

	Territorial Policing Crime Operations Strategic Committee  <b>Reference Number:</b>  CR173/04/1
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<b>Title and version</b>	Draft – Use of Overt filming
<b>Purpose</b>	Review existing MPS Notices Use of Overt filming to ensure fit for purpose.
<b>Relevant to</b>	All MPS personnel
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Territorial Policing Crime Operations Strategic Committee

CR173/04/1

## **Draft Standard Operating Procedures for: Use of Overt Filming/Photography**

### **Introduction**

The purpose of these Standard Operating Procedures (SOPs) is:

- To ensure all Metropolitan Police Service personnel can make use of this valuable tool to prevent offences, reduce the fear of crime and reassure the public, gather evidence and intelligence, and identify offenders, whilst maintaining the support of the community.

## **Application**

This SOP applies to police officers and police staff, including the extended police family and those working voluntarily or under contract to the Metropolitan Police Authority must be aware of, and are required to comply with all relevant Metropolitan Police Service (MPS) policy and associated procedures.

However this SOP applies in particular to:

- Borough Commanders
- Superintendents responsible for authorising Overt Filming
- Borough Crime Managers
- Officers involved in policing disorder
- Officers involved in the investigation of crime
- Front line personnel, especially Overt Video units and proactive units targeting volume crime
- Safer Neighbourhood units
- Borough Intelligence Units
- Crime Justice Units (CJU)
- Photographic services
- Borough Trainers

**This list is not exhaustive**

## **SOP Details – Standard Operating Procedures**

Overt filming, which also includes taking still photography, is a particularly useful tactic to combat crime and gather intelligence and evidence relating to:

- Street crime
- Anti-social behaviour
- Public order
- Scenes of major crime
- Recording police tactics

**Use of Overt filming MAY be used for the following photographic tasks:**

To record identifiable details of subjects suspected of being involved in crime or anti-social behaviour, such as:

- Facial features,
- Visible tattoos,
- Jewellery
- Clothing
- Associates

### **Reporting incidents of crime**

If an offence is filmed then reasonable steps should be taken to ensure that the crime is recorded in compliance with the National Crime Recording Standard.

## **Overt Deployment of Cameras**

To demonstrate to the public that cameras are deployed overtly officers should clearly identify themselves as police officers or police staff and not hide the fact that they are filming. This can be achieved by:

- Use of uniformed officers
- Use of marked vehicles
- Displaying MPS identification if in plain clothes
- Using "Overt Video Unit" signs on vehicles

## **Legal Issues relating to Overt Filming**

There is no specific statutory law or common law power relating to the overt filming/photography of members of the public. It is MPS policy to enable police officers/staff to use overt filming or photography in the effort to combat crime provided that it is done in accordance with this SOP.

Overt filming should only take place where appropriate and for combating a specific event or problem in the community (anti-social behaviour for example). Oppressive behaviour by police could lead to criminal and civil claims brought against police as a result.

- There is no power to stop a person merely to record their image.
- Where an officer has exercised a legitimate power to stop and search a person, no attempt should be made to physically force co-operation for

the purpose of video recording or photographing them, as this may amount to an assault.

- A person can be called to attract their attention in order to film them
- The Harassment Act 1997 may be contravened unless the purpose of filming is preventing or detecting crime and that in the particular circumstances, the pursuit of the course of conduct, was reasonable.
- Police Officers need to be aware that evidential material can be excluded at court if it would have an adverse effect on the fairness of the proceedings (Section 78 Police and Criminal Evidence (PACE) Act 1984).
- An officer recording images or taking photographs must be authorised as Camera Competent to ensure that they have full knowledge of the equipment and evidential issues relating to use and retention of the film.
- Even though Article 8 may not be engaged by the act of overt filming officers should still follow the spirit of the principles of the Human Rights Act. So, the videoing should only be conducted if it is an appropriate tactic for combating the crime/anti-social behaviour contemplated. Other methods should be considered as well as filming to tackle the problem.
- Police should ensure a responsible use of the data obtained and should only retain a record of the images for the narrow purposes set at points (a) (b) and (c) below:

- If officers take photographs/film footage, a permanent record of that should not be retained. Any data gathered should be destroyed unless:
  - (a) Evidence of an offence is obtained and it is required in contemplation of criminal proceedings.
  - (b) It forms useful intelligence about persons related to a specific police operation.
  - (c) Where a person makes a relevant complaint.
- The Data Protection Act 1998 places a duty on the MPS to ensure that records of personal data, which includes photographs, should be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed.

#### **Recommendation 61 – Stop and Account**

- Officers are reminded that if they have any cause to ask any member of the public to account for **their actions** in an area, **their presence** in an area or **their possession** of anything then a **form 5090** must be completed at the time and a copy offered to the person stopped.

## **Risk assessment**

The MPS risk assessment **Form 5469**, must be completed and presented to the authorising officer before the implementation of any intelligence gathering operation.

## **MPS Restraint and Mental Health**

Where a **risk assessment** indicates that a substantial level of violence may be anticipated video recording must be considered as a method of protecting public confidence, Police officers, Police staff and the MPS (protecting rights and freedoms) and the justification for the decision fully documented.

Notice 51/04 Item 11 Mental Disorder Policy

## **Community Consultation**

Some members of the public and communities may consider Overt Filming in the same light as stop and search. Authorising officers should always consider consulting with the following, prior to the operation commencing:

- Police Community Consultative Group
- Local advisory groups
- Community leaders / opinion formers

If a person asks why filming is taking place, the officers must be able to clearly state the reasons for the filming or photography and provide a copy of an explanatory leaflet, an example of which is shown at Annex A. These contain details of the purpose of the filming and provide guidance on how

members of the public may obtain further information and access to their images.

A standard MPS penalty notice pre-printed form is an order item to be used as the official document to be given out as the explanatory leaflet. Officers will be able to insert the details of the filming on the form.

### **Authorisation of Overt Filming (BOCU Operation)**

Overt filming/photography falls outside RIPA 2000 and is not covered by any statute. As a matter of policy, unless the deployment is urgent (**see below under Urgent /Immediate deployment**) the BOCU Superintendent will authorise the use of overt filming/photography by BOCU officers in advance.

### **Authorisation of Overt Filming (Non-BOCU Operation)**

In the case of a pre-planned event or operation co-ordinated by a non-borough unit, authority will be granted by the nominated Gold or Silver as part of the operational planning process, based on intelligence for the specific event.

If authority is granted by an officer from outside the borough concerned, the authorising officer must inform the Superintendent of the BOCU covering the area in advance.

### **Urgent / Immediate deployment**

There are two situations where officers may deploy **WITHOUT** a Superintendent's authority.

- When it would not be reasonably practicable for a Superintendent to authorise overt filming, an urgent authority can be granted by an Inspector or above for a maximum of 72 hours.
- Immediate deployment: where officers came across an incident. A constable may commence videoing but an Inspector or above must be informed as soon as practicable and may then provide a retrospective authority. An example of immediate deployment without any authority would be, if a uniformed or plain clothed officer on patrol observed persons causing serious disorder. They could immediately begin overtly filming what those individuals are doing and would not require any prior authority. This is unforeseen and the officer was merely reacting to events. **The Inspector should record this authority on CAD.**
- Where there is a need to deploy this tactic without a Superintendent's authority, a written record detailing the urgency **must** be made by the authorising officer.

### **Recording Authority to Use Overt Filming**

In all cases, authority to use Overt Filming will be recorded on MPS Proactive Assessment Tasking Proforma (PATP) forms. If urgent authority is granted, the standard PATP procedures for subsequent superintendents' authorisation should be completed where appropriate within the 72 hours. Directed Surveillance forms are NOT required for this tactic as it falls outside the Regulation of Investigatory Powers Act 2000.

## Storing of Images

- Each OCU that employs the use of this tactic must have a system in place to ensure that the tapes have not been over-used. The Borough Intelligence Unit (BIU) should control stored tapes. If a non-borough unit employs this tactic, the tapes should be forwarded to the BOCU BIU covering the area. Central Units can store their own images OR hand it over. The decision **must** be consistent in order that tapes can be retrieved efficiently and appropriately.
- The URN (Unique Reference Number) of the CRIMINT Information Report relating to the filming must be marked on the tape or photograph.
- All material should be marked **Restricted** and dealt with accordingly under the Protective Marking System.

## Original notes

The original notes must be recorded on a formal document provided by the BOCU.

- The form of document used can be varied to fit the circumstances but must include the information required for CRIMINT. See below 'Format of CRIMINT Report.'

- The document will then be filed as part of the operational documentation for the event and will be subject to the normal rules of disclosure.

### **Format of CRIMINT Report**

After filming, officers must create a CRIMINT Information Report including the following details:

- OVERT FILMING in the subject box, followed by the date and location;
- Type of media used (for example, video tape, stills or a combination of both);
- Date, time(s) and location(s) where the camera was used;
- Names and specific roles of officers deployed (for example, camera operator(s), spotter, and so on);
- Details of any subjects including names, Date of Birth, PNCID number (if known), IC Code and descriptions using the correct CRIMINT data standards;
- Details of any notable events; and
- PATP reference number

### **Recording on CRIMINT**

The details of all images recorded must be recorded on CRIMINT to enable:

- Retrieval of images of people by name and PNCID if known, IC Code, description, time or location;
- Monitoring of any disproportional
- Audit trail;
- Requirements of subject access under the Data Protection Act to be met
- Review of images for relevance to determine whether or not they should be retained.

#### **Weeding images**

- CRIMINT supervisors must ensure that the mandatory code, **QQOVERT**, is entered in the Other Reference field on the CRIMINT Information Report.
- In addition, the weed/review date on the supervisor's page must be set two months ahead.
- Every month, supervisors must use the weed/review facility to search for **QQOVERT** reports that are due for review.
- Supervisors must then decide whether it is appropriate to continue to retain the images, which correspond to each retrieved report.

#### **Process for weeding the image(s)**

- If the decision is to weed the image(s), then the CRIMINT Information

Report, which corresponds to the particular image(s), must be amended by the supervisor.

- Therefore, **QQOVERT** must be replaced by **QQOVERTWEED** in the Other References field.
- The reason(s) why the image(s) have been weeded should be recorded in the supervisor's box with the date.
- If a tape contains multiple images then it should not be weeded until all the images are suitable for erasure.
- If a decision has been reached that an image is no longer relevant then that image and any additional copies produced should be destroyed and a record noting this action made in the supervisors box.
- For intelligence purposes, it may, for example, be proportionate to retain a small selection of frames containing good up-to-date images of the subject extracted from hours of video footage.

### **Retaining the image(s)**

If the decision has been taken to retain the images, then the reason must be entered in the supervision box with the date that the decision was made. The new review date must be entered in the weed / review date field in the same format as above. Images must always be retained whilst:

- A prosecution is pending or likely.
- It forms useful intelligence about persons related to a specific police operation.

- Notice of a complaint/civil action is likely.

### **Destruction of Images**

If none of the above criteria for retention apply or cease to apply then the images (including all negatives and copies) must be destroyed.

Where practical, if the identity of the person whose image has been captured is known and that person requests to witness the destruction then they must, **if practicable**, be given that opportunity or to have a certificate confirming the destruction within five days of being informed that the destruction is required.

### **Subject access**

- The Data Protection Act 1998 allows an individual to make application for access to personal data held on them by police using forms which can be obtained from any police station.
- Where there is a person who is known on the video/photograph then the Data Protection Act would apply and disclosure would be made in the absence of any exemptions.

### **Responsibilities**

Ownership of Policy:	Territorial Policing Crime Operations Strategic Committee.
Implementing Policy:	Borough Commanders and Heads of Support OCUs.
Reviewing Policy:	Territorial Policing Crime Policy Unit or equivalent.

## **Associated Documents and Policies**

Special Police Notice 18/01

Form 5469

Mental Health

**Metropolitan Police Service Overt Filming/Photography**

Overt (or open) filming/photography is a method used by police officers and police staff to record the features and clothing of individual(s) for the purposes of preventing and detecting crime and to assist in the investigation of offences.

Police personnel from ***(insert police station / borough / unit and contact number)*** are filming in this area, to prevent the following types of crime:

***(Give details of crimes being targeted):***

You are not being stopped or detained for the purpose of filming and are under no obligation to co-operate.

Officers do have power in certain circumstances, to stop and search person(s) or vehicle(s) for stolen goods, offensive weapons or drugs and to detain them for the purpose of carrying out such a search. If this power is exercised the officers will explain at the time their reasons for doing so.

If you wish to exercise your right of access to personal data that may be held about you by the Metropolitan Police an application form can be obtained from the police station or from the Data Protection Unit, New Scotland Yard, Broadway, London SW1H OBG.

"If you have any details concerning those involved in any crime, which may assist police in reducing the numbers of offences occurring, you can call CRIMESTOPPERS free on 0800 555 111. The process is anonymous and you may receive a reward".

MPS FOIA Disclosure