

Commission of Inquiry into Money Laundering in British Columbia

Application for Access to Surveillance Footage – Ruling #27

Ruling of the Honourable Austin Cullen, Commissioner

Issued February 23, 2021

A. INTRODUCTION

[1] Global News Network (“Global”) has applied for access to surveillance footage introduced in evidence before the Commission as part of an overview report marked as Exhibit 574 on February 11, 2021. The essential basis for the application was succinctly stated at paragraph 3 of Global’s submission:

We submit that it is in the public’s interest to understand the nature of casino activity and surveillance, and whether security and surveillance measures led to appropriate responses. We submit the surveillance footage is an important visual indicator that will better help the public understand whether important security decisions were ultimately made and add context to questions about whether responses were adequate.

[2] The application was brought in the wake of a direction I made when the overview report to which the surveillance footage was appended was admitted. That direction was:

The video footage found at appendix 1 to the overview report shall not be posted to the commission website or otherwise made available to the public except in accordance with the following procedure.

Members of the media may apply to the Commissioner pursuant to rule 60 of the rules of practice and procedure for access to specific videos identified in the overview report.

Applications for access to specific videos identified in the overview report must identify the steps that will be taken to prevent public dissemination of personal information contained in the video footage, including processes for obscuring the identities of individuals, licence plates and other personal information depicted in the video footage and processes and timelines for the destruction of the original unedited video files.

[3] In its application, Global affirmed that:

...the network will process the casino surveillance tapes and blur identities of all subjects shown on the tapes. We understand the need to protect the identities of any patrons or staff shown on the tapes, and have no desire to reveal identities or impede any investigations. The network will not broadcast these tapes without blurring out identities; and we can provide the Commission with processed tapes, to satisfy this condition.

[4] In response to the application, Commission counsel reviewed the legal basis and justification for restricting the public's access to information provided to or held by the Commission, as well as the obligation to ensure openness of the Commission's proceedings.

[5] Commission counsel supported Global's application for access to the footage, subject to certain conditions, which Commission counsel submits are necessary "to strike an appropriate balance between the legitimate privacy interests of the individuals depicted in the casino surveillance footage and the public's interest in an open and transparent Commission process."

[6] Commission counsel acknowledges that Global is an established media outlet with a history of news coverage of British Columbia's gaming industry, including the use of casino surveillance footage, and hence providing it with the footage at issue would "[advance] the public's interest in open and transparent proceedings."

[7] The conditions sought by Commission counsel are as follows:

- a) Prior to publicly displaying the casino surveillance footage or any portion of the footage, Global News Network must edit the footage to obscure the faces of any person appearing in the footage, any license plate numbers appearing in the footage and any portion of the video footage that would reveal any information subject to the categorical redactions identified in paragraph 72 of the Commissioner's ruling #13;
- b) Global News Network may seek further direction if required to identify whether specific portions of the video surveillance footage should be obscured;
- c) Access to the original video surveillance footage not edited in accordance with paragraph 2(a) must be limited to Global News Network staff

- members reasonably necessary to edit the casino surveillance footage in accordance with paragraph 2(a);
- d) Any Global News Network staff members provided access to the original video surveillance footage in accordance with paragraph 2(c) must be provided with a copy of this direction;
 - e) Global News Network must destroy any copies of the casino surveillance footage that have not been edited in accordance with paragraph 2(a) within 30 days of receipt of the casino surveillance footage unless an extension has been granted by Commission counsel or the Commissioner; and
 - f) Global News Network must provide written confirmation of the destruction of unedited casino surveillance footage as required by paragraph 2(e) within five days of the destruction of the footage.

[8] Commission counsel's position was supported by the British Columbia Lottery Corporation ("BCLC") with one addition to condition (a) to include the phrase: "and any other unique identifying information (including, for example, ID tags, or personal information on computer screens or documents)."

[9] No other participant opposed the application so long as the conditions outlined by Commission counsel were imposed.

[10] By email dated February 20, 2021, Global confirmed its agreement to the conditions as proposed by Commission counsel and as modified by counsel for BCLC.

[11] In the circumstances, I will grant Global's application for access to the surveillance footage with the conditions set out by Commission counsel as modified by counsel for BCLC. For certainty and clarity condition (a) will read as follows:

- (a) Prior to publicly displaying the casino surveillance footage or any portion of the footage, Global News Network must edit the footage to obscure the faces and any other unique identifying information (including, for example, ID tags, or personal information on computer screens or documents) of any person appearing in the footage, any license plate numbers appearing in the footage and any portion of the video footage that would reveal any

information subject to the categorical redactions identified in paragraph 72 of the Commissioner's Ruling #13;

[12] The balance of the conditions will remain as set out in paragraph 7 above.

A handwritten signature in black ink, appearing to read "Austin F. Cullen".

Commissioner Austin F. Cullen