

ARTICLES

CITY OF SYDNEY SAFETY CAMERA PROGRAM

By Dr Lesley Lynch

The huge proliferation, under the aegis of both public and private agencies, of CCTV surveillance cameras, and the international trend to extend the purposes for which they are used, pose significant and increasing risks to privacy and civil rights. NSWCCCL recognises that surveillance cameras can assist in providing protection against crime and violence against persons and property in hot spots, and that there is currently community support for their use.

NSWCCL supports the use of CCTV surveillance cameras only where there are appropriate safeguards to protect privacy and prevent abuse. Clear and enforceable guidelines governing where, for what purposes and by whom surveillance cameras can be used, are fundamental to such safeguards.

There is currently an important discussion underway in Sydney about the appropriate use of an inner city CCTV surveillance program run by the City of Sydney Council. NSWCCCL has been actively involved in the debate to persuade the City to hold the line on existing guidelines and safeguards for this program in the face of considerable pressure to extend its purpose, scope and access parameters.

Background

The City of Sydney in 1998/9 introduced an inner city network of CCTV surveillance cameras as part of the general pre-Olympics security measures. While the cameras and the program belong to the Council, the NSW Police are a formal partner in, and the major user of, the program. A reasonably strong set of guidelines was developed to ensure clarity as to location, purpose and access and appropriate protection of privacy. The program was a part of Council's overall Safety Program and was aimed primarily at protecting personal safety, with a secondary purpose of preventing serious property offences.

There are currently 81 cameras in the program and NSW Police would like Council to extend this by 20 in the near future if funds can be secured. The growth of the program over the last decade has been in the context of reasonably strong community support for surveillance cameras within the inner city area.

In late 2008 the Council reactivated its City of Sydney Safety Camera Audit Committee to conduct a review of the guidelines. NSWCCCL accepted the invitation to participate in the review. I took over the role for CCL. Other members were Privacy NSW, NSW Police and Council.

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The review was to allow formal consideration of a raft of proposed changes to the guidelines. Some of these were technical and administrative and of no policy significance. Others, however, constituted major changes to the purpose and control of the program and were driven by pressure from the police to make the program more flexible.

The review was a reasonably balanced and very intensive process and a valuable one from a civil liberties perspective. Numbers of proposals, which would have extended the scope and objectives of the program and access to/use of material, were rejected or amended. Nonetheless, the civil liberties perspective did not always prevail. The draft which emerged from the review process contains a number of proposed changes which NSWCCCL strongly opposes and which will significantly weaken the existing safeguards for the program.

At the time of writing, the proposals have surfaced into the public domain and are making their way through Council's formal approval processes. NSWCCCL, along with other groups, has grabbed the opportunity to engage directly and

publicly with councillors in arguing for the rejection of a number of critical proposed changes. We have done this by written submission and by direct address to the Committee.³

From Protection of Safety to Intelligence Gathering

Most significantly, NSWCCCL opposes a major change to the objectives of the program, which would remove the current, explicit prohibition on the cameras being used by NSW Police for general intelligence gathering.

The current Code of Conduct states that the cameras 'may not be used for general intelligence gathering'. This is an appropriate prohibition for a safety surveillance program set up by the City of Sydney Council to protect against violence to people and property within its environs.

The proposal is to change this so that the cameras 'may be used for intelligence gathering on individuals and locations, in relation to offences within the scope of the program'⁴.

This change would allow use of the cameras for very open-ended intelligence gathering by the police. The scope as proposed would in fact encompass all individuals and all criminal offences with the exception of 'personal use of illicit substances'.

This is an unnecessary and dangerous addition to the objectives of the program and a breach of the original assurances from the Council about the ambit of the program. It is hard to see why our City Council would want to make such a radical about face in the core parameters of a safety program.

NSWCCL has strongly recommended that Council reject this proposal and reaffirm the existing clause prohibiting the use of the program for general intelligence.

Further, we have also recommended that the prohibition on use of the program for "intelligence gathering" be strengthened to include intelligence on individuals and locations. Such intelligence gathering is not consistent with the overriding safety purpose of the CCTV program.

NSWCCL has strongly recommended that Council reject this proposal and reaffirm the existing clause prohibiting the use of the program for general intelligence.

From Street Safety Offences to All Criminal Offences

The program was introduced as a part of the Council's Central Sydney Safety Program. Its primary purpose was defined as being 'to assist in prevention of crimes against the person'. To this was added a secondary purpose of assisting in 'the prevention of other serious criminal offences, particularly the following.' The 'following' list included stealing, break and enter, malicious damage to property, firearm offences, receiving stolen goods and dealing, trafficking in drugs. With the exception of the drugs offence they were all about theft or damage to property.⁵

NSWCCL considered this 2005 version of relevant criminal offences to provide appropriate scope for a safety program.

The proposed draft still describes the program as being part of the larger Central Sydney Safety Program, but is much more open ended in the description of the primary purpose. It now reads: 'The primary purpose of the City of Sydney's Street Safety Program is to assist in the prevention of all criminal offences, such as...'.⁶ This is proposing an absolutely open ended scope for the program- even the specification of 'serious' offences has been removed. The

³ A NSWCCCL submission was sent to all Councillors. *City of Sydney Safety Camera Program. NSWCCCL Comments on Proposed Major Changes to the Code of Practice.* 24/8/09. NSWCCCL along with the CMFEU was given an opportunity to address the Culture and Community Services Committee on 24/08/09.

⁴ P.35 Clause 4.1.6. 'Summary of the Proposed Changes to the Code of Practice' in Papers for the Cultural and Community Services Committee, City of Sydney Council, 24th August, 2009. (CSC papers 24/8/09)

⁵ CSC Papers 24/8/09, Clause 4.1.1 pp.36-7

⁶ CSC Papers 24/8/09, Clause 4.1.1, p 38

full text of this clause means that the only criminal offence excluded from the scope would be 'personal use of illicit substances'.

Clearly this shifts the program from one which was primarily about safety protection to one which is primarily about general police intelligence gathering and general crime prevention. Again this is neither necessary for the effectiveness of the program as a safety program, nor is it appropriate for our City Council to be running a broad police intelligence gathering program.

NSWCCL has recommended that the program be limited to criminal offences relevant to street safety as is currently the case.

Apart from these two major issues, NSWCCL has a number of related concerns with the current proposals. For example, it is proposed to delete the existing prohibition on the use of 'photos or other images provided by Police or any other agency to assist monitoring for individuals' and replace it with a much more open ended protocol:

*'At the request of the NSW Police or other law enforcement agencies, control room staff may use photographs or other images to assist in the location and monitoring of individuals in relation to a serious offence that has been committed, or where Police intelligence suggests a serious offence is likely to be committed.'*⁷

The proponents of this expanded use of the program reference serious matters like the tracking of a suspected child kidnapper or terrorist. While these might be persuasive as exceptional crises, the formulation opens the practice to almost any monitoring of individuals that is wanted. The proposed level of approval for this use is too low.

The ongoing effective monitoring of the program is of great importance. Until the recent reactivation of the program Audit committee, there has been no independent oversight of the program. The Council needs to do better on this front. The current description of the audit process is unclear and needs to be reworked- and maybe rethought.⁸

Following the interventions by NSWCCL and the CMFEU and opposition from number of councillors, the Cultural and Community Services Committee withheld endorsement of the proposed changes and decided to consider them further before making recommendations. Council will again consider the proposed changes to the program at its full meeting on 31st August, 2009. It is likely that Council will also defer a decision and seek further advice to allow further consideration of the programs purpose and the proper role of local government in relation to surveillance programs.

NSWCCL will continue to press its arguments to contain this program to its current objective of protecting persons and property in inner Sydney from violence.

The Sydney City Council has a deserved reputation as a defender of civil liberties. Its current practice is better than many other councils and jurisdictions, in that it has a set of reasonably strong public guidelines/protocols limiting use of and access to the program. NSWCCL is hopeful therefore, that it will hold the line against pressures to weaken the existing Code of Conduct. To change the objectives of the program to allow general intelligence gathering by police would constitute a major and unnecessary breach of the original undertakings of the Council when the program was set up.

NSWCCL will continue to press its arguments to contain this program to its current objective of protecting persons and property in inner Sydney from violence. We are in conversation with other concerned groups on the matter. Given the extent to which police powers have been extended at the State level in recent times, this seems a relatively small program to worry about. However, in these bleak times small victories are to be fought for.

It would be of some reassurance if the City of Sydney Council could hold the line with a better balance towards privacy and civil liberties than London has been able to deliver in its gargantuan CCTV surveillance program.

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⁷ CSC papers 24/8/09, Clause 8.3.3, p75

⁸ CSC papers, 24/8/09, Section 7, P 39. This reference is to the Protocols for the Program.