

Gainesville Police Department

Inter-Office Communication

Chief Norman B. Botsford

To: Barbara Lipscomb
Interim City Manager

Date: July 1, 2005

From: Norman B. Botsford
Chief of Police

Subject: Closed Circuit Video Cameras in Public Places, City Ordinance 21-10

In recent months there have been several incidences of crime in many of our city parks and other public places such as the downtown plaza. Most of these crimes involve narcotics transactions and usage or prostitution related offenses. However, these parks and other public areas are common sites for personal robberies, crimes of violence, and sometimes open lewd behavior. We would like to have the ability to monitor criminal activity on public property but at this time our hands are tied.

Currently, according to City Ordinance 21-10, police use of public video surveillance is prohibited. Ironically, however, cameras are installed at some large intersections in our city to monitor the running of red lights. It's also employed in our new parking garage on SW 3rd. Street. A significant criminal mischief occurring in the new parking garage was ultimately solved due to the cameras. In summary, video surveillance in public places is currently being used in the City of Gainesville, though not at the request or initiation of the Police Department.

Video surveillance in public places is a tool commonly used around the nation by law enforcement agencies. Two notable cities in our area which use closed circuit video surveillance in public places are Tampa and Jacksonville. Tampa employs these cameras in high crime areas like Ybor City. When a personal robbery or crime of violence occurs, these agencies stand a better chance of solving the crime and preventing future crime. Locally, Alachua County, the State of Florida, and the University of Florida all use video surveillance in public places.

Additionally, there is much in case law regarding this topic. The Supreme Court in *United States vs. Knotts* 368 U.S. 276, 281-82 (1983): says 'A person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another. When [an individual] traveled over the public streets he voluntarily conveyed to anyone who wanted to look the fact that he was traveling over particular roads in a particular direction, and the fact of his final destination when he exited from public roads onto private property.'

Also, regarding *United States vs. Sherman*, 990 F. 2d 1265 (9th Cir. 1993), the Court of Appeals for the Ninth Circuit held that individuals videotaped in public view have no reasonable expectations of privacy, and could not challenge the government's use of videotape at trial as violating the Fourth Amendment. When this test is applied to video surveillance of public streets, the prevailing legal view is that it does not violate the Fourth Amendment. In summary, past Supreme Court and lower court decisions strongly suggest that within certain limitations, continuous video surveillance is a valid exercise of a state's police powers.

I believe that in order to continue using video in public areas, and in an effort to solve and prevent crime, that portion of the City Ordinance which addresses police use of video surveillance should be rescinded. It is evident that it is considered a valuable tool both legally and investigatively.

obstructed.

It shall be the duty of the chief of police to keep the streets cleared of all obstructions, to see that the sidewalks are free and open to pedestrians. The chief of police shall not allow crowds of people to congregate on the sidewalks or streets so as to impede the public travel.

(Code 1960, § 21-5)

Sec. 21-6. Same--Feeding of prisoners.

When any offender is in custody of the chief of police, such person shall be fed at the expense of the city.

(Code 1960, § 21-6)

Sec. 21-7. Purchase by police officers of property sold by city prohibited.

The chief of police or any of his/her officers or employees of the police department are prohibited from purchasing or being in any way interested in the purchase of property sold by the city at public auction.

(Code 1960, § 21-7)

Sec. 21-8. Presence of police at fires.

There shall be a sufficient number of the members of the police department of the city present at all fires to ensure order and prevent theft or other crime.

(Code 1960, § 21-8)

Sec. 21-9. Arrest of prisoners from other cities or counties; authority of police to collect for services.

(a) The police department of the city is permitted and hereby instructed to render invoices to other cities or counties for services rendered and expenses incurred in the arrest of prisoners from other cities or counties.

(b) The amount so charged for such services shall be the same amount as now allowed by law to the sheriffs of various counties in the state.

(c) Such money shall be collected by the police department and turned over to the director of finance.

(Code 1960, § 21-9)

*** Sec. 21-10. Use of television surveillance equipment in investigation and detection of crime.**

(a) *Statement of purpose.* The city manager has been authorized to acquire for use by personnel of the city police department, certain electronic equipment consisting of closed circuit television apparatus and appurtenances (collectively referred to in this section as surveillance equipment) to be used in the course of investigation and detection of crime, such as burglary or similar type crime, through means of surveillance

by the use of such equipment. This section is passed to ensure that the equipment will be used only for its intended purposes.

(b) *Uses, prohibitions and procedures:*

(1) The surveillance equipment shall be used only in the surveillance of business or professional facilities and shall not, under any circumstances, be used on public streets or for the surveillance at any place of domestic relations, nor shall the surveillance equipment be used for any purpose in any residential location, including apartments, motels, hotels, single-family residences or multifamily residences. The surveillance equipment shall not be used for surveillance of classrooms, meeting rooms or hallways of public facilities, such as schools or colleges, but the same may be used for the surveillance of storage areas, maintenance areas and similar areas which might reasonably be subject to burglary.

(2) The surveillance equipment shall not be placed in any location without the prior written consent of the owner or person in charge, if other than the owner.

(3) Key employees of a facility where the surveillance equipment is placed will be informed of the police operations unless reasonable grounds indicate an employee may be a suspect. Other employees will be notified on a need-to-know basis as determined by the city police department.

(4) The surveillance equipment will be used during nonbusiness hours only, unless an installation is made in a warehouse or storage-type facility where normal routine business is not carried on during the day or during normal business hours.

(5) The surveillance equipment will be placed in accordance with criteria developed under the computer burglary prediction program and police information regarding possible burglaries. The decision as to whether the equipment will be placed in a particular establishment will be made by the city and not simply on the basis of a request by the owner or manager of the facility.

(6) The surveillance equipment will be used only for the purpose of its intended design.

(7) The surveillance equipment will not be loaned to or permitted to be used by other law enforcement agencies unless it is used in accordance with city ordinances and policies and under the supervision of a member of the police department. Under no other circumstances may the surveillance equipment be used or permitted to be used by any person or agency.

(8) The city manager shall make quarterly reports to the city commission regarding the use of the equipment to ensure compliance with the provisions of this section.

(c) *Penalties for violation.* It shall be unlawful to use or permit the use of the surveillance equipment in any manner not permitted by this section. Any person convicted of violating the provisions of this section shall be punished as provided in section 1-9.

(Code 1960, § 18-36.1)

Secs. 21-11--21-20. Reserved.