

## Chapter 85

# ID Scanners and Überveillance in the Night–Time Economy: Crime Prevention or Invasion of Privacy?

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### ABSTRACT

*ID scanners are promoted as an effective solution to the problems of anti-social behavior and violence in many urban nighttime economies. However, the acceptance of this and other forms of computerized surveillance to prevent crime and anti-social behavior is based on several unproven assumptions. After outlining what ID scanners are and how they are becoming a normalized precondition of entry into one Australian nighttime economy, this chapter demonstrates how technology is commonly viewed as the key to preventing crime despite recognition of various problems associated with its adoption. The implications of technological determinism amongst policy makers, police, and crime prevention theories are then critically assessed in light of several issues that key informants talking about the value of ID scanners fail to mention when applauding their success. Notably, the broad, ill-defined, and confused notion of “privacy” is analyzed as a questionable legal remedy for the growing problems of überveillance.*

### INTRODUCTION

Many metropolitan and regional areas are trying to enrich night-time economies that have been traditionally centered on alcohol consumption. It is therefore not surprising that a rise in anti-social behavior, violence, serious interpersonal crime,

and associated concerns over personal health, safety and environmental amenity, generate many contentious policy interventions (Hadfield et al., 2009). Governments appear keen to be seen as responsive to community concerns over the lack of security in the night-time economy. However, there are considerable doubts over whether the

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complex range of spatial, patron-based or regulatory interventions actually changes the behavior of nightclub patrons.

The ID scanner has emerged as a key method of increasing surveillance in many night-time economies throughout Australia, the United Kingdom, Canada and the United States. An extensive report into surveillance in public places by the Victorian Law Reform Commission (VLRC) highlights the reach of contemporary digital surveillance, by illustrating that:

*[i]dentification scanners record the image and written details on an individual's driving license or other identity card, including their name and address. Facial recognition software scans patrons' faces as they enter the nightclub and matches those images against a database of photos. In this way the software can be used to identify patrons who have been previously banned from a venue. The software can be shared among venues (VLRC, 2010, p. 40).*

These systems use inexpensive and accessible 'technologies for a new, security-driven purpose' (Goold et al., 2010, p. 21). They are particularly attractive to large venues where the scale of patronage complicates security provision. They are appealing to both governments and private businesses for simultaneously promising improved public safety and increased revenue.

The Law, Justice and Safety Committee for the Legislative Assembly of Queensland (QLALJSC, 2010) provides a rare examination of the role of ID scanners in licensed venues. This analysis is useful, as it provides insight into how the potential benefits of this technology appear to have greater political credence than the various problems associated with information security. The perceived benefits of ID scanning identified by the Committee are:

- Aiding in detection of offenders, with the scanned information able to be retrieved from the data base and provided to police;

- Acting as a deterrent, as potential offenders know that their personal details have been recorded and can be provided to police; and
- Providing information to support a ban of the offender from that venue, and in some cases other venues as well (QLALJSC, 2010, p. 25).

The first two benefits suggest scanned data is a valuable method of enhancing the detection of offenders, or deterring potential anti-social behavior. However, there is no evidence these objectives are realized in practice (Palmer et al., 2010). Further, networked data sharing has proactive value in warning other venues of troublesome individuals identified in these systems. This enhances their deterrence capabilities amongst licensed venues with network access, but overlooks the potential displacement of anti-social behavior to surrounding areas.

Despite considerable support amongst the liquor industry (QLALJSC, 2010, p. 25), the Queensland Office of the Information Commissioner documented several concerns over the need for using personal data collection, storage and dissemination to curb problematic alcohol-fuelled behavior. Notably, current state and federal privacy laws may not apply to venues that have introduced ID scanners or companies that install and manage this technology. Table 1 summarizes various unresolved privacy issues identified in the Queensland Information Commissioner's submission that could be addressed through alternative harm reduction methods.

Despite these concerns, the report recommended licensees trading after midnight should be encouraged to install ID scanning systems with 'due regard to privacy issues and matters of natural justice' (Queensland Parliament, 2010, p. 27), and proposed a discounted license fee structure for venues adopting this technology. However, the report is silent on what 'due regard' or 'natural justice' might entail. This demonstrates

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