

# Open justice changes witnesses' lives forever



By [Anton Harber](#)

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Just because they lived close to Oscar Pistorius and had the misfortune of hearing the events that led to his murder trial, the lives of witnesses were torn apart. They became household names and, for the rest of their lives, everywhere they go, people they don't know will probably link them back to this one event and know more about them than they would want known.

In years to come, people might recall the haunting screams in the Pretoria night much as we all remember the moment when OJ Simpson had to put the gloves on during his trial.

These witnesses are the sacrificial victims of our desire for open justice. Our justice system was well served by allowing cameras into the courts, but these individuals - who were just trying to get some sleep on Valentine's Day last year - relinquished their privacy, probably forever. They received some protection from the court, which ruled that their faces could not be shown, but even that was ripped apart by careless media, which showed pictures of one witness before being warned by the judge.

You could argue that the pictures were in the public domain - put on the internet by those people themselves - and anyone can find them and circulate them on social media. Is there any point in continuing to pay homage to a romantic notion of privacy in an age of sharing, intrusion, surveillance and instant, global, ubiquitous social media? Should we just give up on privacy? Is the judge trying to hold on to something that is already out of her grasp?

## Trails of information

This is a pressing issue. It has become clear from Edward Snowden's revelations about the US's National Security Agency that the US authorities are collecting vast amounts of data about everyone's communication, which can tell them an enormous amount about where we are, what we do, who we talk to and the proclivities we considered private. We know less about our own security services, except that there is evidence that they have abused their surveillance powers for party-political purposes.

But the issue is much wider than what spooks do. Every time we pick up a phone, go on social media or swipe a credit card, we create a trail of information about ourselves, our behaviour and our preferences. This information can be used benignly - to identify threats, connect us with friends and family, or offer us products we are likely to want - but it can also be abused and misused grotesquely.

Everywhere we go, we are recorded on closed-circuit TV - like Pistorius and his victim. Or by someone wielding their

cellphone. As the technology for facial recognition improves, this will mean you can be traced from camera to camera with ease.

We have constitutional protection for our privacy. And we have laws that try to prevent the illicit collection and commercial abuse of information about us. But to exercise our rights, we often have to read through long privacy notices on websites and understand complex issues in order to opt in to privacy protections.

## **Do you think it is worth defending your privacy?**

This information is of enormous commercial value, as Google, Facebook and others have discovered, which means that companies are investing millions in learning as much about us and our consumer habits as they can - and making it as difficult as possible for us to hold on to our privacy.

As the man who broke the Snowden story, anti-surveillance campaigner Glenn Greenwald, has argued, democracy has been turned on its head. We expect public figures to be open to scrutiny and ordinary citizens to be left to get on with their lives, whereas, in fact, there is increasing surveillance of citizens, and less of public figures.

So, as you consume every aspect of the Pistorius trial and get to know the characters quite well, think about what someone might learn about you if they traced all the phone calls, financial transactions and web searches you did in the past six months, as well as all the pictures taken of you. And think about that being in the hands of a hostile interrogator.

Now do you think it is worth defending your privacy? It's enough to disturb your sleep on Valentine's night, isn't it?

## **ABOUT ANTON HARBER**

Anton Harber, Wits University Caxton Professor of Journalism and chair of the Freedom of Expression Institute, was a Weekly Mail (now Mail & Guardian) founding editor and a Kagiso Media executive director. He wrote Diepsloot (Jonathan Ball, 2011), Recht Malan Prize winner, and co-edited the first two editions of The A-Z of South African Politics (Penguin, 1994/5), What is Left Unsaid: Reporting the South African HIV Epidemic (Jacana, 2010) and Troublemakers: The best of SA's investigative journalism (Jacana, 2010).

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