



COMMISSION ON HUMAN RIGHTS
REPUBLIC OF THE PHILIPPINES

**POSITION PAPER ON
THE INSTALLATION OF CLOSED-CIRCUIT TELEVISION (CCTV) IN
JAILS, PRISONS AND PNP CUSTODIAL FACILITIES**

The connection between public Closed-Circuit Television (CCTV) and the privacy rights of an individual is a complex and contentious issue. In the context of the places of deprivation of liberty including prisons, jails and PNP custodial facilities, public CCTV systems can play a crucial role in the safety and security of persons deprived of liberty (PDLs) and the personnel of the facilities. It can also help in the prevention of crime and help facilitate investigations. However, CCTV cameras may also pose threat to PDLs' rights including their right to privacy.

Thus, the Commission on Human Rights of the Philippines (the 'Commission'), as the country's national human rights institution and in the exercise of its constitutional mandate to recommend to Congress effective measures to promote and protect human rights, submits its position paper on **Senate Bill No. 2031, "AN ACT ESTABLISHING SECURITY MONITORING SYSTEMS INSIDE PRISON CELLS IN THE PHILIPPINES AND APPROPRIATING FUNDS THEREFOR"** filed by Senator Raffy T. Tulfo.

The Commission recognizes the significant purpose for the proposed legislation which is to enhance the safety of both the PDLs and personnel of prison, jails and PNP custodial facilities. Indeed, among the principles to be observed in prison facilities is the safety of the PDLs, personnel, service providers and visitors. Rule 1 of the Mandela Rules or the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. **No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment**, for which no circumstance whatsoever may be invoked as a justification. **The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.** (Boldfacing supplied)

The installation of CCTVs will also enhance the safety of PDLs and help prevent torture and other cruel degrading treatment in the places of deprivation of liberty consistent to the Convention Against Torture. The CCTVs can monitor common areas, including its perimeter and ingress and egress where crimes, abuses, torture and other cruel, inhuman, and degrading treatment may be committed. It can help deter criminal activity and provide valuable evidence in cases where abuses or crimes are committed. However, the use of the CCTVs, if left unregulated, however, may cause interference to the right to privacy especially of the PDLs, and personnel.

The right to privacy is a fundamental human right protected by various international agreements like the International Covenant on Civil and Political Rights (ICCPR),¹ as well as the Philippine Constitution.² In both, the right of every person to be protected against **arbitrary or unlawful interference** with his privacy was mentioned. The Universal Declaration of Human Rights (UDHR) declares that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence” and that “everyone has the right to the protection of the law against such interference or attacks.”³ The ASEAN Human Rights Declaration likewise echoes the right to privacy.⁴

The Supreme Court in the case of *Hing v. Coachuy*, (G.R. No. 179736, June 26, 2013) defined the right to privacy as “the right to be free from unwarranted exploitation of one’s person or from intrusion into one’s private activities in such a way as to cause humiliation to a person’s ordinary sensibilities.” It is the right of an individual “to be free from unwarranted publicity, or to live without unwarranted interference by the public in matters in which the public is not necessarily concerned.” Simply put, the right to privacy is “the right to be let alone.”⁵

As it is a basic fundamental right, there is a need to strike a balance between the utilization of CCTVs to enhance safety of PDLs and personnel and the protection of the individual’s right to privacy. The Human Rights Committee,⁶ (herein referred to as Committee) requires that when interference to privacy is necessary, it must be embodied in a law. The requirement of a law is emphasized by the Committee in its General Comment No. 16 to the ICCPR. Paragraphs 3 thereof states:

3. Interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant. (Boldfacing supplied.)

In 2012, the Data Privacy Act (R.A. No. 10173) was signed into law. It aims to implement the country’s policy of protecting the fundamental human right of privacy. The law also created the National Privacy Commission tasked to implement the law and the country’s compliance with international standards set for data protection. Among its functions is to publish on a regular basis a guide to all laws relating to data protection.⁷

Apart from the requirement of a law, there must be a reasonable purpose. Paragraph 4 of General Comment 16 to the ICCPR highlights this point.

4. In the Committee’s view, the expression “arbitrary interference” can also extend to interference provided for under the law. **The introduction of the concept of arbitrariness is intended to**

¹ Article 17, International Covenant on Civil and Political Rights (ICCPR)

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

² Article III, Sections (2) and (3), 1987 Constitution

³ UDHR, Article 12 states: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

⁴ The ASEAN Human Rights Declaration echoes the right to privacy. No. 21 of the declaration states:

21. Every person has the right to be free from arbitrary interference with his or her privacy, family, home or correspondence including personal data, or to attacks upon that person’s honour and reputation. Every person has the right to the protection of the law against such interference or attacks

⁵ (Citing, *Social Justice Society (SJS) v. Dangerous Drugs Board*, G.R. Nos. 157870, 158633 & 161658, November 3, 2008; Tolentino, Arturo M., *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1990 Edition, Volume I, p. 108; and *Ople v. Torres*, 354 Phil. 948, 970 (1998))

⁶ UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, available at: <https://www.refworld.org/docid/453883f922.html> last accessed on 11 September 2023.

⁷ Section 7 (g), Data Privacy Act.

guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. (Underscoring and boldfacing supplied.)

On November 16, 2020, the National Privacy Commission issued NPC Advisory No. 2020-04⁸ (herein referred to as Advisory) which provides guidelines on the use of CCTVs specifically on the processing of personal data in CCTV systems which include the “collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.”⁹ The guidelines are used to look into to the proposed legislation. The Advisory specifically provided that the purpose/s for personal data processing using such CCTV system must be clearly determined. It went on specifying these purpose/s as follows:

- a. Compliance with a law or regulation, where the same guarantees the protection of personal data;
- b. Security of properties and protection of vitally important interests of individuals;
- c. Ensure public order and safety; and
- d. Other legitimate interests.¹⁰

Obtaining videos through CCTVs installed inside places of deprivation of liberty such as jails and prison facilities are relevant and necessary for securing the protection of all PDLs, to protect them from torture and other cruel, inhumane and degrading treatment, as well as other crimes committed within the confines of these facilities. The jail or prison facilities are also protected from arbitrary claims of abuse and violations of rights of PDLs, thus ensuring public order and safety.

Legitimate purpose

Consistent with General Comment No. 16 to the ICCPR, it is essential to establish a clear purpose/s for processing personal data through the system before the setting up CCTVs. Section 5 of the bill states the purposes of the installation of the CCTVs as follows: (1) crime prevention; (2) surveillance which is essentially monitoring by management of the Philippine National Police (PNP) , Bureau of Jail Management and Penology (BJMP) and Bureau of Corrections (BuCor) of the facility area, the PDLs, wardens, and visitors to ensure safety and security of all individuals and the protection of the properties within the facility; (3) operations monitoring of the general administrative conduct of the officers and wardens to ensure they are compliant with the rules, regulations and protocols mandated by law, and (4) documentation for institutional purposes.¹¹

⁸ Guidelines on the Use of Closed-Circuit Television (CCTV) Systems

⁹ Section 4 (i), NPC Advisory No. 2020-04

¹⁰ Section 4(A) *ibid*

¹¹ Sec. 5. Purposes of CCTV installation - The installation of CCTV Systems shall have the following functions:

a) Crime Prevention. — The CCTV shall function as a tool of law enforcement and crime prevention by way of effective monitoring of common areas and ingress and egress in incarceration facilities;

b) Surveillance. — The CCTV systems shall function as a surveillance tool that will allow the management of the PNP, BJMP, and BuCor in the said incarceration facility to monitor the area, the detainees, prisoners, wardens, and visitors, and ensure the safety and security of all individuals and the protection of the properties within the facility.

c) Operations Monitoring. — The CCTV shall function as a tool to monitor the general administrative conduct of the officers and wardens in the incarceration facility, to make sure they are compliant with the rules, regulations and protocols mandated by law.

d) Documentation for Institutional Purposes. — The CCTV Systems shall function as a tool to monitor the progress or development of data; or the sequences of events in a facility or institution. The data to be collected shall be relevant, adequate and not excessive for the purposes for which they are obtained.

However, in place of the words “surveillance” and “detainees” and “prisoners” in Section 5 (b), the terms “monitoring” and “persons deprived of liberty” respectively is recommended to be used instead. Likewise, the warden may be deleted in the enumeration since the warden is already mentioned in another section.¹² Section 5 (b) may state:

“b) Monitoring of Facility, PDLs and Visitors - The CCTV systems shall function as a tool that will allow the management of the places of deprivation of liberty to monitor the area, the PDLs and visitors to ensure the safety and security of all individuals and the protection of the properties within the facility;”

Proportionality

The installation and operation of CCTV systems and the nature and kind thereof must be necessary for its legitimate purpose/s and collection and further processing of personal data from CCTV systems should only be to the extent necessary to fulfill the legitimate purpose/s. In the context of detention facilities, the use CCTV can compensate the limited number of personnel. They are necessary for closer monitoring of the facility including the movements of PDLs, personnel and visitors to ensure safety of all, prevent crimes inside the facilities by monitoring activities that might lead to the commission of an offense, monitoring of personnel to ensure they are properly performing their tasks; and for documentation of data that are necessary and relevant.

Transparency

There must be notice on the use of CCTVs which are readily visible and prominent within their premises. The notice shall provide information that there is a CCTV system in operation in clear, plain, and concise language. We note that Section 6 (b) of the proposed measure requires that “appropriate signs that are visible, and distinctive shall inform everyone of the existence of CCTV Systems”. Further, there is prohibition in Section 7 (b) of installation of CCTV without notice.

Location and Placement

The location and angles of the cameras must be carefully considered to comply with the Data Privacy Act and that CCTVs shall only be used to monitor the intended spaces. CCTVs cannot be installed in areas where there is a heightened expectation of privacy. Section 4 of the bill identified the spaces to be monitored which are the “common areas inside the facility, at the entry and exit points, inside the investigation area and the perimeters”. Moreover, Section 7 (a) prohibits the use of CCTVs “in any restroom, toilet, bathroom, changing room, strip search area, and other similar areas utilized for private activities”.

Quality and Integrity of Data

CCTV systems shall record images that are of suitable quality to meet the purposes for which it was installed or intended. Reasonable and appropriate safeguards shall be adopted “to ensure and maintain the integrity and accuracy of the footage recorded and stored, including any associated meta data (i.e. time, date, and location), and to facilitate access requests for CCTV footage.”¹³

¹² Sec. 5 (c), *ibid*

¹³ Sec 4 (f) NPC Advisory No. 2020-04

To ensure that the images is of suitable quality for the purposes of monitoring, the proposed measures may indicate minimum specifications of the CCTVs that will be used in the facilities. Likewise, to protect the integrity the images or videos recorded, they shall be stored in a secure place where confidentiality and integrity are maintained as mentioned in the NPC advisory. The first sentences of Section 8 may be amended to state:

“Sec. 8. Access and Disclosure of Recordings. – Only authorized persons shall have access to CCTV System’s images and recordings which must be stored in a secure place. Viewing of the images and recordings shall take place in a restricted area or in private conditions. All access allowed or granted under the circumstances must be documented and for limited or prescribed circumstances. The use, viewing, copying or disclosure of images and recordings performed in accordance with this Act shall be allowed in the following instances only:”

The Commission supports the proposed installation of CCTV as a measure to ensure the safety of all persons inside the places of deprivation of liberty. In addition, the Commission maintains the following recommendations offered for the consideration of our honorable legislators:

1. In place of the words “surveillance” and “detainees” and “prisoners” in Section 5 (b), the terms “monitoring” and “persons deprived of liberty” respectively may be used. The word “warden” may be deleted in the enumeration since warden is already part of the operations in Section 5 (c). Further, specific enumeration of the PNP, BJMP and Bucor may be liking which may not cover other places of deprivation of liberty. Section 5 (b) may state:

“b) Monitoring of Facility, PDLs and Visitors - The CCTV systems shall function as a tool that will allow the management of the places of deprivation of liberty to monitor the area, the PDLs and visitors to ensure the safety and security of all individuals and the protection of the properties within the facility”;

2. The first sentences of Section 8 may be amended to state:

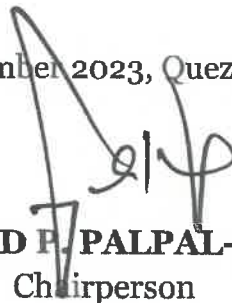
“Sec. 8. Access and Disclosure of Recordings. – Only authorized persons shall have access to CCTV System’s images and recordings which must be stored in a secure place. Viewing of the images and recordings shall take place in a restricted area or in private conditions. All access allowed or granted under the circumstances must be documented and for limited or prescribed circumstances. The use, viewing, copying or disclosure of images and recordings performed in accordance with this Act shall be allowed in the following instances only:”

3. The proposed measure may also indicate the minimum specifications of the CCTVs that will be used in the facilities to ensure that the images are of suitable quality;

- a. Municipal, city, and district jails;
- b. Provincial and sub-provincial jails;
- c. "Lock-up" cells and detention centers;
- d. National penitentiaries (Correctional facilities/Penal Colonies);
- e. Military detention facilities (military forts and camps and other facilities under military jurisdiction);
- f. Child-caring facilities (Bahay Pag-Asa, Regional Rehabilitation Center for the Youth (RRCY), and similar facilities)
- g. Hospitals and clinics;
- h. Social care institutions;
- i. Mental health facilities, including drug rehabilitation centers;
- j. Barangay holding centers;
- k. Immigration detention centers;
- l. International ports and airports detention centers;
- m. Makeshift places of deprivation of liberty where persons confined thereat are not permitted to leave at will; and,
- n. Other places of deprivation of liberty, or high-risk areas of torture and/or cruel, inhuman, or degrading treatment

5. It is recommended that the Commission on Human Rights be given unhampered access to CCTV footage in the exercise of its mandate to investigate incidents of human rights violations that may have been committed against private individuals and persons deprived of liberty.

Issued this 14th day of September 2023, Quezon City, Philippines.



RICHARD P. PALPAL-LATOC
Chairperson



BEDA A. EPRES
Commissioner



FAYDAH M. DUMARPA
Commissioner



Justice MONINA A. ZENAROSA (ret.)
Commissioner