

REVIEW OF CAMERA SURVEILLANCE IN JERSEY Education and Home Affairs Scrutiny Panel



WRITTEN SUBMISSION From No CCTV Prepared by Charles Farrier, September 2013

1. We constantly hear from proponents of surveillance cameras that they are an invaluable tool, or that the criminal justice system could not operate without them. The supposed evidence for this is mostly anecdotal and often is simply summed up by statements such as: “whenever there is a crime the first question that is asked is, is there CCTV?” It seems incredible that such an important policy as the use of surveillance cameras to monitor members of the public as they go about their law abiding business can be underpinned by such assertions, which are hardly the gold standard of evidence.
2. As pointed out by Ken Pease in his 1999 study of street lighting: “for those exercising stewardship of public money, good evidence about effects should be necessary before money is spent, although one is tempted to ask where rigorous standards went in the headlong rush to CCTV deployment” (‘A Review of street lighting evaluations: crime reduction effects’, Crime Prevention Studies, Volume 10, 1999).
3. At the level above anecdotal support for surveillance cameras we find studies into their use. These studies however are not all created equal.
4. James M. Byrne & April Pattavina of the Department of Criminal Justice and Criminology, University of Massachusetts have pointed out there are three different types of evidence-based reviews:
 - “1) the “gold standard” evidence-based review focuses only on randomized, controlled experiments;
 - 2) the “bronze standard” evidence-based review includes both experimental and well-designed quasi-experimental research, while using nonexperimental research studies to confirm findings from higher quality research; and
 - 3) the unscientific (or nonsense) review, which does not identify specific study review criteria, relying instead on a selected subset of all studies available for review on the topic of interest.”

[‘Assessing the Role of Clinical and Actuarial Risk Assessment in an Evidence-Based Community Corrections System: Issues to Consider’, James M. Byrne, Federal Probation Journal, Volume 70 Number 2]
5. So before reviewing the available data on the effectiveness of surveillance cameras it is first necessary to ascertain what standard of evidence-based review has been used.

THE CAMPBELL COLLABORATION REPORT

6. With this in mind I would draw the Scrutiny Panel's attention to the Campbell Collaboration 2008 Report 'Effects of Closed Circuit Television Surveillance on Crime'. This study, which was a study of previous studies, was conducted by Brandon Welsh and David Farrington and was part funded by the UK Home Office.

7. The 2008 report was an update of previous studies done by Farrington and Welsh and it followed their 'Protocol for a Systematic Review'. This meant that they only considered studies if they met certain criteria such as evaluation design or whether a control area was included in the study (for a full list of criteria for inclusion see 'Effects of Closed Circuit Television Surveillance on Crime: Protocol for a Systematic Review', Welsh & Farrington) .
8. The protocol used by Farrington & Welsh has been described as meeting the bronze standard of evidence-based review by James Byrne (see 'Technological Innovations in Crime Prevention and Policing', Journal of Police Studies 3(20) (2011)).
9. The Campbell Collaboration report looked at evaluations from the UK, US, Sweden, Norway and Canada in four main settings - city/town centres, public housing, public transport and car parks. The report considered 92 evaluations of CCTV and found only 44 met Farrington & Welsh's criteria for inclusion. Upon that basis the report concludes that:

“[...] the evaluations of CCTV schemes in city and town centers and public housing [...] as well as those focused on public transport, did not have a significant effect on crime.”

[Effects of Closed Circuit Television Surveillance on Crime, Campbell Collaboration, 2008, p19]

10. A criticism often made of the Campbell Collaboration report is that most of the studies were conducted in the 1990s, but of the evaluations rejected, 22 were since 2002 and of those that met the criteria for inclusion 23 of the 44 were since 2000.
11. The Campbell Collaboration report, like Farrington & Welsh's previous report (Home Office Study 252, 2002), showed that cameras were only effective in car parks - though even this finding was tempered by the fact that the car park schemes included other interventions, such as improved lighting and security guards.
12. One of the main reasons that the Campbell Collaboration report has not been given adequate attention is to do with the timing of its publication and dissemination. In 2008 there were two parliamentary inquiries into surveillance in the UK: the Home Affairs Committee's 'A Surveillance Society?' which reported its findings in May 2008 and the Constitution Committee's 'Surveillance: Citizens and the State' which reported in February 2009. It was not until March 2009, after both inquiries were fully concluded, that the UK government announced that the Campbell Collaboration Study had been published.
13. But even the standard of evidence-based research used by Farrington & Welsh has been criticised. In a review of the book 'Evidence-Based Crime Prevention' Kevin D. Haggerty writes of the assessment criteria used by Farrington & Welsh:

“We might expect much more from the multi-million-dollar global criminological research enterprise than simply two methodologically sound studies showing positive results before we unequivocally conclude that an entire field of interventions work. As the editors put the matter, they chose not to use a more demanding criteria of success because this ‘would leave very little to say about

crime prevention, based on the existing science' (p. 10). Actually, it would leave them with a tremendous amount to say, but it would almost all be bad news, as they would have to conclude that on the basis of the existing evidence almost nothing works."

[Review of 'Evidence-Based Crime Prevention', Kevin D. Haggerty, Theoretical Criminology, 2008 12: 116]

14. The Campbell Collaboration may not be the highest standard of evidence-based research – but it is the best we have to date and clearly its findings, that cameras did not have a significant effect on crime, should be of great interest and concern to policy makers.

EXCESSIVE FOCUS ON PROPERTY CRIME

15. Incredibly, despite the actual findings of the Campbell Collaboration report the UK government chose to quote extensively from the report's synopsis which oddly states that: "CCTV has a modest but significant desirable effect on crime". This statement is confusing because it chooses to present property crime, specifically in car parks, as simply "crime" – thus allowing the government to carry on with business as usual when it comes to surveillance cameras, safe in the knowledge that few people will ever spot this sleight of hand.
16. Indeed the expansion of CCTV in the UK, together with the introduction of "Intelligence-led policing", can be traced back to the publication of a 1993 Audit Commission report which used the same conjuring trick. The 1993 report, 'Helping with Enquiries: Tackling Crime Effectively' stated that recorded crime had risen 74% in the previous decade, also pointing out that the rise in reporting of crime was driven by an increasing amount of car and household insurance and that accordingly the vast majority of recorded crime was property crime, whilst crimes against the person (violence, sexual assault and robbery) accounted for only about 5% of all recorded crime. The report's findings were once again used to promote a need for action against all crime – leaving it to people's imaginations what that crime could be and thus implying that the action required was much more substantive than in reality was appropriate.

POLITICAL MANIPULATION OF FIGURES

17. In June 2008 then UK Prime Minister Gordon Brown gave a speech to the Institute of Public Policy Research (IPPR) in which he chose to cite a 1995 evaluation of CCTV ('CCTV in Town Centres: Three Case Studies', Police Research Group), when he said:

"In central Newcastle, after CCTV was installed, burglaries fell by 56 per cent, criminal damage by 34 per cent, and theft by 11 per cent."

['Security and Liberty' – Gordon Brown speech IPPR 2008]

18. In fact the Newcastle study was reviewed as part of Home Office Study 252 in 2002 by Farrington & Welsh who found that the cameras had an "undesirable effect" in Newcastle, because total crime fell by 21.6% in the area with cameras but by 29.7% in the area where there were no cameras.

19. When politicians choose to mislead the public in this way it is little wonder that there is apparently such a large degree of public support for cameras. Lord Peston, who as a member of the Constitution Committee considered the evidence presented to the 'Surveillance: Citizens and the State' inquiry, pointed out that:

“if the public want these CCTV cameras—and my ad hoc experience is that that is true—what is the correct response that those of us in public life, not least the Government, should give? Should we say, "If it is what they want, then it is what they ought to have even thought it is not backed by any evidence at all"? Or is it our duty to educate them and tell them that they are wrong?”

[Debate on Constitution Committee Report, House of Lords, 19th June 2009]

POST-CRIME CLEAR UP

20. It is frequently said that although there is little evidence to show that cameras deter or reduce crime it stands to reason that it assists in post-crime detection. In fact, yet again, there is little hard evidence to support this claim.
21. In 2007 the London Assembly obtained figures for number of cameras versus crime clear up rates across the 32 London Boroughs. These figures show that increasing the number of cameras does not increase the crime clear up rate. Basically, there is no linear dependence between the number of cameras and percentage of crime clear-up in London, where there are over 10,000 state run cameras. What is more, four out of five of the boroughs with the most cameras had a record of solving crime that was below average.

CIVIL LIBERTIES / PROBABLE CAUSE

22. The oft repeated but little understood catchphrase “nothing to hide, nothing to fear”, consistently used to justify video surveillance, turns the usual law enforcement requirement of “reasonable suspicion” upon its head. In the case of surveillance cameras information is recorded regardless of the existence of specific cause. Cameras record continuously, as opposed to recording only selective incidents related to law enforcement activities, and so information on thousands of innocent people engaged in activities irrelevant to the supposed justification for the cameras is collected.
23. In 2001 following an investigation of video surveillance activities by the Royal Canadian Mounted Police (RCMP) in Kelowna, British Columbia, George Radwanski, then Privacy Commissioner of Canada in a letter of finding to the Information and Privacy Commissioner of British Columbia articulated this point when he wrote:

“the broad mandate to prevent or deter crime clearly does not give police authorities unlimited power to violate the rights of Canadians. They cannot, for instance, compile detailed dossiers on citizens "just in case." They cannot force people at random to identify themselves on the street. They cannot enter and search homes at will, without proper authorization.

It is equally clear, in my view, that police forces cannot invoke crime prevention or deterrence to justify monitoring and recording on film the activities of large

numbers of the general public.

In the normal course of law enforcement, cause (reasonable grounds) is a basic precondition for the collection and retention of personal information. In the case of video surveillance, information is recorded regardless of the existence of specific cause. By recording continuously, as opposed to recording only selective incidents related to law enforcement activities, the RCMP was unnecessarily collecting information on thousands of innocent citizens engaged in activities irrelevant to the mandate of the RCMP."

[Letter of finding to David Loukidelis, Information and Privacy Commissioner of British Columbia from Privacy Commissioner of Canada, George Radwanski, 4th October 2001]

24. Furthermore, the former Canadian Supreme Court Justice Gérard La Forest in a legal opinion to Commissioner Radwanski wrote:

In Kelowna and elsewhere, some citizens have said that they have nothing to hide and are comforted in the belief that video surveillance will permit the police to check the actions of malefactors. But this wholly mistakes the nature of a free society. It is not only criminals who are harmed by intrusions on liberty. In the absence of compelling justification, we should all be free to move about without fear of being systematically observed by agents of the state.

[Opinion by Justice Gérard La Forest, to George Radwanski, Privacy Commissioner of Canada, 5th April 2002]

25. One would imagine that intrusions into the privacy of law abiding members of the public would be taken very seriously, allowed only under extreme circumstances where all other measures have been tried and failed, and where there is both a proven need and clear evidence of benefits. Where surveillance cameras are concerned this is clearly not the case.

26. As well as the impact on individual freedoms, surveillance cameras have a wider detrimental societal effect. To help understand this societal impact we can look back to the work of people like the Social Anthropologist Jane Jacobs who wrote 'The Death and Life of Great American Cities' in 1961. Jacobs wrote in relation to the way that towns and cities were being designed in America in the 60s, but her writings have resonance with regard to the over use of surveillance cameras today. Jacobs wrote:

"The first thing to understand is that the public peace - the sidewalk and street peace - of cities is not kept primarily by the police, necessary as police are. It is kept by an intricate almost unconscious, network of voluntary controls and standards among the people themselves, and enforced by the people themselves."

['The Death and Life of Great American Cities' , Jane Jacobs 1961]

27. This idea of a community of people interacting and having a sense of natural vigilance is what cameras destroy. The effects of surveillance cameras on communities have been studied more recently in a New Economics Foundation report 'Fortress Britain' published earlier this year. The report looked at an estate in Pimlico in London and found that residents felt that "knowing people", whether it be caretakers, youth workers or each other, was the key to creating trust, whilst cameras increased fear and

decreased trust.

"CCTV was already in place and not deterring the anti-social behaviour. Our study suggested that high security was offered as a technical response to a complex social problem, which would require a different kind of solution."

['Fortress Britain', by Anna Minton and Jody Aked, New Economics Foundation 2013]

28. One of the 'Fortress Britain' authors, Anna Minton, produced a report in 2008 which states:

"mounting evidence shows that private security and CCTV does not reduce fear of crime or actual crime and might in fact increase crime. According to a study funded by the Scottish Office in Glasgow, there was no improvement in feelings of safety after CCTV was introduced, while the area studied actually showed an increase in crime. The author concluded that the "electronic eye on the street" threatens to erode the "natural surveillance" of "mutual policing" by individuals and represents a retreat from "collective and individual responsibility to self interest and a culture of fear". "

['Why are fear and distrust spiralling in twenty-first century Britain?', Joseph Rowntree Foundation, 2008]

29. We no longer have park keepers, bus conductors, toilet attendants, people there to help, acting as a glue to hold the community together, soft policing with a ticking off instead of a Control Order. Now we abdicate that responsibility to a machine that doesn't prevent crime, it merely records us as we go about our daily business and may capture the occasional incident for the police to collect the data at a later date.

30. Reliance on a disembodied watcher who views the world through a screen rather than interacting with members of the community is the very reason that communities are fractured. Surveillance cameras are actually contributing to the breakdown of our society not fixing it.

31. The vast majority of evaluations of surveillance cameras have neglected the effects that cameras have on society. In a 2010 paper for the Crime Prevention and Community Safety journal Dr Emmeline Taylor criticised the narrow focus of many evaluations, she wrote:

"It is precisely because of the narrow approach taken that evaluations thus far have not been able to determine with any certainty not only if CCTV is 'effective' but whether it is a desirable feature of our society. If CCTV evaluations were to include phenomena such as the impact on privacy, confidence, or trust for example, in a cost-benefit analysis, it may well be the case that policymakers would have a very hard time convincing members of the public that the technology was a welcome addition to their communities. These questions have not often been raised. Objective measurements of crime figures have taken precedence over subjective interpretation of CCTV as a lived experience."

[Evaluating CCTV, Dr Emmeline Taylor, Crime Prevention and Community Safety Vol. 12, No 4]

BODY CAMS

32. One new area where the use of surveillance cameras increases the risk to a sense of community is that of body-worn video or body cams, which Jersey Police are currently trialling. In an age where police look increasingly like the military, body cams are yet another piece of paraphernalia that serve to further distance members of the public from the human being that is the police officer.
33. There appears to be no publicly available evidence that body cams have any benefits to the criminal justice system or society as a whole. The only major study into the use of body cams was conducted in the United States and looked at the effect of body cams on police officers' use of force ('Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-Force', Tony Farrar). In the same vein, New York police have been ordered to wear body cams to address an unconstitutional stop-and-frisk program. Is it suggested that similar concerns apply to Jersey police?
34. The so-called evaluation done by Devon and Cornwall police as part of the Plymouth Head Camera Project only collected data for 10 weeks, had no experimental control and simply compared crime data to the same 10 weeks the year before. This is what James M. Byrne & April Pattavina (referenced above) would describe as a "nonsense review".
35. The increased deployment of police body cams in the UK is being driven by the government's digital strategy, which seeks to embed technology for technology's sake into modern policing. This seems to have very little to do with dealing with crime in any way. The gushing enthusiasm for body cams makes absolutely no sense whatsoever. I would urge the Scrutiny Panel to look carefully at the issue of body cams and avoid being bamboozled by the rhetoric of the technology companies and techno-evangelists that are dominating the current discourse.

TRANSPORT SURVEILLANCE

36. Another area of concern I would bring to the attention of the Scrutiny Panel is the provision of blanket surveillance on public transport. In Jersey, the ironically named Liberty Bus service now has surveillance cameras fitted to all buses. Drivers recently raised concerns that the cameras are fuelling fear.
37. In 2011 No CCTV along with Privacy International wrote to the Information Commissioner, the Chief Surveillance Commissioner, and the then Interim CCTV Regulator:

"We are deeply concerned about the blanket use of surveillance and feel that its use to constantly record both images and sound is creating a "just in case" mentality that treats everyone as suspects. The principle of innocent until proven guilty is an important cornerstone of our society and privacy is a value long cherished throughout the UK despite claims to the contrary from technology companies. A healthy society depends on the law abiding majority being respected and trusted as they go about their daily lives."

['Call for a joint inquiry into the use of blanket surveillance on public transport', Open Letter to UK surveillance regulators, 30th December 2011]

38. It is our understanding that the ICO is looking into the issue of public transport surveillance.

AUTOMATIC NUMBER PLATE RECOGNITION (ANPR)

39. I understand that ANPR is also being considered by the Scrutiny Panel – this is an area we have been particularly involved with in the last few years. Automatic Number Plate Recognition (ANPR) cameras as used by the UK police are of great concern, as the system has been constructed with mass surveillance capabilities. The police ANPR network tracks the movements of all vehicles “just in case” under the catch-all of the prevention or detection of crime – but this flies in the face of a fair and just society.

40. In 2011 No CCTV along with Privacy International and Big Brother Watch lodged a complaint with the Information Commissioner's Office (ICO) with regard to a “ring of steel” of ANPR cameras around the town of Royston in Hertfordshire. In July 2013, the ICO ruled that the cameras around Royston were unlawful (though in different terms to our complaint) and asked Hertfordshire police to justify the use of the cameras. It remains to be seen whether this ruling will have any impact on the cameras around Royston or the wider ANPR network.

41. Alternative models of ANPR systems have been proposed that can meet the stated aims of police but do not include mass surveillance.

42. No CCTV's concerns about ANPR can be found in more detail in our report 'What's Wrong With ANPR'.

REGULATION

43. The regulation of surveillance cameras through current legislation and codes of practice does not address the core issues of removal of personal freedom, anonymity and other rights. All such regulation does is to endorse acceptance of CCTV by formalising its “proper use”, leaving no room for the rejection of such technology.

44. The UK government recently created a new role of Surveillance Cameras Commissioner and issued a new voluntary code of practice. However there already was and still is a code of practice, published by the Information Commissioner's Office (ICO). The new code adds nothing to the existing code, though it does contain a ridiculous notion of “surveillance by consent”, which requires no actual consent and consequently has been criticised by the ICO.

45. The Home Office minister Lord Taylor summed up the new code when he said the whole focus of the code is:

“going to be on improving the effectiveness of surveillance”

[House of Lords Grand Committee, 17 July 2013, Protection of Freedoms Act 2012 (Code of Practice for Surveillance Camera Systems and Specification of Relevant Authorities) Order 2013]

46. To clarify, it is not about restoring lost freedoms but about improving the effectiveness of surveillance.

47. The code derived from the Protection of Freedoms Act but would have been more at home in a Protection of Surveillance Act. As far back as 2011 in response to a Home Office consultation on a new code No CCTV pointed out the striking similarities between the draft code and the 2007 National CCTV Strategy produced by the Home Office/Association of Chief Police Officers (ACPO).
48. Currently, in a similar way to the UK, cameras in Jersey are regulated via the Data Protection Law and the Human Rights Law.
49. Like the UK Data Protection Act 1998, the Jersey Data Protection Law 2005 contains exemptions such as in Article 29 which exempt personal data processing from some of the core principles of data protection if it is processed for "(a) the prevention, detection, or investigation, anywhere of crime; (b) the apprehension, or prosecution, anywhere of persons who have committed an offence anywhere; or (c) the assessment, or collection, anywhere of any tax or duty, or of any imposition of a similar nature, wherever due". These exemptions are even wider than the UK Act due to the insertion of "anywhere" and "wherever due" into the wording. These exemptions echo the qualifications to rights contained in the European Convention on Human Rights, particularly Article 8 "Right to respect for private and family life".
50. These qualifications reveal that there is actually very little restriction placed on the police with regard to the use of surveillance cameras except meaningless box ticking.

UK POLICE INTERPRETATION OF HRA

51. To better understand the weakness of the regulation that covers surveillance cameras, and the box ticking culture associated with it, we may look to the impact the European Convention of Human Rights has had on protecting the public from police excesses, particularly since the convention was incorporated into UK law via the Human Rights Act 1998 (HRA).
52. A 2011 paper by Karen Bullock & Paul Johnson, 'The Impact of the Human Rights Act 1998 on Policing in England and Wales' found that:

"the HRA is not used to achieve a balance between individual rights and community interests, but becomes a framework for mandating police decision making and protecting officers from criticism and blame."

['The Impact of the Human Rights Act 1998 on Policing in England and Wales', Karen Bullock & Paul Johnson, British Journal of Criminology, published 29th October 2011]

53. Bullock & Johnson conducted a series of interviews with warranted officers and civilian staff in an undisclosed county's police service. They found that instead of considering how a policing action might meet a 'pressing social need', the police focus on the legitimacy of their actions, namely whether it is perceived to facilitate the prevention or detection of crime, not their necessity. This leads to a tick box mentality that simply rubber stamps police tactics, whatever they may be. On the necessity test contained within the Convention the authors found:

"The officers we interviewed argued that policing actions aimed at the prevention

and detection of crime always pursue a greater good and are therefore necessary.”

54. The paper shows that the police view the other Human Rights Act watchword “proportionality” to be all about managing risk and elevating the status of the collective over the individuals who are subject to police actions. The authors also found that police viewed the qualifications in the rights such as Article 8 were a catch-all that allowed the police to basically do whatever they see fit:

“Officers told us that the qualifications written into Arts. 8–11 provide them with considerable scope in which to act. For example, one officer drew attention to the ‘exceptions’ in the HRA (by which he meant the qualifications) as ‘sufficient to give the police the powers that they need to do their job’ (Officer 1).”

55. Bullock & Johnson found that:

“far from constraining police work, the HRA is regarded as a development that enables and facilitates policing, allowing officers to justify their decision making and, in doing so, providing them with a safety net in the event that they are asked to account for their actions.”

56. Whilst the paper reflects the views of individual officers interviewed, many of the guidance documents issued to officers show that these are the views of the police institutions themselves. Take for instance an Association of Chief Police Officers (ACPO) ANPR guidance document from 2004, which asks:

“Is the use of ANPR and the subsequent engagement of individual’s rights a proportionate operational response in relation to the offence or offences being investigated or targeted during the deployment?”

[‘E.C.H.R., Data Protection & RIPA Guidance Relating to the Police use of A.N.P.R.’, ACPO National ANPR User Group, 2004]

57. So as far as ACPO is concerned, if you want to use ANPR, the more severe the offence being investigated the more likely it is that the correct boxes may be ticked and people’s rights may be breached. As a result all too often the police play the national security card when they want to use any manner of intrusive surveillance which they believe means privacy concerns (in the form of Article 8) no longer apply.

58. The fact that in the UK we must rely on the weak legal checks and balances contained in the Data Protection Act and Article 8 of the European Convention on Human Rights is the consequence of a depressing lack of public understanding of basic freedoms and the dangers of intrusive blanket surveillance technologies.

QUESTIONS THAT SHOULD BE ASKED

59. A wider assessment of surveillance technologies is urgently required, both for existing and for new technology. The US academic and author Neil Postman suggested questions to assist in understanding how a technology intrudes itself into a culture. Below is a list of suggested questions based on Postman’s, that should be the starting point of any discussion regarding surveillance technology:

- What is the problem to which this technology is the solution?
- Whose problem is it?
- What new problems might be created by solving the original problem?
- What other less intrusive solutions have you tried?
- Do you have proof that cameras will assist?
- How will you measure the success or failure of the cameras?
- If the cameras do not assist how long will it be before you take them down?

[Based on questions posed by Neil Postman, Technology and Society lecture, Calvin College, 1998]

60. The dangers inherent in the head long rush into technological solutions to all of society's ills are summed up by James Byrne and Gary Marx:

“Our age has two rather distinct fears of technology. One, ala George Orwell, is that it will work too well creating a manipulated, totalitarian society naively taking pride in how free it is. The other fear, reflective of Franz Kafka, is that it won't work well enough. This suggests a crazily complex, out-of-control, rubric, interdependent, opaque, non-fail safe society steeped in technological errors and catch-22 absurdities. The myth of Frankenstein alerts us to be ever vigilant to be sure that we control the technology rather than the reverse.”

['Technological Innovations in Crime Prevention and Policing. A Review of the Research on Implementation and Impact', James Byrne and Gary Marx, Journal of Police Studies, Volume 2011/3, nr. 20]

61. No CCTV's simple tag line is “better community reduces crime, technology does not”. I urge the Scrutiny Panel to very carefully evaluate the evidence base with regard to the use of surveillance cameras and have the courage to report in line with that evidence rather than populist or political pressures.

About No CCTV

62. No CCTV was formed in 2007 originally to campaign against proposed surveillance cameras in East Oxford. No CCTV has expanded into a national/international campaign and information resource on surveillance issues.