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CCTV AND THE 2010 VANCOUVER GAMES: SPATIAL TACTICS AND POLITICAL STRATEGIES

Micheal Vonn*

This paper is a brief discussion of CCTV surveillance of public demonstrations from a legal geography perspective, looking at CCTV as a spatial tactic. This paper focuses on this issue in the context of the 2010 Winter Games in Vancouver and comments on the political strategies being used in regards to CCTV for the Olympics and more generally.[†]

I. INTRODUCTION

There are many aspects of CCTV that are legitimately contested and illustrate various nuances in the use and impact of video surveillance. For example, there is research which would indicate that video surveillance in a given context may cause fear in some people, yet be a reassurance to others.¹

However, almost nobody seems to dispute that cameras aimed at protesters are not there for the protestors' benefit. They are not for the protesters' "safety," nor to "facilitate" their use of public space. Cameras situated primarily for the purpose of capturing expressive activity are not *for* the speakers, but rather are deployed *against* the speakers.

There is not much support for any other view and, indeed, even police organizations concede this point when it is their own ox that is gored—such as the New York Police Union, which in 2006 sued the City of New York for photographing and videoing off-duty officers at a public demonstration protesting the pace of their contract talks.² The police union

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[†] This article was written in the run-up to the 2010 Winter Olympics. While appropriately 1,000 CCTV cameras were put up for the Olympics, the security authority abandoned their plans for "free speech zones," presumably in response to the considerable negative publicity and vocalized public concern.

¹ See, e.g., Nils Zurawski & Stefan Czerwinski, *Crime, Maps and Meaning: Views from a Survey on Safety and CCTV in Germany*, 5 SURVEILLANCE & SOC'Y 51 (2008), available at [http://www.surveillance-and-society.org/articles5\(1\)/maps.pdf](http://www.surveillance-and-society.org/articles5(1)/maps.pdf).

² Jim Dwyer, *Surveillance Prompts a Suit: Police v. Police*, N.Y. TIMES, Feb. 3, 2006, at A1.

claimed that the heavy-handed surveillance tactics which, of course, are routinely used at war protests and anti-poverty marches, were a violation of the police officers' rights to free speech.³ Clearly, the visual surveillance increasingly being used to monitor public expressive activity has a chilling effect that is almost assuredly one of its aims.

Visual capture makes us much more identifiable in public space to authorities and erodes our public anonymity. Our public anonymity is not a matter of being unrecognizable, but, as Alan Westin puts it, of being able to blend in to the "situational landscape."⁴

The loss of public anonymity affects freedom of speech, freedom of assembly, and public politics in general. So CCTV surveillance in the context of public demonstrations affects who says what, and how and where they say it.

This paper is a brief discussion of CCTV surveillance of public demonstrations from a legal geography perspective. It specifically looks at CCTV as a spatial tactic. This paper focuses on this issue in the context of the 2010 Winter Games in Vancouver and comments on the political strategies being used in regards to CCTV for the Olympics and more generally.

II. CCTV AS A SPATIAL TACTIC

Legal geography deals with the intersection between space and law.⁵ It highlights the fundamental importance of spatial concepts in the law, for example, the critical importance of spatial concepts like property, borders and jurisdictions, and the distinction between public and private as a foundational organizing principle of most rights theories.⁶ Legal geography unpacks the assumptions about space that are embedded in the law and tries to understand these connections.⁷

A "spatial tactic" is the "use of space as a strategy and/or technique of power and social control."⁸ So-called "mega-events" such as the Olympics provide an embarrassment of riches for students of spatial tactics, particularly those tactics dealing with the policing of public space and the control of expressive activity.

³ *Id.*

⁴ ALAN F. WESTIN, *PRIVACY AND FREEDOM* 31 (1967).

⁵ *See, e.g.*, NICHOLAS K. BLOMLEY, *LAW, SPACE, AND THE GEOGRAPHIES OF POWER* 3–6 (1994).

⁶ *See generally id.*

⁷ *Id.*

⁸ Timothy Zick, *Speech and Spatial Tactics*, 84 *TEX. L. REV.* 581, 584 (2006) (quoting SETHA M. LOW & DENISE LAWRENCE-ZÚÑIGA, *Locating Culture*, in *THE ANTHROPOLOGY OF SPACE AND PLACE: LOCATING CULTURE* 1, 30 (Setha M. Low & Denise Lawrence-Zúñiga eds., 2003)).

The best primer on spatial tactics and their relationship to public speech in the U.S. context is *Speech Out of Doors: Preserving First Amendment Liberties in Public Places* by legal scholar Timothy Zick.⁹ Zick describes how the space needed for democratic discourse, which he terms “the expressive topography,” has been dramatically reduced by the steady erosion of public space through privatization and development, a vast array of spatial tactics of containment and displacement, and First Amendment legal doctrine that views space as abstract and fungible.¹⁰

Most people’s understanding of the importance of place, in terms of their rights, is pretty crude. We typically use the language of and imagine ourselves as “rights-bearing individuals.” It is implicit in this idea that our rights go where we go—at least in so far as we are in our own country—which is why people are often stunned to discover how ludicrously byzantine and non-intuitive the geography of rights actually is.

For example, in British Columbia we have a type of so-called “safe streets” law that seeks to regulate panhandling.¹¹ This is a boilerplate type of law that is seen in many jurisdictions.¹² It prohibits “solicitation” in certain zones and makes it illegal, for example, for the Chief of Police to solicit donations for the Raise-a-Reader literacy campaign within a certain distance of a bus stop or for Brownies to sell their cookies too close to an ATM machine. And it is not just the Brownies who are unlikely to know this; the Chief of Police might also be unaware. The point is that there is little understanding of how imperative place is to rights. Place is where power and rights are contested. That is what public expression is about.

However, the more highly “securitized” the place, the less likely it is to be a site of spatial contention. Securitization, and particularly visual surveillance, has become a commonplace spatial tactic. While the U.K. is infamous as the cake-taker regarding public surveillance by CCTV, many cities in North America are following in step.¹³

Securitization through visual surveillance is often cited as a technique for displacement, i.e., to discourage the supposedly “criminogenic

⁹ TIMOTHY ZICK, *SPEECH OUT OF DOORS: PRESERVING FIRST AMENDMENT LIBERTIES IN PUBLIC PLACES* (2009).

¹⁰ *See id.* at 25–64. *See also* Timothy Zick, *Space, Place, and Speech: The Expressive Topography*, 74 *GEO. WASH. L. REV.* 439 (2006).

¹¹ Safe Streets Act, 2004 S.B.C. (Ca.).

¹² *See, e.g.*, Safe Streets Act, 1999 S.O. (Ca.) (provincial law from Ontario that bears strong resemblance to British Columbia’s Safe Streets Act).

¹³ *See* NOAM BIALE, *EXPERT FINDINGS ON SURVEILLANCE CAMERAS: WHAT CRIMINOLOGISTS AND OTHERS STUDYING CAMERAS HAVE FOUND* (2008), available at <http://youarebeingwatched.us/tools/4/>.

others” who are the targets of “broken windows”-inflected policing.¹⁴ Yet much less has been said about the increasing CCTV presence at the traditional sites of assembly for public expression and contention. Additionally, surprisingly little has been said about the use of CCTV in the non-traditional sites that are specifically designed for protest and surveillance, such as the already notorious “free speech zones” currently being built for the 2010 Winter Games in Vancouver.¹⁵

III. CCTV AT THE 2010 GAMES

As Philip Boyle and Kevin Haggerty have pointed out, surveillance architecture is not a mere by-product of hosting the Olympics; it is an actual “deliverable.”¹⁶ It is an explicit “legacy.”¹⁷ Just how many CCTV cameras would be coming to Vancouver for the 2010 Olympics has been almost impossible to determine much in advance of the Games. Academic papers have spoken of the near impossibility of getting a straight answer to the question of cameras much in advance of the Games.¹⁸ Recently, the Integrated Security Unit (ISU) has said that there will be “approximately 900” CCTV cameras at venues and “another 50–70 in the urban domain.”¹⁹

As Boyle and Haggerty note, “[s]urveillance should not be narrowly construed as simply referring to spies or CCTV cameras. Instead, surveil-

¹⁴ DON MITCHELL, *THE RIGHT TO THE CITY: SOCIAL JUSTICE AND THE FIGHT FOR PUBLIC SPACE* 199–204 (2003). The “broken windows” thesis of James Q. Wilson and George Kelling argues that crime can be reduced by reducing public “disorder” (symbolized by broken windows). See James Q. Wilson & George Kelling, *Broken Windows: The Police and Neighborhood Safety*, *ATLANTIC MAG.*, Mar. 1982, at 29, available at <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/4465/>. Broken windows theory has been rigorously criticized for, among others things, purporting to justify the criminalization and displacement of the public poor.

¹⁵ *2010 Olympic Security Plans Include “Free Speech Areas”*, *CBC NEWS*, July 8, 2009, <http://www.cbc.ca/canada/british-columbia/story/2009/07/08/bc-olympic-security-plans-free-speech-areas.html>.

¹⁶ PHILIP J. BOYLE & KEVIN D. HAGGERTY, *PRIVACY GAMES: THE VANCOUVER OLYMPICS, PRIVACY AND SURVEILLANCE* 5 (2009), available at <http://www.surveillianceproject.org/sites/default/files/Privacy%20Games.pdf>.

¹⁷ *Id.* at 13 (quoting Peter J. Ryan, *Olympic Security—The Relevance to Homeland Security*, in *OQUIRRH INST., THE 2002 OLYMPIC WINTER GAMES SECURITY LESSONS APPLIED TO HOMELAND SECURITY* 26 (2002)).

¹⁸ Laura Huey, *The Surveillance Legacy, What Happens to Vancouver’s Camera Surveillance Systems After the 2010 Olympics?*, in *THE SURVEILLANCE PROJECT, A REPORT ON CAMERA SURVEILLANCE IN CANADA: PART TWO—SURVEILLANCE CAMERA AWARENESS NETWORK (SCAN)* 66 (Dec. 2009), available at http://www.ssqqueens.org/sites/default/files/SCAN_Report_Phase2_Dec_18_2009.pdf.

¹⁹ Vancouver 2010 Integrated Security Unit, *Frequently Asked Questions* [hereinafter *Integrated Security Unit*], <http://www.v2010isu.com/ViewPage.action?siteNodeId=516&languageId=1&contentId=6821> (last visited Feb. 25, 2010).

lance involves collecting and analyzing information about populations in order to direct their behavior.”²⁰ Despite the ludicrously low estimate of one hundred and seventy-five million dollars for Olympic security,²¹ the Vancouver Games security forces have about one billion dollars to put towards that effort.²²

We know that the cameras that will be used at the Vancouver Olympics venues and so-called “live sites”—which are securitized public gathering and entertainment sites in the city centre²³—could well capture expressive activity should someone, say, unfurl a “Free Tibet” banner in one of the chillingly termed “Clean Venues” that are supposed to be free of “propaganda” such as political speech.²⁴

However, aside from incidental capture of speech, the CCTV deployment that is meant primarily to capture expressive activity is, of course, the CCTV that will be aimed at what Olympics officials and security authorities call “free speech zones” or “safe assembly areas” and are popularly known as “protest pens.”²⁵

Protest pens are very clearly and blatantly an infringement of free speech. The bizarre semantics around the Vancouver Games’ designated protest areas are that the security authorities maintain that they are voluntary, which is true. This begs the question: who then would volunteer to be penned? We have to assume that such volunteers are people who do not know their rights, and because they do not know that they can legally protest in just about any public place, they are easily corralled into a contained area to be readily monitored and recorded. Or these are people who actually believe the security authorities’ line that the protest pens constitute an “enhanced service.” The “enhanced service” notion is explained as the police having scoped out all the good, high visibility venues (“location, location, location”) and helpfully providing those venues for the convenience of the protesters.²⁶

²⁰ BOYLE & HAGGERTY, *supra* note 16, at 8.

²¹ See *2010 Olympic Security Costs Could Hit \$1b, Says Minister*, CBC NEWS, Oct. 10, 2008, <http://www.cbc.ca/canada/british-columbia/story/2008/10/10/bc-2010-security-costs-one-billion.html>.

²² *Id.*

²³ GEN. MANAGER OF THE OLYMPIC AND PARALYMPIC OPERATIONS OFFICE ET AL., 2010 WINTER GAMES LIVE SITE CONCEPT PLAN 3 (Aug. 30, 2007), available at <http://vancouver.ca/ctyclerk/cclerk/20070918/documents/tr2.pdf>.

²⁴ IOC REQUIREMENTS ON BRAND PROTECTION AND TICKET TOUTING 2, http://www.culture.gov.uk/images/freedom_of_information/AnnexAforCase24489.pdf.

²⁵ See, e.g., *Clashes Break Out at Summit Protest*, CBS NEWS, Aug. 20, 2007, <http://www.cbc.ca/canada/story/2007/08/20/nafta-summit.html?ref=rss>.

²⁶ Steve Mertl, *No Corrals for 2010 Olympic Protesters*, CTV VANCOUVER, Oct. 22, 2009, <http://www.ctvolympics.ca/news-centre/newsid=17910.html>.

The Olympics Integrated Security Unit has confirmed that there will be protest pens,²⁷ and police say that these pens will have “closer access” to the site of the Games than the protesters could achieve elsewhere in public space.²⁸ What they have not said—but can be determined through other means, specifically the timelines for venue construction²⁹—is that designated protest zones are estimated to take eight days for each to be “built.” An eight day build would indicate that there is much more than mere fencing involved. It is strongly suspected that most of the “build” will be surveillance architecture.

CCTV, in conjunction with the segregation of protestors, not only monitors protest messages and facilitates identification, but also brands the protestors as dangerous. It is expected that like some of the highly stigmatizing designated protest zones that have been created recently in the U.S.,³⁰ the protest pens at the Vancouver Games are likely to be largely, or even entirely, unused. Even if the sites are not used, they will reduce the expressive topography available for protest and stigmatize protestors generally. The element of containment, along with highly visible surveillance equipment, is essentially the architecture of fear. Even if it sits empty, the protest pen will be a “message” that is sure to get media coverage. This is expensive messaging that is tax-payer sponsored, with the “high tech props” likely re-allocated to domestic policing without any consultation or debate.

This certainly does not mean that protest outside of the protest pens will be surveillance-free. Since security officials can hold cameras or even wear body-mounted cameras, protestors who avoid designated protest sites will not necessarily elude video surveillance. They are likely to encounter mobile video surveillance elsewhere, but they *too* can hold cameras, and they are more likely to be able to hang on to those cameras for their own purposes—such as police accountability—if they are not penned in.

In addition, since the Vancouver Games will see hundreds of independent legal observers deployed by NGOs to monitor the policing of protestors, protestors are apt to be videoed by legal observers as well as by the police.³¹ Therefore, avoiding the protest pens is more realistically an attempt to equalize the surveillance equation rather than actually eluding surveillance altogether.

²⁷ See *id.* See also Integrated Security Unit, *supra* note 19.

²⁸ See Vancouver Police Department, 2010 Olympic FAQs, <http://vancouver.ca/police/index.html> (follow “Major Policies and Initiatives” hyperlink; then follow “The VDP and the Vancouver 2010 Olympics” hyperlink; then follow “VDP Olympics FAQs” hyperlink) (last visited Feb. 25, 2010).

²⁹ Venue Commissioning Schedule (on file with author).

³⁰ ZICK, *supra* note 9, at 2.

³¹ Darcy Smith, *The Watchers*, VANCOUVER MAG., Dec. 1, 2009, http://www.vanmag.com/News_and_Features/City_Life/The_Watchers.

There are many reasons why protesters might avoid the protest pens, including resisting their implicit messaging. Protest pens, as a spatial tactic to contain and stigmatize dissent, are not dependent on CCTV, but CCTV is arguably a very important feature of this spatial tactic.

CCTV is increasingly deployed at those sites where its primary function is to capture expressive activity, such as the ever-more common CCTV aimed at the traditional speakers' corner of the public park.³²

I suggest that even a lone camera in such a situation is effectively a spatial tactic. The camera is proxy for a formal designation of that public space as captured by the authorities. In other words, these cameras create a de facto protest pen which undermines the function of public space as the stage for free assembly by branding public speakers as potentially dangerous.

IV. POLITICS OF CCTV

The politics of CCTV are substantially evident in the context of the Olympics. CCTV installations at "mega-events" are increasingly extensive and elaborate and increasingly re-purposed for mundane policing purposes post-event. The importing of CCTV for a mega-event essentially endows the host city with surveillance infrastructure while sidestepping the political grief of justifying the expenditure. The cameras are conveniently available for adoption by the host city after the event, and the legacy deals being made behind the scenes are very difficult to oppose because it is very difficult to unearth them ahead of time.

This is one aspect of what I have referred to as the great CCTV shell-game, discussed recently in a paper by Laura Huey. Through a Freedom of Information (FOI) request, Huey was able to discover that the Vancouver Police were in negotiations for Olympic legacy cameras.³³ The details of these negotiations are still very vague, but it is interesting to look at how even the fact of the negotiations appear to have been deliberately obfuscated.

Privacy advocates making a similar FOI request to the Vancouver Police Department were originally told that the scope of the request needed to be narrowed in order to respond in any reasonable timeframe.³⁴ The Vancouver Police "helpfully" recommended that the request be narrowed to a

³² See, e.g., Alicia Wong & Kiersten Ow, *CCTV Installed at Speakers' Corner*, CHANNEL NEWS ASIA, July 25, 2009, <http://www.channelnewsasia.com/stories/singaporelocalnews/view/444612/1/.html>.

³³ Huey, *supra* note 18, at 67–68.

³⁴ Interview by Micheal Vonn with Paul Holden, Member of the British Columbia Civil Liberties Association Privacy and Access Committee, in Vancouver (Sept. 2, 2009) (on file with author).

specific police department in order to expedite the request.³⁵ After a further wait of many months, the specific police department that the privacy advocates were referred to responded with “no records [are] responsive to your request.”³⁶

Privacy advocates note that such apparent institutional efforts to foil resistance to CCTV are, unfortunately, extremely common.³⁷ The City of Vancouver, for example, was adamant that the CCTV cameras for the live-sites at the Olympics were going to be “temporary.”

The [staff] report ask [city] council to accept provincial “funding for the deployment of temporary CCTV during the 2010 Olympic and Paralympic Winter Games.” The report used the word “temporary” 19 times. Despite written assurance, several councilors including COPE Coun. Ellen Woodsworth—the lone dissenting vote on council—raised concerns about the “temporary” nature of the CCTV plan and the potential erosion of civil liberties.³⁸

The insistence on the “temporariness” of the cameras became increasingly shrill as privacy advocates publicly pointed out in the media the incongruity of the City building a permanent control center at the City’s emergency operations center for its supposedly temporary cameras.³⁹

Finally, the City was forced to amend its position, saying that when it used the language in its various documents and press statement of “tem-

³⁵ *Id.*

³⁶ *Id.* Cf. Stanley Tromp, *Records for 2010 Olympic Games Go Missing*, GEORGIA STRAIGHT, Apr. 17, 2008, <http://www.straight.com/article-141228/olympic-records-go-missing>. The former FOI director Darlene Kotchonoski explained that:

[S]he had been told by the secretariat [of the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (Vanoc)] that it had decided to stop recording minutes of its meetings, without explanation. In addition, she added, because the ministry can no longer locate any minutes of Vanoc meetings, those records cannot be obtained either. (Although Vanoc is not covered by the FOI law, the copies of its records it had sent to the ministry had been accessible because the ministry itself is covered by the law.)

Id.

³⁷ Huey, *supra* note 18.

³⁸ Mark Hasiuk, *City Admits Surveillance Cameras Here to Stay in Vancouver*, VANCOUVER COURIER, Apr. 7, 2009, <http://www2.canada.com/components/print.aspx?id=27da28a5-7b85-4ccd-a8fd-bdf0013c6ac5&sponsor=> (quoting KEVIN WALLINGER, DIR., OFFICE OF EMERGENCY MGMT., EMERGENCY MANAGEMENT AND PUBLIC SAFETY DURING THE 2010 OLYMPIC AND PARALYMPIC WINTER GAMES—ACCEPTANCE OF FUNDING FOR TEMPORARY CCTV 1 (2009), available at <http://vancouver.ca/ctyclerk/cclerk/20090326/documents/csbu7.pdf>).

³⁹ Hasiuk, *supra* note 38.

porary” cameras, they had, of course, meant “re-deployable” cameras.⁴⁰ Permanent “re-deployable” cameras, as it turns out.

One of the great mysteries of CCTV politics is the question of why police and public officials are so often seen using these kinds of obfuscation tactics in order to get their hands on CCTV when the vast majority of the empirical evidence clearly demonstrates that CCTV has little or no efficacy as a security mechanism.⁴¹

A trend that I suggest is worth investigating is how often CCTV shows up as a kind of “free prize.” The Olympic legacy cameras are a clear example of this, but there are many others. Much of the proliferation of CCTV in the U.S. is the result of the lure of funding from the Department of Homeland Security.⁴² We see a similar move in Canada where money is made available in special grants from federal and provincial governments for cities and municipal transportation systems to get CCTV.⁴³ Therefore, not only is there a general failure to debate the merits of CCTV in given communities, but there is no cost-benefit analysis because the costs are essentially “laundered” through a different part of government.

Incidentally, there are many other examples of this funding arrangement nullifying assessments of local priorities. This is extremely evident, for example, in the surveillance of personal health data. Federal government grants support centralized electronic health records systems in individual provinces.⁴⁴ Many of the provinces would undoubtedly spend those health dollars in a very different fashion if they could—that is, if the subsidy were not exclusively for an allocated project, the benefits of which are highly contested and for which evidence of deleterious effects are growing.⁴⁵

⁴⁰ Hasiuk, *supra* note 38.

⁴¹ MARTIN GILL & ANGELA SPRIGGS, BRIT. HOME OFFICE RESEARCH STUDY 292, ASSESSING THE IMPACT OF CCTV 61 (2005), available at <http://www.homeoffice.gov.uk/rds/pdfs05/hors292.pdf>.

⁴² See ZICK, *supra* note 9, at 298 (“In fiscal 2006, the Department of Homeland Security requested more than \$2 billion to finance grants to state and local governments for homeland security needs. A substantial portion of those funds were used to purchase and install [CCTVs].”).

⁴³ See, e.g., Kevin Walby, *Little England? The Rise of Open-Street Closed-Circuit Television Surveillance in Canada*, 4 SURVEILLANCE & SOC’Y 29, 44 (2006), available at [www.surveillance-and-society.org/Articles4\(1\)/littleengland.pdf](http://www.surveillance-and-society.org/Articles4(1)/littleengland.pdf) (for example, Brockville, Ontario received a \$158,000 grant from the province to purchase cameras).

⁴⁴ See generally CAN. HEALTH INFOWAY, ANNUAL REPORT: BUILDING A HEALTHY LEGACY TOGETHER (2008–2009), available at http://www2.infoway-inforoute.ca/Documents/ar/Annual_Report_2008-2009_en.pdf.

⁴⁵ See generally OFFICE OF THE INFO. & PRIVACY COMM’R, INVESTIGATION REPORT F10-02: REVIEW OF THE ELECTRONIC HEALTH INFORMATION SYSTEM AT VANCOUVER COASTAL HEALTH AUTHORITY KNOWN AS THE PRIMARY ACCESS REGIONAL INFORMATION SYSTEM (“PARIS”) (2010), available at http://www.oipc.bc.ca/orders/investigation_reports/

In these types of situations, the political equation is not a question of this project versus another more important, more meritorious project. The political equation is money for this initiative or no money at all. Presumably, this is a significant factor in the question of why politicians and security authorities are so ready to go to the wall for CCTV systems that the most cursory research would show will not increase safety and will not reduce crime.⁴⁶

Since it is “free money,” it does not really matter if there is no return on the investment. This, I suggest, is increasingly becoming an insidious form of internal policy laundering and the primary means of quashing meaningful debate on CCTV and other surveillance systems.

As a final note on the politics of CCTV, part of the wonder of the preparations for the Winter Games in Vancouver is what appears to be the brazen illegality of so many of the public control measures demanded by the International Olympic Committee.

The City of Vancouver was forced to reassess the legal wisdom of some of its Olympics bylaws in light of a constitutional challenge—bylaws, for example, prohibiting “non-celebratory” signage.⁴⁷ The legal challenge to the Olympics by-laws has garnered considerable media attention.⁴⁸ However, unlike the Olympics by-laws, which are definitely controversial, there are other security measures for the Olympics that appear to be entirely accepted and taken for granted which might also be vulnerable to constitutional challenge.

Wes Pue and Rob Diab recently published a paper about how in Canada there is no statutory *or* common law authority for the police to create special “securitized zones” and “security perimeters.”⁴⁹ Many people might argue that it would be impossible to police an event such as the Olympic Games without the legal authority to create securitized zones. The point is that currently there does not actually seem to be any such authority.

Similarly with CCTV, there are public spaces that will be blanketed with CCTV during the Vancouver Games, and virtually no one is surprised

InvestigationReportF10-02.pdf; ROSS ANDERSON ET AL., DATABASE STATE (2009), available at <http://www.cl.cam.ac.uk/~rja14/Papers/database-state.pdf>.

⁴⁶ See, e.g., GILL & SPRIGGS, *supra* note 41.

⁴⁷ Posting of Geoff Dembicki to the Hook, <http://theyee.ca/Blogs/TheHook/Olympics2010/2009/11/26/bylaw-changes-free-speech/> (Nov. 26, 2009, 14:32).

⁴⁸ See, e.g., *Vancouver's Worrying Civil Liberties Rollback*, MCGILL TRIB., Oct. 14, 2009, <http://media.www.mcgilltribune.com/media/storage/paper234/news/2009/10/14/Opinion/Editorial.Vancouvers.Worrying.Civil.Liberties.Rollback-3802696.shtml>.

⁴⁹ Robert Diab & Wesley Pue, Security for the 2010 Olympics: British Columbia Needs a “Public Order Policing Act” 1–2 (July 22, 2009) (unpublished manuscript, on file with UBC and Capilano University), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1388602.

by that. Yet there is very little case law that would guide us in determining if or when such sweeping public surveillance is permissible under the Canadian Constitution. The practice makes it seem like this issue of constitutionality must have been settled, but in fact it is not.

V. CONCLUSION

For various reasons, going after the Olympic CCTV cameras on a constitutional question is almost assuredly a loser and bound to make very bad law. The security rationale is very apt to be found by a court to be too compelling in that context, but I suggest that the legacy cameras may be ripe for challenge, and the ideal challenge is almost certainly aimed at cameras that are primarily situated to capture expressive content. This constitutional challenge could be brought on the grounds not only of section 8 rights to be free of unreasonable search and seizure, but also sections 2(b) and (d) rights to freedom of expression and of association.⁵⁰ The use of CCTV as a spatial tactic to chill public expression is ripe for both legal and theoretical exploration.

⁵⁰ Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982, ch. 11, arts. 2(b), (d), 8 (U.K.).