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Big Brother - Life imitating art

Its hard to know what George Orwell might have made of a television series in which people are subjected to 24 hour surveillance culminating in symbolic execution handed down by a faceless audience of 'judges'.

But the author of *1984* would have little difficulty recognising the NSW of 2001 - with sinister details of the Big Brother society coalescing from the shadows of his nightmares like a vision of Bob Carr emerging from the gloom of a *film noire* railway platform.

Video cameras now track us as we use public space, public transport, public phones and public toilets. Citizens are exhorted to spy on neighbours for signs of drug use, pedophilia or breach of visa and report any suspicions back to government authorities like some kind of amateur Stasi.

Police and private security prowl public space, turning drug sniffer dogs onto all and sundry and strip searching young people for 'illegal implements' which would have been standard equipment for any Boy Scout of Orwell's time. Olympic security, anti-globalisation protests, 'ethnic crime gangs' and the 'War on Drugs' have provided pretext for the paramilitarisation of NSW police and the steady ratcheting up of their powers.

From Warren Lanfranchi in a Chippendale lane to Jim Hallinan on his farm near Tumut; from Roni Levi on Bondi beach to David Gundy in his own bedroom - police continue to use unjustifiable lethal force against the people of NSW with virtually no accountability or fear of prosecution.

While the Wood Royal Commission gave some people hope that change was at hand and NSW police might soon be fit to be trusted with increased legal power and firepower, succeeding events have utterly dashed such hopes.

Senior police turn on each other over revelations of incompetence in Cabramatta and the Police Integrity Commission takes evidence from a parade of witnesses claiming corruption fighting measures are being sabotaged from the highest levels of police management. The Premier says "it's time for police to put the Wood Commission behind them" as the Police Commissioner calls for reduced oversight and for the independent audit of Wood's reform process to be "terminated forthwith".

Revelations of corruption, brutality, incompetence, racism and criminality in the NSW Police Service appear almost daily in our newspapers and the rate of serious complaints against police made by the public continues to rise. Unperturbed, Premier Carr has promised "if police can identify another power they need ... they will get it". This is one promise he has certainly kept.

Another promise Carr has stood by is to "build as many prisons as it takes" to lock away the victims of his vicious criminal justice and drug policies. New prisons at South Windsor and Kempsey and a rebadged 'Katingal' at Goulburn will ensure that the NSW prison population continues to grow even as other states are seeing their own imprisonment rates level out and begin to fall.

And if he can't build prisons fast enough to satisfy his passion for bondage and discipline? No problem for Big Brother Bob. Electronic bracelets are used to turn suburban homes into prisons and families into gaolers.

Not only are more NSW people going to jail than ever before, they are staying there longer - thanks to the steady erosion of judicial independence by a government determined to 'cement them into their cells' if it might lock in a few extra votes.

A raft of legislation targetting young people, indigenous Australians and ethnic minorities has been passed in recent years. The Police and Public Safety Act has been used disproportionately against Aboriginal Australians in rural NSW as well as those of "Asian or Middle Eastern appearance" in the cities.

Even as we express outrage over racist mandatory sentencing laws in the Northern Territory and Western Australia, Asian-Australian youths from Western Sydney are imprisoned under NSW's mandatory 'three strike' drug dealing laws, following entrapment by undercover police assigned to 'Operation Hammer'. Others rot indefinitely in cells at Silverwater and Parramatta - years after completing their sentences - while the Department of Immigration tries to get the Vietnamese government to accept them for deportation.

New laws allow police to force children as young as ten to undergo medical examinations such as MRIs, CAT scans and X-rays and to hold them without charges for several days if they suspect them of swallowing drugs - even as their schoolmates are denied effective and timely medical treatment due to cuts in public medical services.

Police are now also empowered to smash their way into any premises they consider a 'drug house' and to detain anyone they find until they are able to prove that they are innocent of any illegal activities. A home can be designated a 'drug house' for simply having a security door or alarm system. Police have been given immunity to compensation claims for damages or wrongful arrest if they are later proved to have got it wrong.

But perhaps the most insidious of the Carr government's assaults on privacy and civil liberties was launched on New Years day 2001, when the Crimes (Forensic Procedures) Act came into effect - allowing the government to build up a huge database containing the

DNA profiles of a large cross section of the NSW public and to pass on data and samples to other jurisdictions and multinational corporations.

Passed in the dead of winter last year, the new legislation is loosely based on a Model Bill developed by the Standing Committee of Attorneys General. But the Model Bill did not go far enough for Bob Carr and it was hastily redrafted with the support of the Police Service and over the objections of the Attorney General.

Media coverage of the mass testing at Wee Waa along with inflated claims of the 'infallibility' of forensic DNA and its potential to solve crime drowned out any critics of the draconian new laws enabling its collection. To appease waverers promises of oversight bodies, independent collection and testing and a DNA Innocence Panel were made, only to be delayed or forgotten after the legislation was passed.

The DNA laws sailed through both houses with no significant amendment and the unanimous support of the major parties - almost. One government MP did not vote for the legislation, its sponsor in the Legislative Council Attorney General Jeff Shaw. As debate commenced he was announcing his shock resignation to media assembled in front of Parliament House, to be followed shortly by the resignation of the AG officer who represented NSW on the committee which drafted the Model Bill.

The job of introducing NSW to the Brave New World of compulsory genetic testing was to fall to then Minister of Corrective Services, Bob Debus.

Police can now request DNA samples from anyone if they have 'reasonable grounds to believe that it *might* produce evidence tending to confirm *or disprove*' that they committed an offence. Following an arrest or court order police can *demand* such a sample and use force to 'enable the forensic procedure to be carried out', even if the 'suspect' is arrested only for a summary offence.

Prisoners are subject to compulsory DNA testing if they have been convicted of an offence which *could* carry a maximum penalty of five or more years. In practice this means more than three quarters of all NSW prisoners, including many who have been sentenced to only a few months for minor drug or property offences.

Rather than dedicate scarce DNA testing resources to solving recent crimes, Police and Corrective Services have taken enthusiastically to the mass testing of prisoners. The prison DNA testing program is well ahead of schedule even as police investigating violent home invasions are forced to wait months for the analysis of crime scene samples.

Naturally prisoners have borne the brunt of brutality and abuse associated with compulsory DNA testing thus far.

Many NSW prisoners who exercised their right to refuse to consent to DNA testing have been subjected to threats, loss of privileges and work release, reduction of classification and transfer to high security prisons. In some cases the transfer comes unexpectedly in the middle of the night along with a bashing and the destruction of prisoner's property.

On May 31 SBS television's *Insight* program showed graphic footage of the brutal measures used to forcibly DNA test prisoners.

Profiles taken from volunteers, prisoners, suspects, families of missing persons and crime scenes are put on a database and crossmatched in an attempt to create links between unsolved crimes and those not even suspected of being involved. Under the Crimes (Forensic Procedures) Act even family members attempting to assist police to locate a loved one will have their profiles checked against those thought to have come from perpetrators of unsolved crimes.

The many millions of attempts to match people to crime scenes which will be done on the database and the inevitable fallibility of human technicians and the equipment they use makes false matches a certainty.

Already in New Zealand and the UK innocent people have been subjected to extensive investigation, arrest and imprisonment after DNA database searches have thrown up false matches. Fortunately for them airtight alibis and more stringent testing revealed the errors. Doubtless many more languish in prisons, protesting their innocence and utterly mystified as to how DNA matching theirs was found at a crime scene.

Needless to say no additional funding has been allocated to Legal Aid to help the impoverished defend against expensive and often misleading evidence presented by prosecution forensic experts.

Although legislation provides for the 'destruction' of forensic samples and data under certain circumstances, once the government has your genes they will never give them up - even if they were obtained illegally in the first place.

The 'destruction' provisions of the Crimes (Forensic Procedures) Act only requires that 'identifying information' be removed from samples and DNA profiles. Once 'unidentified' the government can keep samples and profiles indefinitely or pass them on to anyone they wish without penalty.

But why would anyone want to permanently keep the medical samples of a large number of citizens without even knowing who they're from? Because multinational biotechnology corporations will pay big bucks for such samples and data, that's why.

Ironically it was in 1984 that the first recorded case of biopiracy occurred.

US cancer sufferer John Moore was surprised to find that the surgeon who had removed his spleen had patented a cell line from it and licenced it to two biotech multinationals. The court that rejected Moore's attempt to regain control of the information contained in his own DNA found that to do so "would destroy the economic incentive to conduct important medical research".

Since then the government of Iceland has sold the genetic database of its entire population to US-Icelandic company *Decode* for over US\$800 per profile and Tonga has sold the genetic heritage of its people to Joseph Gutnick's *Autogen* corporation. In both cases the sale was carried out without the knowledge or consent of those who gave samples.

Thousands of patents of human genes have now been taken out with corporations charging exorbitant fees for rights to test for the gene or carry out research upon it. In most cases the genes were patented without the consent of those who gave samples - often the same genetic disease sufferers and their families who gave samples for research are the ones who must now pay inflated prices for tests to detect the now patented genes.

In 1984 the people of Australia rejected government demands for an "Australia Card" which might be used to force citizens to reveal their identities to authorities. But in 2001 Australian police can force us to reveal our DNA profile in a medical procedure which is subject to less oversight than is required when they search a house.

Our DNA not only identifies us, it provides information about our families too - including details about family relationships of which we might be unaware ourselves. Once surrendered our genetic heritage becomes the permanent property of the government or whoever they choose to pass it on to.

The irony is that as we sit watching 'reality TV' we are all part of a 'Big Brother' surveillance program being run by our own government, but unlike our television counterparts we are unlikely to be rewarded with money and fame for surviving.

As our fellow unwilling contestants are eliminated onto the scrapheaps of prison, deportation, police killings and drug overdose we are awarded only one prize for our continued survival in Bob Carr's Big Brother state - survival itself.