

Surveillance in Public Places Submission form

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Your contact details

Organisation Lilydale Centre Safe Committee Inc
(if relevant)

Position Treasurer/Secretary
(if relevant)

General Questions

Do surveillance practices in Victorian public places concern you? Do some practices cause you greater concern than others, for example, covert CCTV?

Are there any benefits that flow from surveillance practices that we need to consider when we think about changes to regulation?

I am the Treasurer Secretary of the Lilydale Centre Safe Committee Inc (a group of local traders) and in 2005 in agreement with Victoria Police by way of MOU the committee installed CCTV at the Lilydale Police Station transmitted in 'Real Time' which enabled police to respond proactively to incidents and alternatively reactively with better results due to the recording nature of the CCTV hard drive

Most importantly is the major flow on benefits for example

- Since the commencement of the CCTV in Lilydale reported crime dropped 77% in the first 12 months. Although it spiked slightly the following year the year after 07/08 dropped to 82%. The year 08/09 has recorded a 78% drop in reported crime. The flow on effect I am informed of course is police resources are being better utilised in other areas. Local community have commented they feel safer and increased perception of safety
- There has been no known displacement of crime to other areas within the general area.
- It is generally considered that word of mouth regarding the CCTV surveillance has also greatly contributed to the reduction of crime and altered behaviour patterns in the data capture areas
- The added benefit is better for local business with increased trade and traders and community alike are more vigilant and tend to ring the police station if they believe a potential incident is happening

What changes could be made to better regulate surveillance practices?

At this stage I do not believe public surveillance CCTV for law enforcement purposes should be altered, however consider the following,

. There is a National Approach to CCTV for the mass transport sector and agreed to by the Council of Australian Governments on the 14.7.2006. The approach should be extended to encompass CCTV in the broader community other than the transport sector

. Householders can set up a CCTV system on their property for security purposes which view the public domain and the status quo should remain. Should they be pointed at a neighbour's property there are laws already in place i.e. stalking, that sufficiently cover this area

. In relation to privacy the images collected on the CCTV system at Lilydale Police Station has a life span of approximately 5 days when that data is recorded over by ongoing new data. This has the hidden benefit of not storing images for a long period which I believe protects people's privacy. No information is archived for years to be resurrected at some stage. The only data that is kept is data downloaded relating to a specific incident. This data is downloaded on an encrypted programme that is tamper proof. The data's movements are recorded and information kept in a secure safe and treated with rigorous security. This is an important requirement demanded as any lapse in the area would only bring discredit to the system and ultimate downfall. Although staff are trained in its use only a small number of people can download the data to ensure security and protecting the public's privacy

. The points I have just mentioned should form part of the code of conduct and operating procedures

Reform option questions

Principles to guide public place surveillance

1. Do you agree with the draft principles proposed by the commission to guide policy making about public place surveillance?

Yes I agree with the draft principle

1. People are entitled to some privacy when in public places

This needs to be tempered with the need for CCTV use because of problems associated with a given area where problems are occurring

2. Wherever practicable public place surveillance should be transparent

3. Public place surveillance conducted on a continuous basis should be carried out for a legitimate purpose that is relevant to the activities of the organisation conducting it

4. Public place surveillance conducted on a continuous basis should be proportional to its legitimate purpose

2. Should the once-off or intermittent use of surveillance practices by individuals be regulated? As mentioned above regarding covert cameras,

I am aware of some covert cameras that are being used to catch graffitiist, sex offenders, stalkers, rubbish dumpers and burglars. There has been great success with these devices and all used for legitimate purposes. The units are installed covertly by different agencies short term for a specific problem

I don't believe it should be regulated however there should be an education process informing of a set of standards and code of conduct. If it was shown that a person had breached this standard I believe there is already current laws in place i.e. Privacy Act, Human Rights Act, crimes family Violence (Stalking provisions) to protect persons. Although I believe in a voluntary code of conduct and apply best practice standards, I do believe persons who seriously breach a person's privacy should face criminal offences. This offence would perhaps be in the Crimes Act and clearly need to be an 'intent' offence. As an 'intent' offence it would in most cases absolve legitimate users of CCTV who have established their CCTV system for genuine purposes

A new role for an independent regulator

3. Do you agree with the proposal that an independent regulator should have responsibility for monitoring the use of public place surveillance in Victoria? Who should perform this role?
At this point I don't believe an Independent regulator is necessary. If one were to be appointed I would think the current privacy commissioner should do the job. The problem of course is as mentioned in the previous question. How does one police once off intermittent surveillance practices. A person who would use a mobile phone to record would be impossible to police. The only groups that could logically be policed would be legitimate groups such as govt bodies, private industries who I believe would comply with a voluntary code of practice. I say this because should these groups breach the code it draws unwanted and unnecessary attention and criticism. The point being that the ones not policed continue to fail to be brought into line. Punishing or even making it unworkable for the legitimate users.

I also believe that that setting up a new regulator or even expanding to powers of an existing

regulator is a huge cost burden and impost on the Victorian taxpayer for an arena that could be self regulating

Specific functions of the regulator

4. Should the regulator be given the functions proposed by the commission?
As stated previously I disagree that an Independent regulator is necessary, however should the law change I agree with the options listed on 6.60 points 1 and 2 and 3. No 3 as a last resort
5. Are there any other functions that should be given to the regulator?
See Above
6. Would a registration scheme assist the regulator to acquire information about surveillance use? Is such a scheme practical? Should some users be exempt from registration requirements?
As stated I disagree with a regulator as only legitimate users would comply and one off users would not register in effect making it difficult for the genuine users
7. What (if any) investigatory powers should be given to the regulator?
As stated previously I disagree that an Independent regulator is necessary
8. Should the regulator have an own motion investigatory power in order to identify systemic problems with surveillance in public places?
See above
8. Should the regulator have the power to develop advisory guidelines which explain the law concerning surveillance in public places?
It doesn't need a regulator for this to happen. Best industry standards could be developed through consultation with already CCTV groups and freely available for interested parties perhaps available through Consumers Affairs Victoria

Voluntary best practice standards

10. Would voluntary best-practice standards developed or approved by the regulator be useful?
Would be useful but developed as stated above
11. Is linking voluntary best-practice standards to government procurement criteria a good strategy for encouraging responsible use of surveillance practices? Are there other strategies for encouraging compliance with the voluntary standards?
I totally agree that procurement is a good strategy. Monies obtained through government grants for example would be required to comply with best practice standards. The Lilydale Police Station CCTV system is exactly that. \$150,000 dollars was obtained through a federal government crime prevention initiative and as stated it had to comply with the 'national Code of Practice for CCTV' as agreed to Council of Australian Governments

Mandatory codes of practice

12. Should there be mandatory codes, if so, what conduct should they regulate?
No mandatory codes
13. If mandatory codes are introduced, should the regulator have the power to approve industry codes that operate in their place?
If mandatory codes were introduced there must be flexibility in the industry codes dependent on the industry. What may suite one industry may not suite another
14. Should the regulator be empowered to investigate complaints made about potential breaches of a

mandatory code? How broad should any such powers be?
No there are sufficient laws in place to cover this

15. What kind of sanctions should be imposed for breaches of a mandatory code?
There are sufficient laws in place to cover this

A licensing system for some surveillance practices

16. Should users of some forms of surveillance practices be required to obtain a licence from a regulator?
No, as already stated
17. Are there any surveillance practices in Victorian public places that are particularly concerning? If so, why?
The only ones of concern are forms of surveillance by individuals that have devious intentions eg photographing children etc. Although this was partly covered after a male was caught with a hidden device in his shoe up skirting women. I don't believe it goes quite far enough

Changes to clarify and strengthen the *Surveillance Devices Act 1999 (Vic)*

18. Should the SDA (Vic) expressly prohibit the use of an optical surveillance devices in toilet areas, shower areas and change rooms?
Yes, unless of course used under warrant. I do believe that devices could be used on the periphery. For example
Local sports centre has had a spate of theft from change rooms. A device could be set up by the proprietor on a specific area such as viewing lockers or an area where people's possessions or clothing is kept. But definitely opposed to more intrusive areas
19. Should the definition of 'tracking device' in the SDA (Vic) be amended so that it includes all devices capable of determining the geographical location of a person or an object?
I don't believe this should be changed. I understand by way of example is a missing person where mobile phone triangulation can be undertaken once the appropriate approvals have been obtained. And to change this would ultimately make it time consuming, more difficult and impractical with no net gain and in fact slow the processes down and hindrance to locating people
20. Should the SDA (Vic) be amended to include a new 'catch-all' category of surveillance devices to cover those devices that do not fit within the Act's existing listening, optical, tracking and data surveillance categories? How could this be done?

I have asked many people and unable to think of a device that does not fit in Acts existing category.
21. Should the exemption for participant monitoring in the SDA (Vic) be removed? If so, should this also be done for both listening and optical surveillance devices?
I would strongly oppose any attempt to remove this from the SDA. This form of surveillance benefits all people in the community, an example as follows

An example as follows, a woman whose former husband would breach his intervention order each time they exchanged children in a public arena. There were no witnesses and one word against the other. She commenced using a micro recorder and recorded conversation when they handed over the children. Police would be able to charge him with numerous counts of breach of intervention

orders using the evidence obtained by the recorder. The recorder acts as an independent witness and is an invaluable tool for all people. Likewise the former husband is quite entitled to use a voice recorder and in fact should he do so both parties tend to be civil to one another averting further breaches and allegations of breaches

22. Should the enforcement regime of the SDA(Vic) be extended to include civil penalties?
I disagree with civil penalties as this could deter right minded people from installing devices for fear of civil action
23. Should the regulator's proposed powers to develop guidelines be extended to clarifying the meaning of consent in the SDA (Vic)? If so how should the meaning of consent be clarified?
I believe we should maintain the status quo and leave as is

Creating a statutory cause of action for serious invasions of privacy

24. Should there be a statutory cause of action for serious invasions of privacy along the lines proposed by the ALRC?
Although I believe in a voluntary code of conduct and apply best practice standards, I do believe persons who seriously breach a person's privacy should face criminal offences. This offence would perhaps be in the crimes Act and clearly need to be an intent offence. As an intent offence it would in most cases absolve legitimate users of CCTV who have established their CCTV system for genuine purposes