

The Authority of Police to Access Precautionary Data and Personal Data Protection: Using the Operation Mode of Surveillance Camera as an Example

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Abstract

When a state faces numerous potential and unpredictable circumstances in a risk society, while positively utilizing the impacts and outcomes of technology, the state also needs to consider the possible negative effect of technology, and effectively prevents potential risks turning into actual harms. The word “precaution” is the factual state when proactive measure is taken to protect public safety and order before substantive harms occur, and when the point of anticipation of harms or impairment to rights or legal interest is imminent. The precautionary interference measure embedded in relevant police laws and regulations of Taiwan seems to have been long-established and uncontested. However, as the authority of police expands when carrying out its course of duty, the expectation of the role played by the precautionary interference measures in the relevant police laws and regulations of Taiwan has been raised. In many cases, data is collected, processed and utilized for the purpose of precautionary measures. From protecting people’s personal data point of view, caution should be taken, because these precautionary measures have likely intervened or even deprived the people’s freedom and rights set out in the Constitution of Taiwan.

Therefore, this research will focus on the regulation of the installment and application of stationary surveillance camera in public. Furthermore, this research will draw experience from relevant German regulations, focusing on the

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analysis and inquiry of possible derivative disputes and legal framework which should be followed when dealing with the issue of the aftermath process and usage of the surveillance footage retrieved in advance. This research will provide personal observations and suggestions on the issue of the police authority to access precautionary data and personal data protection, in hope to provide some reference to the future reformation of the legal framework in Taiwan.

Keywords: Accessing Precautionary Data, Police Authority, Right to Information Privacy, Personal Data Protection, Surveillance