

[Thou shall not photograph?](#)

Adam Dimech is a plant scientist and keen photographer from Melbourne, Australia | Posted on May 19th, 2008

Last week I was taking evening pictures when I was abruptly confronted by an angry man who objected to my photographing his business. The matter escalated quickly into an incident involving the police and I was held captive by him for 50 minutes.

Suffice to say, this frightening incident highlighted the paranoia that [certain members of the public seem to harbour](#) about photographers and the art of photography in general. There's hardly an enthusiastic photographer in Melbourne who hasn't had an "incident" with a security guard, [Connex](#) staff member or an angry member of the public who's decided to take matters into their own hands.

As regular readers of [The Grapevine](#) would appreciate, I am a [very keen photographer](#). I go shooting several times a week without fail and am especially interested in [urban landscape photography](#), [macro photography](#) and [interior spaces](#). What I try to do is capture the scenes and landscapes that define my Australian experience, be they a grand Victorian-era building in the city that I admire or a local supermarket.

There are laws that govern when people can photograph. For instance, the photography of any [Commonwealth Department of Defence](#) land is prohibited. Also the photography of places where someone would have a "reasonable expectation of privacy" such as a toilet or change room is illegal, as is any attempt to photograph genitalia ([including upskirting](#)) for very obvious reasons. But with a few other minor exceptions, almost anything else goes.

In my case, I was not interested in photographing people but a landscape. The petrol station in question was architecturally interesting. Set against a beautiful dusk sky, it would have made a beautiful photograph. To take my photo I'd stepped a metre onto the petrol station land, but before I could take a single shot I was stopped by an aggressive man who claimed he owned the petrol station.

I immediately stepped back onto the footpath so as to be on [Crown land](#). From here I attempted to again take photos but was stopped even after explaining what I was up to. The man demanded that I either identify myself, surrender my camera or at least show him my photos, all of which I refused to do. Frustrated that I wouldn't co-operate, he ran inside and called the police. Twice. (Yes, he called the cops because I was taking photos, armed with a camera!).

In Australia, neither an individual nor a property is immune from "unauthorised" photography if the photos are taken from Crown land or adjoining private land with the landowner's consent ([this includes railway stations](#)).

Photography is free for a good reason. Without free photography the visual press could never document current affairs. Just imagine asking the permission of every attendee at a rally, for instance. Ironically, that very right means that the petrol station proprietor could lawfully record footage from his [CCTV system](#) without requiring the permission of his customers. So it works both ways.

Several High Court rulings such as [Victoria Park Racing vs. Taylor](#) (1937), [ABC vs. Lenah](#) (2001) and [Her Majesty vs. Sotheren](#) (2001) have reinforced the legal right to photograph from public land. In the last case, Justice Dowd commented “A person, in our society, does not have a right not to be photographed”.

This lack of a right not to be photographed can be extrapolated to buildings and landscapes. As long as I can see it from Crown land, and my conduct could not be construed as “stalking”, then I am free to take as many pictures as I like.

Since the dusk had turned to nightfall, I gave up on my petrol station photo. I packed up my belongings and went to my car only to have it blockaded by the proprietor whilst he awaited the arrival of the police. (Yes, he rang [000](#)). He complained to me that my behaviour was “rude”, that photographing the premises was “[against the law](#)” and that I was breaching “security”.

The “security” argument is a popular one, even [occasionally with the police](#). Back in 2005 I was asked by the Western Australian Police to [cease taking a photo of a railway station](#) despite them admitting that I was not breaking any law. Countless times I have been asked by security guards to [stop taking photos in shopping centres](#) for “security reasons” (although since I am on private land they have that right). Interestingly enough, no-one can ever actually articulate what the “security reasons” are.

The obvious two are [terrorism](#) or some other pre-meditated crime. Logic would dictate that if I was up to no good, surely I’d choose not use an [enormous camera](#) with a [giant lens](#) mounted atop a huge tripod on the corner of a major intersection during peak hour, making absolutely no attempt to disguise my identity or activities. When I put this idea to the petrol station attendant, he was indifferent to the logic and remained adamant that the police would arrest me.

As for the “rudeness” allegation, that it is a tough call. There is no *Manners Act*, just morality and human decency. Should I have walked into the petrol station and asked permission first? Should I have walked away when confronted, rather than argue the point and waste an hour with an ill-informed lunatic?

For me, the response will depend on the location and who’s doing the asking. My “golden rule” of photography is that I will *never* break the law to get a photo. That means no trespassing, no photographing prohibited locations and no arguing with police. If a private citizen confronts me with a threat to destroy my camera and violent demeanour to match, I won’t stand there arguing the finer points of the law. The *Crimes Act* won’t spare me a broken camera or a black eye.

In this instance, the man was angry, ill-educated and forthright but he was not aggressive. Indeed, he brought one of his staff and his Mum out to also blockade my car (much to the frustration of the petrol station customers who only had one staff member left on site to serve them). I made the decision that my conduct was lawful, peaceful and not at all interfering with the lawful activities of others and therefore I’d stand my ground.

So, was it worth it?

Yes and no. After 50 minutes, the police came and I was vindicated. I had not acted illegally and the police officer had no hesitation in letting me go. As I left, I heard him chastising the petrol station owner for barricading my vehicle. On the other hand, I missed the photo that I wanted to take and I

had to spend 50 minutes arguing with an unreasonable man, his Mum and a member of his staff whilst they blockaded my car.

Perhaps the three big lessons to arise from this episode are these; 1. Familiarise yourself with photographic law and your personal rights if you're going to go out shooting, 2. Know when to argue and when to walk away and 3. Try to be discreet when photographing internal spaces or "contentious" locations.

As for the wider community, I just hope that they come to better understand what the law states in relation to recreational and commercial photography. [Andrew Nemeth's "Photo Rights" web page](#) is very informative in this regard.

Most photographers – *myself included* – want nothing more than to capture beautiful images of the world around us. There is no malice intended, no devious intentions, just harmless artistic expression. And if we're approached politely, we'll be more than pleased to share our work with you. [I know I am!](#)

Further reading: [Andrew Nemeth's "Photo Rights" web page](#) details photographic law in New South Wales, most of which is applicable in other states of Australia. Jon Reid's "[Photography is not a Crime](#)" blog post provides good documentation about the harassment that many photographers experience from members of the public.

6 Responses to "Thou shall not photograph?"

1. Ernie says: [20 May 2008 at 6:22 pm](#)

As a train driver I do not believe the Photo Ban in the City Loop or any where else for that matter serves any useful purpose for security or otherwise, but I will say that there is nothing more annoying than having some dysfunctional twerp with a camera doing flash photography in your face while you are trying to stop 300 tonnes of steel from 80km/h to 0 in its own length (150 Metres), so as a matter of courtesy think of the person driving the train before you use your flash.

2. [Adam Dimech](#) says: [20 May 2008 at 6:57 pm](#)

Thanks Ernie, you raise a valid point about flash photography near trains. Whilst I personally don't use a flash when shooting, I can appreciate how distracting this would be for you.

3. [Walker](#) says: [27 May 2008 at 12:18 am](#)

Interesting post Adam.

I've also had a few people look at me oddly, but as I use a small Fujifim camera and look fairly harmless, I've been left alone.

However, when I photographed the Melbourne Assessment Prison I did get the feeling that I was also being watched. I also had a few people scowl at me when I took pics of the La Trobe St frontage of the Federal Court (taken from the footpath).

Cheers,

Walker

4. **Ron** says: [7 April 2011 at 11:37 am](#)

In December 2010 I took some pictures of "Mother's Food" in Cottesloe, Western Australia. I was confronted by an employee of the nearby petrol station, who told me that it was "against the law" to take pictures of a petrol station in Western Australia. I am from the US, and unfamiliar with WA laws, so I walked away rather than confronting the disruptive employee. Was she right?

5. [Adam Dimech](#) says: [10 April 2011 at 10:05 pm](#)

As I live in Victoria and not Western Australia, I cannot say categorically that there is no law prohibiting the photography of petrol stations in WA, but in Victoria it isn't an offence and I'd be surprised if it was in WA.

People often like to use the "illegal" excuse, in which case you can politely invite them to call the police if they believe a law is being broken. At this point, most people tend to back off because they know that making false complaints to the police is a serious matter. That is usually my strategy for dealing with people like that.

Basically, if you're on Crown land in Australia, you are more-or-less free to photograph whatever you like.

6. **Chuck** says: [2 April 2012 at 3:15 am](#)

I was visiting Queensland from the United States and went to a shopping centre. (Orion centre, Springfield.) While at the centre I came across a Holden Statesmen parked on a curb, I'd never seen one before and thought it was a good looking car, so I took a few pictures of it., about 5 minutes later at the food court, I was approached by 4 police men, asking me why I was taking a picture of the car, when I opened my mouth and they heard my accent and figured out I was an American visiting and heard my reason for taking the picture, it was fine and they let me go about having my lunch, but it sure did scare me.

Turns out, the car belonged to the Premier of Queensland whom was there for the grand opening of a particular shop.