

## The Long Eye of the Law Closed Circuit Television, Crime Prevention and Civil Liberties

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EXECUTIVE SUMMARY

Australian police are being asked to do more with less. More criminals, new laws, new terror threats and increasingly sophisticated crimes are to be pursued with a lean budget and not enough officers. Police resources therefore need to be targeted effectively, and closed circuit television (CCTV) surveillance cameras can help.

CCTV cameras broaden the surveillance capabilities of police. A camera is like having another officer on the beat, patrolling problem areas, deterring potential criminals, and alerting operators in a nearby control room of crimes as they occur. Police officers can then commit resources to that location.

Cameras make the public feel safer, and this is of real benefit to restaurants, bars and other small businesses in areas troubled by crime. CCTV can also increase courts' efficiency, by providing clinching evidence that leads to more guilty pleas and fewer contested trials.

To be successful, there must be enough cameras to cover the given area; the cameras must be installed with unobstructed views; operators must be able to communicate quickly with patrolling police officers; known problem areas should be targeted; and the use of surveillance cameras should be part of a broader law enforcement scheme. Given these five conditions, CCTV has proven to help reduce crime.

Although effective, CCTV may nonetheless be undesirable. The civil liberty concerns surrounding CCTV are serious. Personal privacy is integral to the values of a liberal democracy. But a number of laws in Australia—State and Commonwealth—already regulate surveillance and protect the interest of privacy. The police can watch people in public spaces without any legal restraint, but they are restricted from entering and searching certain premises without a warrant. Similar restrictions apply to CCTV.

Where no restrictions apply, common law duties of confidence are owed if someone, even inadvertently, videos without consent another's act that is deemed 'private' for the purposes of the law. Judges enjoy a large amount of flexibility in deciding these cases.

Further CCTV regulation is unnecessary. For example, the NSW Law Reform Commission is considering a proposal that all camera footage older than 21 days should be destroyed. It would be devastating for law enforcement, police efficiency, courts' efficiency and public perceptions of safety if useful evidence had to be destroyed—all the more so since CCTV is already governed by statutory and common law restrictions that protect the interest of privacy.

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## **Introduction**

Police resources are stretched. Over the last 40 years, the number of police officers per 1,000 serious crimes has fallen by over 70%, yet one of the key factors affecting the crime rate is the likelihood of detection.<sup>1</sup> Limited police resources therefore need to be targeted effectively, and surveillance cameras can help to achieve this.

Closed Circuit Television (CCTV) cameras now operate in public spaces, shops, department stores, schools, restaurants, workplaces, on public transport and in private homes. A study in the United Kingdom estimated that, on average, a person is photographed by 300 separate cameras each day.<sup>2</sup> In Australia, the number of cameras in city centres is increasing. Sydney's city council has 51 cameras that are monitored constantly, with plans for more cameras in Kings Cross, Darlinghurst and Glebe.<sup>3</sup> Similar systems exist in Melbourne and in Perth.<sup>4</sup>

CCTV is used mostly for law enforcement. Camera manufacturers such as Siemens Plessey and Pelco claim benefits both for detecting crime and deterring it. A camera is like having another officer on the beat patrolling problem areas and alerting operators in a nearby control room of crimes as they occur and where best to commit resources. Criminals who have seen warning signs of CCTV operation, or who have been apprehended previously because CCTV enables speedier police responses, are deterred from breaking the law.

Critics argue that criminals simply move elsewhere. They claim that despite some situational improvements, overall crime levels in towns and city centres often fail to fall. Given the questioned effectiveness of CCTV in helping to reduce crime, the Director-General of Privacy International, Simon Davies, who sees CCTV as a threat to civil liberties, has called for its abandonment.<sup>5</sup>

This paper will examine three issues. First, can CCTV help reduce crime? Second, even if surveillance cameras are effective, do they lead to an unreasonable invasion of privacy? And third, are current legal constraints on surveillance adequate in protecting the interest of privacy?

## **Can CCTV help reduce crime?**

Most of the evidence on the effectiveness of CCTV cameras comes from the United Kingdom. The first trial there was a marked success. An industrial estate outside the English town of King's Lynn had been plagued by vandalism. Three CCTV cameras were installed in 1986 and, within two years, authorities reported that no crimes were committed.<sup>6</sup> Other towns and city centres followed suit. Within eight years over 300 jurisdictions in the United Kingdom were using some form of CCTV, and within another eight years that figure had reached 400, involving approximately 1.5 million cameras.<sup>7</sup>

The success of the King's Lynn industrial estate, however, has not been replicated consistently. In Scotland, a trial in Airdrie succeeded but one in Glasgow did not.<sup>8</sup> In Airdrie, 21% fewer crimes and offences were recorded in the 24 months after installation of CCTV compared with the 24 months beforehand; housebreaking, shoplifting and motor vehicle theft decreased by 48%; arson and vandalism fell 19%; police clearance rates improved by 16%; and crimes were not displaced from the town centre to areas without CCTV.<sup>9</sup> In Glasgow, by contrast, there was no evidence to suggest that the cameras had reduced crime when figures were adjusted to take account of the general downward trend in crime and offences, and the cameras had a negligible effect on police clearance rates.<sup>10</sup>

In Wales a 1999 study concluded that city centre CCTV programmes had no obvious influence on levels of recorded assaults after large discrepancies were found between hospital accident and emergency data and police data.<sup>11</sup> A more recent UK study found that, out of 22 trials of CCTV camera systems, 11 had a desirable effect on crime, five had an undesirable effect, five had no effect, while the remaining one had an 'uncertain' effect.<sup>12</sup>

In Australia, CCTV is used widely but there has been little research into its effectiveness. One major study by Fairfield City Council in 2002<sup>13</sup> failed to provide authoritative insights into its effects on general levels of crime.

Given that the question ‘does CCTV work?’ cannot be answered with a definite ‘yes’ or ‘no’, the task is to determine when and in what circumstances CCTV will be effective.

### *The importance of setting up schemes properly*

Why should CCTV lead to a reduction in, and no displacement of, crime in one city but not in another? Ben Brown from the UK’s Police Research Group analysed three CCTV programmes in different town centres in England. Two proved successful in reducing crime and preventing displacement (Newcastle upon Tyne and King’s Lynn) while one did not (Birmingham).<sup>14</sup>

Brown attributed the difference in success to how the schemes were set up. Newcastle upon Tyne’s city centre was ‘very conducive to camera surveillance’<sup>15</sup> with wide streets, few subways and few obstacles that could block a camera’s view. Sixteen cameras were used there. In King’s Lynn, 60 cameras monitored the city centre. Problem areas were targeted in both successful trials, such as a local bridge in King’s Lynn known to be used by drug dealers and users.

In contrast, the layout of Birmingham’s city centre is complex, with a large number of natural obstacles to obscure coverage.<sup>16</sup> There were only 14 cameras located in the town centre, two less than Newcastle. The result was a failure to reduce overall crime levels within the city centre.<sup>17</sup> There was some reduction in those areas where the CCTV cameras had an unobstructed view, but offences increased in areas where there was partial or no camera coverage, indicating a displacement of crime. Brown points out that Birmingham was one of the first city centres to have a CCTV scheme and thus ‘the police and council could not learn from the experience of others’.<sup>18</sup>

### *Approaches to operation*

Operationally, all three case studies were similar. Camera controllers ‘patrolled’ the city centres much like normal police officers.<sup>19</sup> They searched for suspicious incidents and were in radio contact with police officers on the beat.

Importantly, the controllers targeted criminal ‘hotspots’. This is a practice that has proven successful in physical policing.<sup>20</sup> Critics argue that crime will merely be displaced and a new hotspot will emerge, but criminologists Derek Cornish and Ronald Clarke disagree. They believe potential offenders make a ‘rational choice’ to commit crime, based on a variety of individual judgments.<sup>21</sup> These may relate to a given area’s lighting, the regularity of passers-by, a victim’s access to a public telephone, and so on. Cornish and Clarke found that there is a finite number of potential hotspots in a given city centre: there are only so many dark alleys or unlit street corners; only so many places where a criminal will decide the chances of being caught are low. Increasing surveillance of these areas with the installation of CCTV will not displace crime if criminals are only willing to operate in such spaces.

### *Other effects*

CCTV can also affect police efficiency, court costs, and public perceptions of safety.

UK political sociologist Peter Waddington surveyed phone calls to the police and found that by the time a patrolling officer is contacted and deployed to a given area, the danger or incident has often vanished. ‘Twenty nine per cent of all calls resulted in patrols making an “area search” but found no trace of the incident or person, or found that the person, vehicle or whatever “left prior to arrival” or that the situation was “all in order”’.<sup>22</sup> CCTV has the potential to reduce this waste of resources by providing real-time footage to control room operators.

Such footage makes good evidence in court. Peter Durham, a local UK police commander, observed: ‘Almost all of the 400 people arrested as a direct result of the [CCTV] scheme admitted guilt after being shown video footage, therefore avoiding the considerable costs associated with contested trials.’<sup>23</sup>

CCTV can affect public perceptions of safety as well. Even in Birmingham, where levels of actual safety did not improve, there was an increase in perceived safety.<sup>24</sup> This benefits local restaurants, bars and other businesses as people will be more likely to go

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into the city centre if they *feel* it is safer, even if it is not. A similar result was seen with physical policing in the Washington suburb of Newark.<sup>25</sup> Although there was no reduction in crime, citizens felt safer and officers had higher morale and greater job satisfaction. This eventually elevated the level of public order in the neighbourhoods.<sup>26</sup>

### *Conditions for success*

CCTV can help to reduce crime, increase police and court efficiency, and create better public perceptions of safety. But its success is conditional on five elements:

1. the number of cameras, personnel and other resources committed must be proportionate to the area to be covered;
2. operators must be able to communicate quickly with patrolling police officers;
3. cameras must be installed with unobstructed views;
4. CCTV 'patrols' should target known problem areas; and
5. the technology should be part of a broader law enforcement scheme.

These elements have been incorporated into the New South Wales Government's guiding principles for CCTV, which also emphasise the need for community consultation and a complaints-handling process.<sup>27</sup> The most extensive outline of CCTV in Australia, by Dean Wilson and Adam Sutton, details the CCTV programmes of some 33 cities around Australia. Many of these programmes have tried to emulate the characteristics of successful overseas trials.<sup>28</sup>

In May 2001, for example, Canberra began its 'Civic Safety Camera System', comprising 15 cameras with footage relayed to police, periodically monitored by the Australian Federal Police, and recorded to computer hard drive.<sup>29</sup> Camera operators are in direct communication with officers on the beat. The implementation of CCTV was part of a broader campaign to reduce crime, including improved lighting and a greater police presence. According to Wilson and Sutton, 'early statistical indicators suggest that the Civic Safety Camera System may have had some impact': recorded crime across all categories has decreased by 19.3% and there has been a more efficient use of police resources.<sup>30</sup>

### **Is CCTV illiberal?**

Even if it helps in reducing crime, CCTV may be considered undesirable. Routinely photographing people as they go about their lawful business raises serious civil liberty concerns. Clive Norris and Gary Armstrong argue that CCTV is 'about far more than just crime prevention; it is about the power to watch and potentially intervene in a variety of situations, whether they be criminal or not'.<sup>31</sup> They see CCTV as leading to a form of 'social control', beyond law enforcement, since it records examples of 'deviant behaviour' that may or may not be illegal.<sup>32</sup>

Yet there is no theoretical difference between surveillance through a camera lens and a naked eye. In this sense, CCTV cameras which are either visible or signposted are analogous to police officers in uniform (and cameras conducting covert surveillance are analogous to officers in plain-clothes). Studies have shown that an increased police presence serves to deter criminals as they decide whether or not to commit a crime,<sup>33</sup> so why not extend the capacity for police surveillance by means of CCTV?

It is true that CCTV can aid surveillance by repressive regimes. In 1989, the Chinese government used Siemens Plessey and Pelco traffic control systems to identify thousands of people who were involved in the Tiananmen Square protests, eventually leading to their interrogation and torture.<sup>34</sup> Similar 'traffic control systems' are being exported to Lhasa in Tibet.<sup>35</sup> But the problem in these cases is not the technology but the regime. As a European Parliament report observed, it is 'democratic accountability' that will distinguish 'a modern traffic control system from an advanced dissident capture technology'.<sup>36</sup> Cameras made it easier for the Chinese authorities to identify demonstrators but so too could any other method of surveillance, including police officers on the beat. Unless there is objection to state surveillance *per se* (in which case there would be no state-run policing), it makes

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no sense to argue against the use of a technology designed to make surveillance more effective.

The simple act of collecting information by means of CCTV does not present any new problems to liberal society. Since the beginnings of the modern police force, there has been debate about whether collecting information offends liberty. In response, its founder Sir Robert Peel wrote: 'liberty does not consist of having your house robbed by a gang of organised thieves'.<sup>37</sup> Terry Honess and Elizabeth Charman, from the University of Wales, found that the collection of information via CCTV is acceptable to the public so long as it is not put to sinister purposes,<sup>38</sup> as in the Chinese example. The real issue, therefore, is not the collection of information, but the way it is used.

### **Are current laws an adequate safeguard from misuse?**

To protect citizens from the misuse of surveillance footage, individuals, companies and public authorities are governed by common law and statutory restrictions.

At common law, there is no right to privacy in Australia.<sup>39</sup> In 2001, the High Court was asked to recognise a tort (a civil wrong) of invasion of privacy but refused to do so.<sup>40</sup> In the case of visual surveillance, Australians can seek remedy at common law only when they are photographed or monitored (a) without giving consent; (b) when engaged in 'private' acts; and (c) when there is a breach of confidence (the photograph or footage is distributed).<sup>41</sup> Possible remedies include injunctions and damages.

Statutory provisions differ from state to state. In Victoria and Western Australia, *Surveillance Devices Acts*<sup>42</sup> regulate the use of listening, optical, tracking and data surveillance devices. In Queensland there is an *Invasion of Privacy Act*.<sup>43</sup> In New South Wales, South Australia and Tasmania, *Listening Devices Acts*<sup>44</sup> apply to the police's use of phone taps and other such listening devices. These legislative enactments make it illegal for individuals to monitor, without consent, other people's 'private' activities unless a warrant or some other similar kind of approval is granted. Thus police officers cannot tap someone's phone, or install a surveillance device in someone's home, without a warrant. In those states where such provisions apply only to listening devices, amendments ought to be made to include video surveillance and to keep pace with other technological developments.

Two further issues arise from current common law and statutory regulations:

1. Is the distinction between private and public acts a sensible basis for regulation?
2. And does CCTV footage, when stored indefinitely, pose a threat to civil liberties?

#### *Private and public acts*

Distinguishing a private from a public act is often difficult. In one case it was held that a conversation in a private room in a court house was not 'private' for the purposes of the law;<sup>45</sup> in another it was held that a conversation in an office with the door open *was* 'private'.<sup>46</sup> The New South Wales Law Reform Commission (NSWLRC) has called for the distinction between private and public acts to be abandoned.<sup>47</sup> It wants CCTV—along with all other forms of surveillance—to be regulated based on whether it is overt or covert (that is, whether those monitored know they are being monitored).

The problem with this proposal is that it will regulate the filming of people in public spaces. Police officers (whether uniformed or in plainclothes) are not prevented from patrolling public areas, so why should surveillance cameras? As the Australian Law Reform Commission (ALRC) commented, people in public spaces 'must anticipate that they may be seen, and perhaps recorded, and must modify their behaviour accordingly'.<sup>48</sup>

The private-public distinction should be maintained. Broad tests for determining whether or not an act is 'private' have been formulated,<sup>49</sup> which give judges a degree of flexibility in deciding cases. Justice Rich wrote of the importance of this approach:<sup>50</sup>

Courts of equity constantly decline to lay down any rule, which shall limit their power and discretion as to the particular cases in which such injunctions shall be granted or withheld. And there is wisdom in this course; for it is impossible to foresee all the exigencies of society which may require their aid and assistance to protect rights, or redress wrongs.

**'Liberty does not consist of having your house robbed by a gang of organised thieves.'**

**The concern lies in the misuse of the information gathered by CCTV, not in its collection.**

It is also worth remembering that there are other laws that protect citizens' privacy incidentally, such as laws of trespass and defamation.

*Storage of CCTV footage as a threat to civil liberties*

Clive Norris and Gary Armstrong fear that the indefinite storage of CCTV footage amounts to a stockpiling of information about people's everyday and lawful business.<sup>51</sup> That information on people's lifestyles and behaviour could then be used for blackmail, embarrassment or undue influence. In light of these fears, the NSWLRC has considered a proposal for all CCTV footage to be destroyed once it is older than 21 days.<sup>52</sup>

Such regulation is unnecessary. Currently, duties of confidence exist under both statute and common law when private acts are monitored without consent. The information is prohibited from being shared or distributed, so why impose a new regulation? This is especially unnecessary considering possible benefits the information may give to law enforcement objectives. As for public acts, these are not confidential and need not be protected by law. If film taken in a public place is used for purposes harmful to those who are photographed, other remedies are already available. For example, if an employee is sacked for committing a perfectly legal public act—such as participating in a protest march—then he or she should pursue a claim through anti-discrimination or unfair dismissal laws.

Furthermore, threats to civil liberties will arise only when various sets of private information are put together. Duties of confidence apply to doctors and lawyers; the *Privacy Act*<sup>53</sup> regulates tax and credit information; and duties of confidence may apply to surveillance footage. Citizens are bound to trust those with confidential information, and they are protected by the law. It is only when confidences are broken and sets of information are compiled that a genuine threat to civil liberties arises.<sup>54</sup>

**Conclusion**

Surveillance cameras evoke images of George Orwell's *1984*, where Big Brother's Thought Police monitored citizens through their telescreens. It is all too easy to think of CCTV as a sinister tool for government, used for social control and unreasonable invasions of privacy. Yet CCTV is only an aid in law enforcement. While it broadens the surveillance capabilities of police, the concern lies in the misuse of the information gathered by CCTV, not in its collection. Current provisions regulating the use of CCTV footage are sufficient. Sweeping reforms regulating filming of public spaces and demands that footage be destroyed would have the perverse effect of enlarging the state and its avenues for interfering with people's lives—an outcome completely at odds with the interest of privacy.

**Endnotes**

- <sup>1</sup> N. Billante, *The Thinning Blue Line*, Issue Analysis No.31 (Sydney: The Centre for Independent Studies, 2003), p.3. See also N. Billante, *The Beat Goes On: Policing for Crime Prevention*, Issue Analysis No. 38 (Sydney: The Centre for Independent Studies, 2003).
- <sup>2</sup> Quoted in M. Nieto, K. Johnston-Dodds and C. Simmons, 'Public and Private Applications of Video Surveillance and Biometric Technologies' (Sacramento: California Research Bureau, 2002), p.8.
- <sup>3</sup> City of Sydney, *Code of Practice: Street Safety Camera Program* (Sydney: City of Sydney, 2001) at 2.4.1; and 'Surveillance Cameras to Multiply', the *Sydney Morning Herald* (7 June 2003).
- <sup>4</sup> Fairfield City Council, *Cabramatta TownSafe 5 Year Review* (Fairfield: Fairfield City Council, 2002) p.22.
- <sup>5</sup> Quoted in D. Wilson and A. Sutton, 'Open-Street CCTV in Australia: A Comparative Study of Establishment and Operation', *Report to the Criminology Research Council* (Melbourne: Department of Criminology, University of Melbourne, 2003) p.6.
- <sup>6</sup> W. Montalbano, 'Public Cameras Change Crime Picture in Britain', *Los Angeles Times* (6 June 1996).
- <sup>7</sup> M. Nieto, K. Johnston-Dodds and C. Simmons, 'Public and Private Applications of Video Surveillance and Biometric Technologies', p.9.
- <sup>8</sup> J. Ditton and E. Short, 'Yes, It Works—No, It Doesn't: Comparing the Effects of Open-street CCTV in Two Adjacent Town Centres', *Crime Prevention Studies* 10 (Glasgow: Scottish Centre for Criminology, 1999), pp.201-23.

- <sup>9</sup> E. Short and J. Ditton, 'Does Closed Circuit Television Prevent Crime? An Evaluation of the Use of CCTV Surveillance Cameras in Airdrie Town Centre', *Scottish Office Central Research Unit Research Findings No. 8* (Glasgow: Scottish Centre for Criminology, 1996), p.24.
- <sup>10</sup> J. Ditton, 'The Effect of Closed Circuit Television Cameras on Recorded Crime Rates and Public Concern about Crime in Glasgow', *Scottish Office Central Research Unit Main Findings, No 30* (Glasgow: Scottish Centre for Criminology, 1999), p.4.
- <sup>11</sup> V. Sivarajasingam and J. Shepherd, 'Effects of Closed Circuit Television on Urban Violence', *Journal of Accident and Emergency Medicine* 16 (1999).
- <sup>12</sup> B. Welsh and D. Farrington, 'Crime Prevention Effects of Closed Circuit Television: A Systematic Review', *Home Office Research Study 252* (London: Home Office Research, Development and Statistics Directorate, 2002), p.41.
- <sup>13</sup> Fairfield City Council, *Cabramatta TownSafe 5 Year Review* (Fairfield: Fairfield City Council, 2002).
- <sup>14</sup> B. Brown, 'CCTV in Town Centres: Three Case Studies', *Home Office Police Research Group Crime and Detection Series: Paper No. 68* (London: Home Office, 1995).
- <sup>15</sup> B. Brown, p.11.
- <sup>16</sup> B. Brown, p.28.
- <sup>17</sup> B. Brown, pp.26, 45 and 60.
- <sup>18</sup> B. Brown, p.46.
- <sup>19</sup> B. Brown, pp.13, 31 and 51.
- <sup>20</sup> N. Billante, *The Beat Goes On: Policing for Crime Prevention*, Issue Analysis 38 (Sydney: CIS, 2003), p.5. See also R. White and A. Sutton, 'Crime Prevention, Urban Space and Social Exclusion', *Australian and New Zealand Journal of Sociology* 31:1 (1995), pp.82-99; and R. Clarke (ed), *Situational Crime Prevention: Successful Case Studies* (New York: Harrow and Heston, 1992).
- <sup>21</sup> D. Cornish and R. Clarke, 'Understanding Crime Displacement: An Application of Rational Choice Theory', *Criminology* 25:4 (1987), pp.933-947.
- <sup>22</sup> P. Waddington, 'Calling the Police: The Interpretation of, and Response to, Calls for Assistance from the Public' (Aldershot: Avebury, 1993), p.38.
- <sup>23</sup> P. Durham, 'Villains in the Frame', *Police Review* 20 (January 1995), p.20.
- <sup>24</sup> B. Brown, 'CCTV in Town Centres: Three Case Studies', *Home Office Police Research Group Crime and Detection Series: Paper No. 68* (London: Home Office, 1995), p.46.
- <sup>25</sup> J. Wilson and G. Kelling, 'Broken Windows', *The Atlantic Monthly* 249:2 (March 1982).
- <sup>26</sup> J. Wilson and G. Kelling, pp.29-30.
- <sup>27</sup> New South Wales Government, *NSW Government Policy Statement and Guidelines for the Establishment and Implementation of Closed Circuit Television (CCTV) in Public Places* (Sydney: NSW Government, 2000) p.4.
- <sup>28</sup> D. Wilson and A. Sutton, 'Open-Street CCTV in Australia: A Comparative Study of Establishment and Operation', *Report to the Criminology Research Council* (Melbourne: Department of Criminology, University of Melbourne, 2003), p.14.
- <sup>29</sup> D. Wilson and A Sutton, 'Open-Street CCTV in Australia', p.29.
- <sup>30</sup> As above.
- <sup>31</sup> C. Norris and G. Armstrong, 'Introduction: Watching the Watchers—Theory and Method', *The Maximum Surveillance Society: The rise of CCTV* (Oxford: Berg Publishers, 1999), p.95.
- <sup>32</sup> As above.
- <sup>33</sup> N. Billante, 'The Beat Goes On: Policing for Crime Prevention', *Issue Analysis 38* (Sydney: The Centre for Independent Studies, 2003), p.4.
- <sup>34</sup> Scientific and Technological Options Assessment, 'An Appraisal of the Technologies of Political Control—Interim Study Executive Summary' (Luxembourg: European Parliament, 1998).
- <sup>35</sup> As above.
- <sup>36</sup> As above.
- <sup>37</sup> Central Missouri State University, Criminal Justice, 'Sir Robert Peel', <http://www.cmsu.edu/cj/robert.htm>
- <sup>38</sup> T. Honess and E. Charman, 'Closed Circuit Television in Public Places: Its Acceptability and Perceived Effectiveness', *Home Office Police Research Group Crime Prevention Unit Series, Paper No. 35* (London: Home Office, 1992) p.25.
- <sup>39</sup> *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479.
- <sup>40</sup> *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* [2001] HCA 63 (15 November 2001).
- <sup>41</sup> Per Laws J in *Hellewell v Chief Constable of Derbyshire* [1995] 4 All ER 473 at 476 and Gleeson CJ in *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* [2001] HCA 63 (15 November 2001) at 39.

- <sup>42</sup> 1999 (Vic); and 1998 (WA).
- <sup>43</sup> 1971 (Qld).
- <sup>44</sup> 1984 (NSW); 1972 (SA); and 1991 (Tas).
- <sup>45</sup> *Bedford v Bedford – Estate of Bedford* (NSW, Supreme Court, BC 9805427, Windeyer J, 28-29 September 1998 and 20 October 1998, unreported).
- <sup>46</sup> *Miller v TCN Channel Nine* (1988) 36 A Crim R 92 at 106 per Finlay J.
- <sup>47</sup> See NSW Law Reform Commission, *Surveillance: An Interim Report, Report 98* (Sydney: NSW Law Reform Commission, 2001). The full report is due this year. As yet, there has been no response from government.
- <sup>48</sup> Australian Law Reform Commission, *Privacy, Report 22, Vol 2* (Canberra: Australian Law Reform Commission, 1983), p.1185.
- <sup>49</sup> See test of Gleeson CJ in *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* [2001] HCA 63 (15 November 2001), p.42.
- <sup>50</sup> *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479 at 500.
- <sup>51</sup> See C. Norris and G. Armstrong, 'Introduction: Watching the Watchers', (see n.31).
- <sup>52</sup> NSW Law Reform Commission, *Surveillance: An Interim Report, Report 98* (Sydney: NSW Law Reform Commission, 2001), at 4.64.
- <sup>53</sup> 1988 (Cth).
- <sup>54</sup> See generally G. Walker, 'Information as Power: Constitutional Implications of the Identity Numbering and ID Card Proposal', *CIS Policy Report 2:1* (Sydney: CIS, 1986).

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