

Sander Flight

Onderzoek & Advies

Cameratoezicht door gemeenten

Evaluatie wetswijziging artikel 151c Gemeentewet

English summary



Cameratoezicht door gemeenten: evaluatie wetswijziging artikel 151c Gemeentewet

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Sander Flight Onderzoek & Advies
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Auteurs

Sander Flight, Laurens Klein Kranenburg en Gwendolyn van Straaten

Opdrachtgever

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English summary

Since 2006, the Dutch 'Gemeentewet' (municipal code) provides municipalities with a legal basis to deploy surveillance cameras to maintain public order. Article 151c of this municipal code has been modified in 2016 to enable a more flexible use of these cameras. Five years on, the Scientific Research and Documentation Center of the Ministry of Justice and Security has commissioned this evaluation to study the effectiveness and the practical consequences of flexible camera surveillance. All Dutch municipalities received an invitation to fill out an online questionnaire: 64 percent responded. Participation reached 73 percent among the forty most populous cities and one hundred percent in the four largest cities. In addition to the survey, other research methods were used: literature review, in-depth interviews with 35 local professionals working for municipalities or the police, and a research synthesis of all evaluations that were carried out by municipalities between 2016 and 2021.

Number and type of cameras

An estimated number of between 188 (53%) and 215 (61%) of all Dutch municipalities deploy surveillance cameras on the legal basis of article 151c of the 'Gemeentewet'. The last nation-wide study on the subject that was carried out in 2009, estimated 28 percent (120 of 431 municipalities) had this type of camera surveillance. The number of municipalities has increased significantly over the past fifteen years. During the past five years since the law was modified, the number of municipalities with cameras has steadily increased: an estimated extra fifty municipalities have started using these cameras. The increase is most visible in relatively small-scale camera projects, involving less than ten cameras. This suggests that the modification of the law which enables municipalities to deploy flexible cameras has at least partially caused this trend.

Over one third of all municipalities that filled out the questionnaire (35%) use of have used flexible camera surveillance. The other municipalities have opted for fixed (or long-term) cameras (23%) or no cameras at all (42%). Most municipalities expect the number of cameras to remain the same or to increase in the coming year. When comparing the goals of cameras, flexible cameras are used more often than fixed cameras in the fight against disorderly behavior. If the goal is to prevent burglaries, flexible cameras are used less than fixed cameras. Night-time areas with bars and clubs are the type of area where most of the municipal cameras are located, followed by specific places with public disorder, shopping centres and locations for public transport. Compared with 2009, less cameras are deployed in industrial zones and parking garages. Many municipalities have concluded that installing cameras on the basis of article 151c of the 'Gemeentewet' is not acceptable there, because the purpose is not to maintain public order, but to prevent thefts and burglaries in commercial and industrial buildings. A new phenomenon, compared to 2009, is camera surveillance around underground waste containers, which has been introduced in at least fifteen Dutch municipalities.

Assessment of necessity, proportionality and subsidiarity

The modification of the law in 2016 not only enabled a more flexible use of cameras, it also added the requirement to remove cameras that are no longer necessary to maintain public order. This means that mayors now have to weigh different interests and have to be able to show that the cameras are proportional and subsidiary. This study shows that this is indeed what most municipalities do. Nearly all municipalities (95%) have first tried out other, relatively 'lighter', measures like extra surveillance by the police, improved street-lighting or

co-operation with streetcorner work. According to most municipalities, the necessity of the cameras is being weighed constantly against other interests, such as the right to privacy.

Awareness requirement

Municipalities are legally obligated to actively inform passers-by and residents about the cameras: the so-called 'awareness requirement'. Most municipalities do so by placing signs in the street in or around the area that is under surveillance, by publications in local news magazines or on the website or by making the cameras clearly recognizable. Organizing meetings with residents, visitors and local entrepreneurs is less common: one in five municipalities uses this tactic all the time, whereas the rest does not or not always.

Division of tasks between municipality and police

The division of tasks between municipality and the police is an important issue in cities across the country. Diverging regional practices have evolved over the past couple of decades that are not always in full compliance with the (new) legal requirements. The National Police encourages standardization across the country and has taken steps in that direction. Municipalities, on the other hand, increasingly feel a need to apply local municipal accents – and are in some cases even willing to build a separate municipal monitoring room to fulfill those needs. Legally, however, the police are the controller of the data, because the processing of the data has to be done in accordance with the law on police data (Wet politiegegevens). The practical requirements of this legal arrangement are not always met in all municipalities. In almost half of all municipalities, the police submit a formal request for footage from a municipal control room. The role of the police in situations where the live images are directly monitored, differs fundamentally too between cities and regions. In one in four municipalities with this type of public cameras (23%), the police is physically present in the monitoring room. In over one tenth of municipalities (12%), this operational directing role is performed 'from a distance'. In the rest of municipalities (51%) the city itself is the director of operations or a private security company (5%). The rest have organized this in a different way (8%). When it comes to responding to incidents that have been spotted, in most cases it is the police that takes action (98%); local law-enforcers respond to incidents in over half of municipalities (61%).

Technological developments

New technology or 'smart surveillance' is still in its infancy. Most municipalities wish to increase the efficiency of live monitoring of cameras, but there are many questions and concerns. Advanced technologies, such as automatic facial recognition or sound analysis, are deployed almost nowhere. The reasons for this are various: disappointing results from experiments, concerns over privacy and a lack of political support. Some respondents suggest that technology does not necessarily deteriorate the protection of privacy, but could just as well have a positive contribution. This is the case, for instance, if software automatically limits recording of footage to situations in which the sound level exceeds a certain threshold. They also point to the possibility that algorithms may be less biased than monitoring staff that is currently active in the control rooms. However, these ideas are not yet embraced widely in most Dutch municipalities.

Evaluations of camera surveillance

One way to determine whether camera surveillance meets the necessity criterion and contributes to the realization of stated goals, is by conducting an evaluation. This happens less and less: over the past five years 27 evaluation reports were found. More than a decade

ago, measured over a comparable time-span, there were more than fifty. Evaluations are now typically carried out by municipalities themselves, instead of by external research organizations or universities as was the case a decade ago. The scientific quality of evaluations has decreased drastically compared with ten years ago: only 2 out of 27 studies now meet the level necessary in order to be able to draw valid and reliable conclusions about the effects of cameras. Most evaluation reports contain positive conclusions: cameras are important for investigations and objective and subjective safety have improved, according to most studies. Given the fact that the quality of these studies is on average quite poor, the question is to what extent these conclusions can be drawn. On the other hand, in this report the question is also debated whether it is still feasible to apply these criteria for scientific quality for evaluations if the cameras have been installed for instance over ten years ago.

The effects of modifying the law

One important question in this study is whether the change in the law that allowed for a more flexible use of cameras has had an impact. This study shows that there are more similarities than differences between the use of flexible and fixed cameras. The decision-making process is nearly identical, including the assessment of necessity, proportionality and subsidiarity. The division of tasks between police and municipalities is similar as well. Modifying the article in the law has however made a difference in two respects. A number of municipalities have decided, as was the intention of the legislature, to start using cameras that can quickly be relocated to a different area if the underlying problem moves somewhere else. In addition, the change in the law has produced a second outcome: an increase in the number of short-term camera surveillance projects. Previously, municipal cameras were typically installed for a period of two to four years. Flexible cameras in many municipalities are placed for a period of three to six months and then taken from the street or moved elsewhere. Some municipalities have even decided to discontinue the use of long term cameras altogether, because of concerns over the proportionality of cameras that remain in the same spot for several years. In this second sense too, cameras have become more flexible. This is congruent as well with the intended purposes of the legislature: the use of cameras to maintain public order is regarded as a temporary measure and not a permanent one.

The question whether flexible cameras are effective in helping municipalities reach their goals, can be answered in two ways. On one hand, the fact that cities are willing to take care of the 'costs' (in financial terms, but also in the sense of a negative impact on privacy) could be seen as proof that flexible cameras apparently satisfy their needs. In this sense, the legal adjustment could be evaluated as effective. On the other hand, there is no empirical evidence that supports the conclusion that flexible cameras are effective. Evaluations are sparse and almost never reach the scientific standard needed to be able to draw conclusions about the effects of cameras. Adding the text to the article in the 'Gemeentewet' which requires mayors to determine whether cameras are still necessary, has not led to an increase in the number or the quality of evaluations. On the contrary: in comparison with fifteen years ago, the number of evaluations has decreased and the scientific quality has deteriorated.

Conclusion

In general, the changes made in the law in 2016 have fallen on fertile ground. Camera surveillance by municipalities has become more flexible and most respondents (90%) feel no need for a further adjustment of the law. Those who do make suggestions for additional changes, touch upon three themes. First, a number of municipalities would embrace the possibility of permanent camera surveillance. They understand that, previously, the idea was

that cameras should always be a temporary measure. But they wonder why their mayor has to renew the decision to continue the cameras every two to four years, when the cameras have been in place for more than twenty years and the cameras will be extended each time. Secondly, many municipalities feel the need for clarification of the roles and responsibilities of police vis-à-vis municipalities, especially on the issue of who is the controller responsible for the data and the recorded images. The law is clear on this point, but municipalities would welcome guidelines that help to interpret the law. Third is an issue that is debated in some cities; the use of new technology or smart cameras, such as facial recognition or artificial intelligence. Weighing the pros and cons of these is a local, municipal issue, but cities feel a need for regulation on the national level. The absence of a national framework makes it difficult for many municipalities to introduce new technology, when at the same time their expectation is that new technology could contribute to more efficient, effective and possibly even more privacy-friendly camera surveillance.

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