

Video Surveillance: The Pros and Cons of 'Granny Cams'

Despite ongoing industry and government efforts aimed at improving the condition of residents, mistreatment remains a significant problem in aging services settings. Based upon reported incidents, some experts estimate that nearly one in 10 residents experiences some form of abuse, and for each documented instance of neglect, at least five go unreported.¹

One proposal to reduce the incidence of elder abuse involves the regulated and voluntary use of surveillance cameras in aging services facilities. Dubbed "granny cams," these authorized monitoring devices are intended to protect vulnerable residents by preventing incidents of abuse by employees, as well as resident-on-resident violence. Commonly installed devices include video surveillance cameras, web-based cameras and video telephones.

The use of video monitoring technology within aging services settings raises a host of legal, ethical and practical concerns, and [no nationwide consensus](#) on the issue has yet emerged. This issue of *AlertBulletin*® provides a brief overview of the current legal status of granny cams, presents some of the arguments for and against their use, and suggests risk management strategies for organizations addressing this question.

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LEGAL STATUS OF IN-ROOM CAMERAS

The legal framework for video surveillance is still evolving. At the present time, the Centers for Medicare and Medicaid Services have not issued a specific policy regarding voluntary electronic monitoring. While no state expressly prohibits granny cams, only a few states legally prevent facilities from banning their use if requested by residents or responsible family members. (As state laws and regulations differ, consult with knowledgeable legal advisers and/or professional associations regarding the status of surveillance-related regulation in specific jurisdictions.)

Texas became the first state to enact legislation permitting resident-initiated monitoring, followed by New Mexico, Washington, Oklahoma and Illinois. [Maryland](#) enacted a comprehensive aging services surveillance law which allows organizations to permit video surveillance if they choose – although a few other states, including [Virginia](#), have incorporated self-monitoring rights and standards into their nursing home licensing regulations.

The Texas law remains the paradigm for other states considering implementation of a granny cam statute. It permits the use of resident room-monitoring devices at the resident's expense (other than the cost of electricity), if the following conditions, among others, are met:

- *The resident must obtain permission from roommates, who may stipulate other conditions, such as the camera never being pointed at them.*
- *Conspicuous notices must be posted throughout the facility and on the resident's door, informing residents, staff and visitors of the presence of video cameras.*

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¹ See [Nursing Home Abuse Statistics](#), available at NursingHomeAbuseGuide.org.

- *Only the resident may give permission for monitoring, unless deemed incompetent to do so, in which case an authorized family member or legal guardian may initiate action.*
- *Videotapes or other recordings can be entered as evidence in civil or criminal court only if unedited and unenhanced, and only if the tape is time- and date-stamped.*
- *Covert monitoring, if discovered, cannot be considered grounds for discharge, but must be brought within the established standards for video surveillance.*

While still somewhat rare, the use of video camera footage to document resident care continues to pique interest within the industry. Debate centers on whether video surveillance is a long-term solution to elder abuse, or a quick fix that distracts attention from other compelling issues and more fundamental reforms.

ARGUMENTS PRO AND CON

Voluntary, overt monitoring of resident rooms has been proposed primarily as a deterrent measure, protecting those who cannot protect themselves. Proponents also assert that video surveillance would help:

- *Improve residents' quality of life and diminish feelings of fearfulness and isolation.*
- *Lower theft rates, including pilfering of medications, and generally increase security.*
- *Augment employee productivity, thus potentially reducing facility staffing needs.*
- *Lessen resident turnover and strengthen organizations' financial stability by enhancing peace of mind for residents and their families.*

Opponents of video surveillance have focused largely on how the presence of cameras might affect resident privacy and organizational liability. Some industry spokespersons have suggested that the introduction of cameras could initiate a "vicious circle," as the exposure to increased litigation would raise insurance premiums and legal costs, resulting in understaffing, declining quality and even more lawsuits.² Opponents also argue that surveillance cameras would:

- *Create a "Big Brother" atmosphere destructive of resident dignity and employee morale.*
- *Potentially be used to bully and control residents, rather than protect them.*
- *Foster a false sense of security, as the devices are not infallible and do not obviate the need for sound employee training and incident reporting programs.*
- *Reduce staff involvement with residents, and encourage the problematic belief that technology can replace human contact and personal care.*
- *Impair staff recruitment and retention, as prospective and current employees would resent the presence of cameras and the implication of distrust.*

So far, no authoritative study has been conducted on the consequences of installing cameras in aging services settings. However, preliminary research indicates that professional liability premiums, staff turnover rates and incidents of abuse have declined for some facilities that allow video surveillance.

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² See Toben, J.B. and Cordon, M., "Legislative Stasis: The Failures of Legislation and Legislative Proposals Permitting the Use of Electronic Monitoring Devices in Nursing Homes," *Baylor Law Review*, Fall 2007, Volume 59:3, pages 695-698.

RISK CONTROL STRATEGIES

Prior to placing any surveillance equipment in the facility, leadership should implement the following measures:

- *Create guidelines for camera installation and operation, which comply with current state laws and licensing regulations and minimize impact on resident privacy and dignity – e.g., requiring that cameras be mounted in a fixed position, in order to limit the field of vision and prevent inappropriate viewing.*
- *Obtain a signed request and informed consent form from residents who wish to install a surveillance camera, and secure written permission from roommates, staff and others who may be captured on tape. (Sample informed consent and roommate consent forms are included on pages 7-10 of the Maryland Office of Health Care Quality's ["Guidelines for Electronic Monitoring"](#).)*
- *Post conspicuous notices throughout the building about the presence of video cameras, and brief staff whenever a camera is installed, moved or removed.*
- *Discuss surveillance policies and procedures with prospective residents and families, and ascertain their thoughts and wishes on the subject. If differences emerge within families, mediation may be necessary.*
- *Decide who will retain custody of the recordings, how long they will be stored and under what conditions they can be viewed (e.g., on a frequent, real-time basis, or only after an incident is reported or suspected). Note that facility-owned footage is considered part of the resident's healthcare information record, subject to all applicable retention and privacy regulations at the federal and state level.*
- *Agree on who will pay for camera installation, and who is responsible for maintenance, removal and storage costs.*

- *Obtain "buy-in" from staff by explaining that the cameras are not intended to supplant personal care or intimidate employees, and reminding them that the cameras can protect them against false accusations and frivolous complaints.*
- *Establish guidelines to determine whether residents are competent to request camera placement, and obtain a signed agreement prior to installation from residents, family members and/or legal guardians, delineating the terms and conditions of the surveillance.*

Video monitoring in aging services settings is a reality in some areas and a continuing subject of debate in many states. Organizational leadership should be prepared to respond in a legally sound, well-considered manner in the event a resident or loved one requests the right to install a room camera, in order to stop abuse before it happens.



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