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webinar
Narrative

Big Brother is Watching – Surveillance Cameras to Manage Risk, Prevent Work Place Injuries, Protect Property and Defend Litigation in the Era of COVID-19

Insurance carriers, corporations, and businesses alike have been working to manage risk and anticipate potential litigation. Video surveillance ranging from business entrances to dash cam videos dominate every aspect of society. Surveillance cameras and video footage have become effective tools for managing risk, protecting property and successfully defending or preventing litigation. This cutting edge topic makes this a must attend session for risk managers, claim professionals, insurance professionals, in-house counsel and attorneys.

Claims professionals will learn how to effectively preserve and use surveillance footage in order to reduce risk and protect property. The panel will provide a unique perspective on the subject from an experienced litigation attorney who draws upon extensive trial experience. In the age of COVID-19 and the ever changing social landscape as a result of stay at home orders, social distancing and mask requirements, the presentation will also touch upon recently passed legislation in various cities, restricting the use of surveillance in order to protect protesters' freedom of speech.

The New Normal

Surveillance Video is the biggest risk management game changer during COVID-19 (and post COVID-19)

I. Biggest Trending Local and National Headlines related to Surveillance Cameras

On Saturday, September 22, 2020 at about 6:58 pm. two L.A. Deputy Sheriffs were ambushed in their patrol vehicle. Both suffered significant life altering injuries. Shooting was caught on surveillance camera (Fish Eye Lens – Height and Weight Distorted).

Orange County doctor Jeff Barke pulled out a 9-millimeter gun during anti mask Zoom video to demonstrate that a gun would protect him better than a mask during the viral pandemic. The video went viral and landed the doctor in hot water.

George Floyd & Jacob Floyd have become the face of police brutality. Floyd's death, while in police custody was caught on security footage that showed how a series of actions by officers turned fatal.

Blake's three young sons were in the back of the car and they witnessed their father being shot. Bystander video showed police officers shooting Jacob Blake.

Actor Jussie Smollett was charged with "making four separate false reports to Chicago Police Department officers related to his false claims that he was the victim of a hate crime. Dozens of security cameras played a key role in helping police unravel the actor's hoax attack.

New Jersey man charged with insurance fraud and theft by deception after faking slip and fall caught on surveillance at workplace.

Video of owner of New England Patriots Robert Kraft allegedly showed him paying for sex at the Orchids of Asia Day Spa in Florida.

II. When, Where, and Why? - Is there a reasonable expectation not to be filmed or watched in public? At Work?

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The law says that while there is a reasonable expectation of privacy within your own home, there is no expectation of privacy in quasi-public and public spaces.

III. Common Surveillance Cameras

Surveillance cameras are common in cell phones, body worn cameras, drones, dash cams, parks, parking lots, building, taxis/uber/Lyft, office buildings, shopping center/stores, apartment complexes, social media, doorbell – Ring, homes – Google, Zoom and other video conferencing platforms.

IV. Where To Install

Surveillance cameras should be installed in walkways to property, entrances and exits, commons areas, parking lots, high traffic areas, wide angles, highly visible areas as deterrents and pools.

The pros of surveillance videos are that they deter crime, defend and mitigate civil litigation, serve as evidence and proof of what happened, provide a sense of safety and provide accountability.

The cons of surveillance cameras are that they can potentially incriminate City, privacy violation issues, false sense of security, susceptible to abuse, retention of evidence issues, chilling effect because they suppress speech and conduct due to fear of prosecution.

V. Buena Park PD Video Technology

This technology includes body worn cameras, digital audio, dash cam videos, unmanned aerial systems (Drones), surveillance cameras and video call boxes.

A Body-worn camera (BWC) is a wearable audio, video, or photographic recording system used to record events in which police officers or other law enforcers are involved

Pros of a body worn camera are

- Validates Performance
- Audit Performance
- Training and Development
- Evidence of What Happened
- Changes Public Behavior
- Reduction in Complaints & Related Expenses

Cons of body worn camera are:

- Chilling Effect (Second Guessing) Suppress Speech or Conduct due to fear of Prosecution
- Upfront Costs
- Privacy Concerns
- Storage of Evidence
- Public Record Request
- Incomplete Picture

OC Sheriffs are rolling out body cam program in 2020-2021. Sheriff's is responsible for 13 cities in Orange County. Challenge is to ensure it can handle the data.

VI. Technical Aspects of Surveillance Cameras

Police Departments across the country are asking residents and businesses to register their security cameras.

Surveillance cameras create a database of all the surveillance cameras located within their jurisdiction.

They streamline investigations by eliminating the time it takes to locate security cameras.

A surveillance camera caught a wrongful death case. It involved a 38 year old Female Hit by Police Car in Middle of Night. The decedent was a mother of young child. The decedent was a disabled person. Claimant is elderly father of decedent left to care for the child. There is no dispute that the Police Car struck the decedent and no dispute that the Police Car was traveling at excessive speeds. The Claimant claims the Police Car was unnecessarily traveling at excessive speed without justification. There were no witnesses to the incident. Claimant submitted a Claim to City and Claimant's attorney threatens lawsuit for millions of dollars and request settlement. In a situation like this, with no other information, the question that arises is whether you settle or defend the case.

Another example is a slip and fall caught on camera that occurred at a Gelson's Market. On Friday Evening October 17, 2014 , at night a 59 year old female approached the entrance doors and tripped and fell. There was clear differential outside the store. She claimed to have fractured her right elbow as a result of the trip and fall. She underwent two surgeries and rehab including insertion of pins to stabilize the elbow. She was in good health prior to the incident. There was no Outdoor Surveillance Video. She filed a lawsuit against Gelson's. Surveillance video from inside the store and the parking lot that showed the plaintiff pushing herself up with her right arm and digging in her purse with her right arm. At time of trial, based on the evidence provided, including the surveillance video, the jury came back with a unanimous defense verdict.

VII. Facial Recognition

Facial recognition “**Software**” is being used by 600+ law enforcement agencies to investigate crimes. Database created by “**Scraping**” photos from internet. Converts photos to facial Vectors and Compares to Database of **3 billion photos** taken from the Internet.

Since 2009, LAPD used facial recognition nearly 30,000 times. Officers run images of suspects from surveillance cameras and other sources against database of mug shots. Only used to develop investigative leads, no individuals are arrested based solely on the results of the software

Big Brother Privacy Concerns include

- Technology is here - Potentially **not** limited to Law Enforcement
- Database manipulated by Software Co – NY Times Reporter Removed
- Privacy Tested - No consent to add your photos database.
- Stalkers – Strangers/Predators immediately identify you.
- Chilling Affect/Suppress Free Speech - Identify activists in protests.
- Used by a foreign government to blackmail people.

VIII. Future of Surveillance Cameras for Public and Private Entities

TECHNOLOGICAL ADVANCES - As technology advances, so must rules and regulations surrounding surveillance.

PERSONAL RECORDING DEVICES - Use of cell phone recordings have become and will continue to be a source of checks and balances for public and private entities.

USE OF CLOUD BASED SYSTEMS - For storage of surveillance data, cloud based systems pose solutions as well as problems to the protection of individuals recorded.

GOVERNMENTAL OVERSIGHT - Laws and independent committees must continue to regulate governmental surveillance as a system of checks and balances