

(Un)Justification of Application of Video Surveillance in Correctional Facilities*

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Appropriate modern technology due to constant technological innovations, enables the implementation of various forms of digitalization in correctional institutions. As a result, in nearly all such facilities, the execution of institutional criminal sanctions and detention, as a measure to secure the presence of the accused and ensure the smooth conduct of criminal proceedings, is carried out with the use of video surveillance. In view of the foregoing, it is concluded that this represents one of the contemporary trends in crime control and one of the most significant measures of formal supervision. However, although video surveillance has significant potential for crime control and security, it is observed that the implementation of video surveillance is not accompanied by adequate changes in legal regulations. The author points to shortcomings in the regulation of this field and suggests potential legal and sub-legal solutions within the legal system. Accordingly, after presenting the normative framework for the application of video surveillance in correctional institutions, the current situation in this field is critically analyzed, and recommendations are made to improve the use and effectiveness of video surveillance. At the same time, measures are proposed to reduce abuses and ensure consistent respect for the privacy rights of convicted and detained individuals during the execution of institutional sanctions or detention measures. In this sense, in a society where significant resources are invested in the digitalization of criminal sanctions, it is necessary to promptly conclude whether the use of video surveillance in prison environments is justified.

KEYWORDS: security / right to privacy / digitalization / video surveillance / correctional institution

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Introduction

Since the late 20th century, when video surveillance was first introduced in correctional institutions in the United States and Australia, its use has become common. Consequently, one of the key challenges in practice is ensuring the protection of fundamental civil liberties and human rights, primarily the right to privacy of individuals serving institutional criminal sanctions and those detained to secure their presence during proceedings. On the other hand, there is the question of how to ensure the safety of all staff under these conditions. To address this issue, the author has chosen to analyze the normative framework of this formal surveillance measure, taking into account the insufficient legal regulation of video surveillance at both the international and national levels, as well as to present the advantages and disadvantages of video surveillance in the practice of correctional institutions. The author has also tried, through this approach, to answer the question of the (un)justifiability of applying this preventive measure in prison settings.

Normative Framework for the Application of Video Surveillance in Correctional Institutions

First, it is essential to understand the social context in which the normative framework for the application of video surveillance in institutions housing individuals deprived of their liberty is defined. Consequently, we are referring to the existence of modern global trends in the system of social responses to crime that prioritize a control model. Such an approach is based on risk management, without aiming for the rehabilitation and reintegration of individuals engaging in criminal behavior (Soković, 2011). Furthermore, the development and use of digital technologies, on one hand, and the humanization and individualization of the execution of institutional sanctions on the other, have influenced enhancing the security status of correctional institutions, as well as that of the convicted and detained individuals residing within them (Kovačević-Lepojević & Ilić, 2018).

In the light of the above, the primary goal of implementing video surveillance, along with other contextual factors in crime prevention, is to prevent or hinder the commission of criminal acts in such living conditions, as well as to facilitate the easier detection and proof of criminal activities if they occur. However, achieving this goal through the use of video surveillance implies a higher degree of control in correctional institutions, which raises questions about the limitations of fundamental human rights and civil liberties, with particular attention focused on the compliance and non-compliance with the right to privacy of individuals sentenced to institutional sanctions and those subjected to detention measures. This indicates the necessity for the establishment of international and national

legal regulations that will comprehensively govern the methods of implementing video surveillance in these controlled environments.

While international legal sources and standards applicable to the protection of the right to privacy in any context, the domestic legal framework also reveals a lack of specific legal acts regulating the use of video surveillance in correctional institutions. This is particularly contentious in the context of life under prison conditions, where the decision regarding the specific methods of implementing video surveillance should be determined within each correctional institution individually. This further indicates the need to adopt new legislative or subordinate legal acts, or to introduce new provisions into existing legal sources, to define the principles, conditions for implementation, and limitations of video surveillance in order to ensure respect for privacy to the greatest extent feasible, as these may significantly vary from one correctional system to another, along with stipulating appropriate sanctions for non-compliance with such provisions (Batrićević & Stepanović, 2020).

Application of Video Surveillance in Practice: Positive and Negative Aspects

To ensure the effective use of video surveillance in correctional facilities where it is implemented,² it is essential to designate the area in which monitoring will occur, because this area should typically be located away from the central part of the institution or operate under a special security regime (Džunić & Dragojlović, 2019; Fairweather & McConville, 2013). Furthermore, to maximize security in correctional settings, the institution must be digitally equipped, primarily depending on the quality of the installed video surveillance software and accompanying equipment (Ilić & Banović, 2022). As a result, an increasing number of correctional facilities globally are replacing older systems with modern ones. These new systems provide enhanced coverage, better quality video recordings, individual inmate monitoring, quick retrieval of archived footage, alarm activation for specific undesirable activities, and facial recognition capabilities (Batrićević & Stepanović, 2020; Henriquez, 2019).

Moreover, surveillance devices may now be installed within both internal and external sections of the facility, capable of detecting movement in designated

² It is important to highlight the widely accepted classification of correctional institutions based on their level of security. Maximum-security facilities and closed-type institutions utilize state-of-the-art digital technologies and in contrast, semi-open institutions implement material security measures, while open-type facilities lack physical and technical barriers to escape (Ignjatović, 2018). In the Republic of Serbia, correctional institutions are categorized into open-type institutions, semi-open institutions, closed-type institutions, and closed-type institutions with special security measures (Article 14 of the Law on the Execution of Criminal Sanctions, *Official Gazette of the Republic of Serbia*, No. 55/2014 and 35/2019).

areas over established time periods, while access to video footage via mobile phones, automatic adjustment of video size during live viewing, and the implementation of various other methods have significantly reduced network load (Batrićević & Stepanović, 2020; Henriquez, 2019).

Regarding the measures aimed at enhancing the video surveillance system in the Republic of Serbia from 2022 to 2027, set of activities is planned. These include continuous maintenance and improvement of video surveillance through the introduction of new types of cameras and software for analyzing recorded footage, as well as further integration of the system with other security frameworks. Additionally, the plan involves the procurement and replacement of internal communication systems. These modern technologies will be integrated with the video surveillance system, including the acquisition of body-worn cameras for security personnel (Strategy for the Development of the Criminal Sanctions Execution System in the Republic of Serbia for the Period 2022–2027, *Official Gazette of the Republic of Serbia*, No. 142/2022). This approach is justified, expected, and highly desirable, considering that security, as a crucial component of the social environment in prisons, encompasses both professional supervision and control of the prison setting, as well as the subjective sense of safety experienced by individuals residing in correctional facilities (Ćopić et al., 2024).

Numerous researchers in the academic literature, despite limited empirical studies on the effectiveness of video surveillance in correctional institutions, emphasize both the positive and negative aspects of using surveillance cameras for crime control. Some studies indicate that video surveillance systems in correctional facilities can significantly contribute to crime prevention by making it more difficult to plan and execute offenses that require time and effort, while simultaneously enabling the timely detection of potential criminal activity and enhancing the effectiveness of existing physical security measures to safeguard the facility and its occupants (Armitage et al., 1999; Žunić-Pavlović & Kovačević-Lepojević, 2010).

Additionally, another objective of implementing this measure is to detect and prevent problematic behaviors within correctional facilities, such as self-harm, suicide, escape, inmate-on-inmate violence, violence against staff, and the distribution and abuse of psychoactive substances (Kovačević-Lepojević & Žunić-Pavlović, 2012). On the other hand, the disadvantages of video surveillance in correctional settings primarily relate to the infringement of privacy, social isolation due to reduced interactions, and the development of feelings of alienation, particularly evident in maximum-security facilities (supermax facilities) due to the continuous monitoring of individuals deprived of their liberty

(Ignjatović, 2019).³ Consequently, there is a need to examine the (un)justifiability of the use of video surveillance as currently applied in correctional institutions.

Conclusion

The implementation of modern penal populism measures results in various consequences, one of the most significant being the continuous increase in the number of incarcerated and detained individuals, along with their placement in correctional facilities requiring a high level of security. Consequently, it is evident that the use of increasingly advanced video surveillance systems in these environments facilitates the maintenance of order and ensures the efficient operation of correctional institutions. Nevertheless, despite the numerous security challenges present in the settings where convicted individuals reside, there remains a critical need to protect their right to privacy to the greatest extent possible.

One key method for ensuring privacy protection in correctional facilities is through the enactment of international and national legal regulations, which, when properly implemented, can effectively safeguard this right. This would involve the strict definition of the conditions under which video surveillance is to be conducted, as well as the legal limitations on its use in specific cases. Additionally, it would require clear regulations on the handling of data collected through surveillance and the imposition of sanctions for any non-compliance. Moreover, it is essential to provide continuous training for security personnel, particularly those responsible for managing surveillance cameras and video monitoring systems, as they remain the primary agents responsible for maintaining order and safety within correctional institutions.

Finally, it is necessary to conduct more frequent methodological and qualitative evaluations to assess the effectiveness of video surveillance in these facilities and to refine existing and proposed measures. Although various dilemmas will inevitably arise regarding the use and justification of this preventive measure, this approach may offer viable solutions to address privacy and security concerns.

³ The same author states that in the cells of maximum-security facilities, all activities are fully visible to the staff, due to the rule that a portion of the inmate's skin must be visible at all times (Ignjatović, 2019). This implies that in this specific context, "modern technology isolates, regulates, and monitors to an extent that was never previously possible". (Human Rights Watch, 1997, p. 19).

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