



Just walk away





# General Rule

- There is no restriction on photography of objects and people (including children) in public places
- Exception - Photography of people in places where they can reasonably expect privacy, is prohibited by the Surveillance Devices Act (WA)

Note: Privacy Acts in Australia refer only to the privacy of data held in a data base.



## Exceptions to the general rule.

1. Photography of people in places where they can reasonably expect privacy, is prohibited by the Surveillance Devices Act (WA)
2. Behaviour in a public place may be subject to regulation by an entity with control of that place, eg a local government might impose restrictions on photography at a beach or park, for example. A valid exercise of this power must be respected.
3. It is a breach of section 217A of the Criminal Code to make obscene, demeaning or offensive pictures of children under 16, even in public.

# Surveillance Devices Act

- Regulation of use, installation and maintenance of optical surveillance devices(1) Subject to subsections (2) and (3),
- a person shall not install, use, or maintain, or cause to be installed, used, or maintained, an optical surveillance device
- —(a) to record visually or observe a private activity to which that person is not a party;
- Or, (b) to record visually a private activity to which that person is a party.

## Penalty:

- a) for an individual: \$5 000 or imprisonment for 12 months, or both;
- b) for a body corporate: \$50 000.



# Private Activity

- private activity means any activity carried on in circumstances that may reasonably be taken to indicate that any of the parties to the activity desires it to be observed only by themselves, but does not include an activity carried on in any circumstances in which the parties to the activity ought reasonably to expect that the activity may be observed;

# Recent case in Perth CBD

- A professional photographer on assignment to photograph the Christmas lights for a client was confronted by a woman who accused him of taking photos of her child. The photographer tried to walk away but the woman called on bystanders to help. A group of men grappled the photographer to the ground claiming to be making a citizens arrest and confiscating the camera. The photographer was held for 40 minutes until police arrived in response to a call from the woman.
- Attending police appeared to be unsure of the law pertaining to street photography.





# Move on notices

Western Australian police have the authority to issue a move on notice.

Move on notices were introduced in Western Australia in 2006 and give police the power to ban an individual from a designated area for a period of time.

In order for the police to issue a move on notice, they must be satisfied that the person receiving the notice is suspected of:

- Doing something violent, or will do something violent;
- Disturbing the peace;
- Preventing a person from doing something lawful;
- [about] to commit a criminal offence.

When issued with a move on notice, an individual either refuses to leave or returns to the place prior to the time limit expiring, they can expect to be arrested and charged.

*Source: [Lawsonlegal.com.au](http://Lawsonlegal.com.au)*

# Videos

- To illustrate what I have covered I will show two videos. Both are from the UK. Even though their laws may vary from ours they are substantially the same. Common sense is universally the same.
- The first video shows a photographer who is obviously out to stir up a controversy to make a point. Although completely in the right he is a dickhead who handles the situation arrogantly and rudely. If he tried this in Perth I have no doubt a move on notice would be issued.

[https://youtu.be/Uh--XpW\\_B7s](https://youtu.be/Uh--XpW_B7s)

- In contrast the second video also shows a photographer who sets out to test the limits of what a photographer can and can't do. He is polite in dealing with security people encountered. The second part of the video is an interview with a police officer who explains what is acceptable for photography in a public place.

<https://youtu.be/raX9Rr29O2c>