

Submission to the Wollongong City Council (the Council) concerning the draft CCTV Program— Code of Practice (the draft code).

The CCL is grateful for the opportunity to make input into the Council's deliberations. We regret the enforced lateness of this submission. We would be happy to talk to Council staff, to members of a relevant Council committee or to address the Council itself on these matters if the Council should so wish.

Article 17 of the International Covenant on Civil and Political Rights guarantees that 'no one shall be subjected to arbitrary or unlawful interference with his privacy'. Australia, having contributed substantially to the Covenant, and having signed it, is bound to protect privacy, except in times of public emergency which threaten the life of the nation.

Arising from this, CCL has a number of concerns with the Wollongong Council's draft code.

1. It introduces unjustified invasions of privacy. CCTV cameras that are linked to the Council system should be used as part of the defence of the Wollongong community against violent crime. They should be located in areas where there is a history of such violent crime.

The City of Sydney Code of Practice (CoS Code) provides an example here. The primary purpose stated in that Code—and by implication, the determining factor for location of cameras—is to assist in the prevention of armed robbery, robbery with wounding, robbery in company, extortion, and various kinds of assault.

The CoS Code does have a secondary purpose, which includes serious property offences. It does not include drug crimes—in fact those crimes were deleted from a draft policy.

CCL recommends that the Wollongong Council similarly limit the uses to which the cameras are put.

2. The draft Code goes a long way beyond the matters about which, under the Local government Act, a local government body should be concerned. CCTV coverage should not be directed at 'trespass, selling and/or receiving stolen goods, drug related offences, weapon related offences, shoplifting, traffic and motor offences and accidents, truancy and juvenile related offences, offences and noncompliance under the Local Government Act 1993 or other relevant Acts'.¹ Police should not be permitted to use the Council's system in relation to such matters.

The most extreme examples in this list are truancy, shoplifting and controlled police operations.

¹ Draft code p.7.



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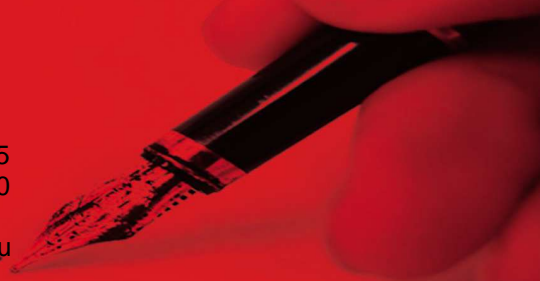
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- i. It is not Council's business to be spending its money and directing its cameras into commercial premises—it is the job of the business to protect its goods.
 - ii. The inclusion of truancy is extraordinary. (We hope that it is not proposed that photographs of children will be taken and kept without their parents' consent.)
 - iii. Controlled police operations are operations where a police officer is given permission to act against the law in an effort to catch criminals. Why is it being suggested that Council cameras should be used to assist in such work?
3. Similarly, it is not Council's task to save the police money, by doing their job for them. It is one thing in real emergency situations, such as siege or bomb blast, when citizens would be expected to assist in whatever way they could, for the Council to play its part. It is quite another to spend Council money on such matters as traffic counting, slips and falls, or the detection of suspicious behaviour. The State Guidelines for CCTV has the expectation that local bodies will ascertain whether their communities will support the costs involved. It is doubtful whether the community would support such a wide-reaching and expensive approach.² The costs of policing should come from the police budget.

Trespass, selling and/or receiving stolen goods, drug related offences, weapon related offences, shoplifting, traffic and motor offences and accidents, truancy and juvenile related offences, offences and noncompliance under the Local Government Act 1993 or other relevant Acts, traffic counting, slips and falls, or the detection of suspicious behaviour should all be removed from the draft code.

The draft Code proposes that the police should be able to view screens at their own discretion.³ Yet the State Guidelines declare that transfer of operational control 'should only occur in clearly defined and emergency situations.'⁴ It is important that Council should adhere to the State policy in this respect.

Unreasonable intrusions.

² NSW Government Policy Statement and Guidelines for the Establishment and implementation of Closed Circuit Television (CCTV) in Public Places, NSW Attorney General's Department 2000, p.3.

³ Principle 3 e p.8.

⁴ State Guidelines p. 14.



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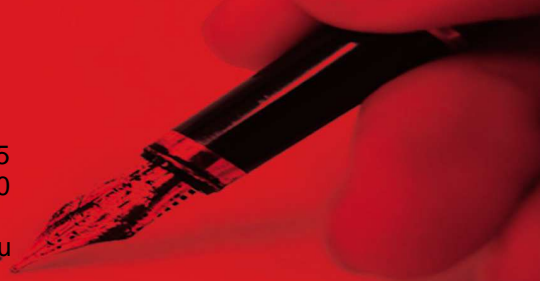
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It should always be clear to the public where the cameras are. The proposal⁵ that some should be hidden, and used for police covert or special operations, is a grave invasion of privacy. People are entitled to know who is observing their actions. Moreover, police have procedures to follow before they are permitted to engage in secret surveillance. This section should be removed from the guidelines.

As the State Guidelines say, section 11 of the Privacy and Personal Information Protection Act requires that the collection of information does not intrude to an unreasonable extent on the personal affairs of an individual. “For this reasons all efforts should be taken to avoid including private residences within the camera view of the monitored area.”⁶ The court case quoted in the Guidelines⁷ should be a warning to Council—to continuously film a property would make the Council legally liable in nuisance.

Yet the draft code proposes that Council cameras be used to monitor property merely suspected of being used to accommodate criminal activity.⁸

The police should not be permitted to use the system for intelligence gathering.⁹ Yet the draft code not only includes it,¹⁰ but also proposes that police should be able to use Council cameras to look into private residences while intelligence gathering.¹¹ It proposes that access to recorded material be granted to police for intelligence gathering.¹² Rather than including this, the draft code should explicitly reject it.

We note that it is proposed that surveillance in libraries should be included in the system. It is appropriate to have any library surveillance covered by Council policy. But library CCTV, which is designed to prevent books being mutilated or stolen, should not be linked to the central system. What a person reads is a private matter.

⁵ Principle 7 a, on p. 10.

⁶ p. 11.

⁷ *Raciti v Hughes* Supreme Court of NSW Equity Division, No 3667 of 1995

⁸ Principle 7 b, p. 11.

⁹ State Guidelines p. 3.

¹⁰ In Principle 8, p. 11.

¹¹ P. 11.

¹² Principle 8.



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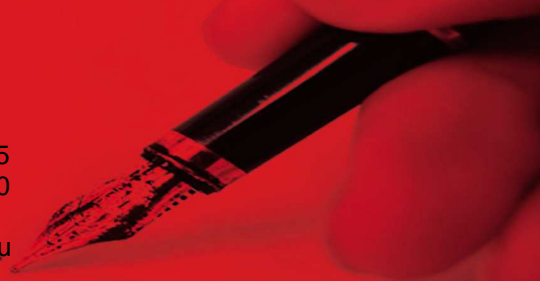
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We would understand a desire to prevent the desecration of the Crematorium.¹³

However the use of cameras to record people's behaviour at funeral services "for operational purposes" is unfortunate. People's grief is a private matter; it should not be recorded or watched from a distance or subsequently inspected by Council. Mourners should not have to cope with the presence of cameras enabling such recording or watching.

It is not clear whose operational purposes are meant. Surely the crematorium staff are able to manage the task of asking mourners to move when necessary. Is it seriously being suggested that police, in their anti-crime efforts, should use Council cameras to film mourners?

Community participation.

We commend the Council on its proposal for a proposed CCTV Camera Program Evaluation Committee. The State Guidelines recommend that a Community Safety Committee should have representatives of, inter alia, community members and particular community groups, such as young people, indigenous or non-English speaking background persons. The Council draft includes very few of these on its proposed Committee, and the community members are further limited to members of the Council's Community Safety and Audit Committee. We recommend a wider representation on the Program Evaluation Committee, in accordance with the State Guidelines, making use of local organisations to nominate members. CCL would wish to have the option of having one of its local members included.

Martin Bibby
Executive member

¹³ Draft code p.4.