your employer would then be required to inform you of the use that might be made of camera systems. For further information on this subject, please see the brochure entitled *Privacy: Checklist voor de Ondernemingsraad* [Privacy: Checklist for the Works Council], and the fact sheet entitled *Cameras in the Workplace* [Camera's op de werkplek].

### **Cameras in and around homes**

Perhaps you are living in a block of flats in which the housing corporation has decided to install a video camera near the entrance in the interests of safety. However, you are wondering how your privacy and the privacy of people visiting you will be safeguarded. Video camera surveillance may serve the legitimate interest of protecting property and the residents living in the block of flats in question. As such, the housing corporation will be permitted to install a camera in order to protect a home or a block of flats. However, since the housing corporation is not responsible for monitoring the street, this is where video camera surveillance must stop. The front doors and windows to people's homes form another boundary. The presence of a video camera must be brought to the attention of individual users of the building in question by means of a board or sticker.

Where you suspect that a neighbour is stalking you with a video camera or webcam, you can confront him on this problem. In this situation, where images are being recorded for private purposes, the *Wet bescherming persoonsgegevens* (WBP) [Dutch Data Protection Act], the implementation of which is supervised by the Dutch Data Protection Authority (Dutch DPA) [College bescherming persoonsgegevens (CBP)], will not apply. Since this is the case, you will be able to request the mediation of a community police officer if you find you are unable to resolve the situation with your neighbour. You could also opt to report this matter to the police or engage a lawyer to act on your behalf in court.

### **Cameras and the government**

Video cameras are installed in the centre of the municipality in which you live and near the through road outside your house. You wonder whether this is allowed. The government, i.e. municipalities and the police, are permitted to use video camera surveillance on public roads, such as those in nightspots, roads and squares, where this is necessary for the proper performance of public law duties. As such, video cameras may be used to maintain public order, for road safety and for the investigation of criminal offences. However, the government may only do this where other measures have failed to reduce the level of crime in the centre of your municipality, for example. Video camera surveillance must be used in conjunction with other measures, such as street lighting and manned surveillance. Pursuant to the *Wetboek van Strafrecht* [Penal Code], the government is obliged to disclose all camera surveillance. Further rules and regulations have been formulated in the Dutch DPA publication entitled *Camera's in het publieke domein. Privacynormen voor het cameratoezicht op de openbare orde* [Cameras in the Public Domain. Privacy Norms Applicable for the Monitoring of Public Order by Means of Camera Surveillance]. For more information on the use of your data by the police, see the fact sheet entitled *Uw gegevens bij de politie* [Your Data Held by the Police].

### **Your rights**

Pursuant to the WBP, you are entitled to request information on your personal data from the data controller and you are also entitled to the access to, and the supplementation, correction, removal or blocking of, said data. You are also entitled to lodge an objection to the use of your data. In addition to the above, you are also able to request that the police allow you access to correct, supplement, remove or block your data. If

you choose to exercise your rights and a government body refuses to comply, you are entitled to lodge an objection or appeal. Government bodies are obliged to inform you of the above. You may request that the Dutch DPA mediate for you. For more information, see the fact sheet entitled *Mediation by the Dutch DPA in Respect of Your Data* [Bemiddeling door het CBp inzake uw gegevens]. For information on your rights, see the fact sheet entitled *Data Subjects and their Rights* [Rechten van de betrokkene].

**If you have any questions or complaints**

Your first course of action must always be to approach the organisation itself with any questions or complaints you may have. If you believe that your personal data have been used wrongfully and the data controller fails to respond to your complaints, or fails to respond to your satisfaction, refer to the fact sheet *Your Complaint and the Dutch DPA* [Uw klacht en het CBP] for information on the subsequent action open to you. All Dutch DPA publications on video camera surveillance can be found in the theme file *Cameratoezicht* [Camera Surveillance].