

Surveillance and Mental Health

By Alex Buckham

Ethics: “moral principles that control or influence a person’s behaviour” (Oxford Learners Dictionary, nd)

Morals: “standards or principles of good behaviour” (Oxford Learners Dictionary, nd)

Technology: “scientific knowledge used in practical ways in industry” (Oxford Learners Dictionary, nd)

Information technology: “the study or use of electronic equipment, especially computers, for storing, accessing, analysing and sending information” (Oxford Learners Dictionary, nd)

Health: “the condition of a person’s body or mind” (Oxford Learners Dictionary, nd)

I am concerned that a growing number of people, including myself, are living greater and greater portions of our lives through digital mediums that we do not sufficiently understand, and cannot sufficiently control.

The primary issue here is a familiar one: governments and corporations have been repeatedly exposed for not behaving responsibly with people’s data. Modern technology and surveillance systems have been utilised by the likes of Facebook, Google and Amazon – and many more besides – to understand and even *modify* human behaviour (Zuboff, 2019). They have also been used by states to further marginalise, alienate and oppress demographics, whose core principles and values somehow contradict those of politically and economically powerful groups within a particular society: this means anyone from peaceful activists to politically apathetic members of BAME communities are now at even greater risk of having their rights violated. For no justifiable reason.

Politicians and members of the intelligence community have frequently argued that mass surveillance programmes are absolutely essential in protecting general populations from the threat of terrorism and the actions of other violent criminals. To take the case of the UK as an example, from 1975-2018, the chances of a British person being killed in an act of terrorism in the UK were 1 in 1.1 million per year (Nowratsh, 2018). In the United States, between 2001-2017, the annual probability of being murdered in a terrorist attack was 1 in 1.6 million (Nowratsh, 2017). So, does this mean, at least in part, that mass surveillance is doing its job? Or does it in fact mean that the actual threat of terrorism has been consistently and grossly exaggerated, so as to justify the existence of such programs as those carrying out mass surveillance?

Comments have previously been made by former NSA director General Keith Alexander, that mass surveillance programs “protect both civil liberties and national security” (Alexander, 2013), and former UK Secretary of State William Hague claimed, in a 2013 *BBC* interview, that, “if you are a law-abiding citizen of this country going about your business and personal life, you have nothing to fear about the British state or intelligence agencies listening to the content of your phone calls or anything like that” (BBC News, 2013). However, mass surveillance programs have since been shown, on more than one occasion, to be illegal (Amnesty International, 2021; BBC News, 2020), and completely ineffective (Medine et al., 2014; MacAskill, 2013) with regard to stopping terrorist attacks. This evidence alone suggests that, not only is the threat of terrorism massively exaggerated by the

state, but also that when events like the Boston Marathon bombing (Granick, 2017), the Charlie Hebdo attack (Eddington, 2015) or the Manchester Arena bombing (Cobain et al., 2017) *actually do occur*, the pervasive, omnipresent surveillance architecture – that routinely violates our right to privacy every single day – has been exposed repeatedly as not being able to protect people. At best, this is a severe ethical failing on behalf of the states that continue to employ this technology. We have to stop this.

Whilst the subjects of ethics, technology and health are all fascinating and critical in their own right, this piece will focus on the relationship between them in one particular respect: the impact that government surveillance programs have on the mental health and wellbeing of people living in ‘free’, ‘liberal’, ‘democratic’ Western societies. The reader will note that the subjects of investigation, in this instance, concern powerful political and economic actors. Whilst an individual, living in any society in which there is some widely-observed form of social contract – namely, “the agreement among citizens to behave in a way that benefits everybody that forms the basis of society” (Oxford Learners Dictionary, nd) – has moral and ethical obligations to other people, as the saying goes, ‘with great power comes great responsibility’. Powerful actors using their capabilities in ways which serve to benefit themselves, to the detriment of the wider society, can have far worse impacts on a society than the immoral or unethical behaviour of less powerful actors.

Surveillance and mental health:

(a) Privacy and the Panopticon

There are many different definitions of what constitutes ‘privacy’ but, somewhat fittingly, for the purposes of this essay I am going to be employing the definition of privacy set out by NSA whistleblower, Edward Snowden. According to Snowden:

“Privacy isn't about something to hide. Privacy is about something to protect. That's who you are. That's what you believe in, that's who you want to become. Privacy is the right to the self. Privacy is what gives you the ability to share with the world who you are, on your own terms, for them to understand what you're trying to be. And to protect for yourself the parts of you that you're not sure about, that you're still experimenting with. If we don't have privacy, what we're losing is the ability to make mistakes. We're losing the ability to be ourselves. Privacy is the fountainhead of all other rights” (Desta, 2016).

The relationship between democratic states’ mass digital surveillance, or ‘bulk collection’ (Greenwald, 2015), programmes and people’s privacy is a central theme of any discussion relating to the subjects covered in this piece. In various forms, privacy is protected in state legislature. It is enshrined – and explicitly protected from state intrusion – in Article 8 of the UK’s Human Rights Act (1998) (Equality and Human Rights Commission, 2021). Similarly, whilst there is no ‘right to privacy’ included in the US Constitution, it is nonetheless protected, in various forms, in the First, Third, Fourth and Fifth Amendments (University of Missouri-Kansas City, nd). Why is this the case? Why would such an emphasis be placed upon protecting a person’s privacy in such critical political documents as those mentioned above?

The answer is simple: because it is the most fundamental of all human rights. The removal of privacy from social life deprives people of the ability to experiment with, and explore, controversial ideas that are deemed unacceptable by the general assembly: irrespective of

whether those ideas have some demonstrable personal or societal value, or whether an individual simply wants to investigate the subjects on an intellectual basis. The same goes for the people one chooses to associate with, religious principles that one seeks to explore, and so on. It also applies to personal changes someone wishes to make in their life: how can you even begin to wrestle with an issue, like your own sexuality, for example, if you know that every thought – translated into action on a digital device – and conversation you have on the subject is being recorded and stored, and may be used against you in future?

In effect, the very essence of individuality is removed from the societal equation and the parameters of acceptable behaviour are impossibly defined, determined and dictated by the most powerful actors in a particular society: the most minor infractions are severely punished, as has been the case in gruesome totalitarian societies in years gone by. The impact on people's mental health and wellbeing is predictably serious, and it is the ethical responsibility of those in powerful positions across the political and economic spectrum to ensure that this does not become reality. Carissa Véliz, an associate professor in philosophy at the Institute for Ethics in AI and Hertford College at the University of Oxford describes privacy in the following terms:

“Privacy is the key that unlocks the aspects of yourself that are most intimate and personal, that make you most you, and most vulnerable. Your naked body. Your sexual history and fantasies. Your past, present and possible future diseases. Your fears, your losses, your failures. The worst thing you have ever done, said, and thought. Your inadequacies, your mistakes, your traumas. The moment in which you have felt most ashamed. That family relation you wish you didn't have. Your most drunken night.” (Véliz, 2019).

Notice many of the words used in this excerpt: “intimate”; “personal”; “most vulnerable”; “naked”; “fears, losses and failures”; “the worst things” you thought, said or did; “inadequacies”; “mistakes”; “traumas”, and so on. The idea that having your private life exposed to the light, in a manner that you hadn't consented to, wouldn't cause damage to your mental health and wellbeing, is simply laughable. “When intimate details of an individual's private life are collected, stored, and disclosed to others without their consent, it is damaging to the individual. The disclosure of this information may trigger emotions like anxiety, fear, and humiliation. Here, the understanding of privacy is based in the intimate sphere, where invaded privacy can lead to dignitary harms such as exposure and shame” (Maras, 2012).

As things stand in the West, gross invasions of privacy by the state, in collaboration with ‘Big Tech’, have simply become the norm. Citizens of Western nations rest complacently in our comparative privilege at our own peril. For many people, our personal digital devices have become an extension of ourselves – we live our lives through our phones, tablets and laptops. The extent to which the second-by-second behaviours of vast swathes of the global population can be monitored is greater now than it has ever been. And that is a serious problem.

The nature of mass surveillance programmes all across the world mirrors, in many respects, English philosopher Jeremy Bentham's ‘Panopticon’ model for social control. The Panopticon was, according to Bentham, a large “circular” (Bentham, 1787) tower, located in the middle of a particular vicinity in which there was an empty space separating the tower from everything surrounding it (ibid). The observers on the inside of the tower could see out, and those being observed could not see in. The model was originally envisaged to police

prison inmates but, by Bentham's own admission, it could also be used for "the purposes of perpetual prisons in the room of death, or prisons for confinement before trial, or penitentiary-houses, or houses of correction, or work-houses, or manufactories, or mad-houses, or hospitals, or schools. It is obvious that, in all these instances, the more constantly the persons to be inspected are under the eyes of the persons who should inspect them, the more perfectly will the purpose X of the establishment have been attained" (ibid, p34).

Irrespective of where the model was employed, according to Bentham, one of the effects of the structure would be to create in the mind of those being watched, "the apparent omnipresence of the inspector (if divines will allow me the expression,) combined with the extreme facility of his real presence" (ibid, p45). The parallels between this model and the surveillance programs we are dealing with today are both tangible and terrifying. The notion of 'privacy' is clearly not taken seriously in either respect, which is a massive problem for anyone seeking to live in a free society, that takes the issues of ethics and human rights seriously. It has been understood for many years that surveillance yields, to name a few examples, increased "stress, fatigue and anxiety" (Chambers, 2013; Subašić et al., 2011) in those being watched. Are we supposed to simply accept that these kinds of surveillance practices are required to maintain free, democratic societies? If so, are societies such as the United Kingdom and the United States 'free' in any meaningful sense?

(b) Mass Surveillance and Mental Health

What impact does the perception of the "apparent omnipresence of the inspector" have on those being observed, given the importance of privacy and the fact that this model was intended to be employed in any context, including those in which the people being monitored had done nothing wrong? A research paper published in 2016 by Jon Penney found that, in the aftermath of the 2013 Snowden revelations, American people's Wikipedia searches for such words as "*Al Qaeda, Hezbollah, dirty bomb, chemical weapon, and jihad,*" (Shaw, 2017) starkly reduced in number. Penney, in the *Berkeley Technology Law Review*, concluded that, in this instance, "Given the lack of evidence of people being prosecuted or punished... actual (normal, law-abiding people's) fear of prosecution can fully explain the chilling effects suggested by the findings of this study" (ibid), clearly demonstrating an aspect of the negative impact of pervasive surveillance programs on the mental wellbeing of ordinary, non-extremist citizens.

Similarly, research published by *The Leadership Quarterly* (Subašić et al., 2011) and *Applied Ergonomics* (Smith et al., 1992) show that surveillance caused people to feel increased levels of anxiety and fatigue. Given how long this information, and much more like it, has been in the public realm, governments who employ mass surveillance technologies cannot also present themselves as being genuinely concerned with the mental health of their peoples (Chambers, 2013). Additionally, in the aftermath of the Snowden revelations, the findings from various research projects found that people were far less likely to explore controversial or delicate political issues, exemplified by the 'spiral of silence' in surveillance-related discussions on various social media platforms (Hampton et al. 2014). A *Pen America* report from November 2013 also details that American writers employed self-censoring tactics, in response to learning of the Snowden revelations about the global surveillance dragnet, which broke earlier that year (Pen America Centre, 2013). A.J. Marsdan and William Nesbitt, in an article in *Psychology Today*, concur with these conclusions, asserting that what they refer to

as ‘continuous monitoring’ has significant negative impacts on anxiety levels, stress and degrees of trust (Marsden, Nesbitt, 2017).

If law-abiding citizens do not feel free to explore and investigate controversial and sensitive topics, due to experiencing strong feelings of fear and anxiety about being reprimanded by the state for this behaviour, this represents a significant ethical failing of particular governing institutions in a democracy: how *free* are these societies, in actuality? This argument is particularly poignant when referring to Western, liberal democratic states, whose governments frequently make reference to the ‘freedoms’ that citizens of Britain, America, France and Germany – for instance – enjoy, that other people living under non-democratic, violent, repressive regimes do not. If we are to take the moral and ethical value of these governing institutions seriously, they themselves should be able to demonstrate that they are taking the necessary steps to protect and *increase* their citizen’s capacities to explore and discuss subjects and ideas, especially those of a sensitive, controversial nature. This, ultimately, means protecting privacy from the relentless creep of the surveillance panopticon.

However, whilst pervasive, panopticon-esque surveillance programs can increase levels of fear and anxiety within comparatively privileged demographics, in their 2017 report, *The Disparate Impact of Surveillance*, Barton Gellman and Sam Adler-Bell explain that the effect these programs have on “high-crime” or “unfamiliar neighbourhoods” (Gellman, Adler-Bell, 2017), those of “non-white, non-male, and non-rich people” (ibid) is severely underrepresented in the relevant literature. Surveillance programs are an arm of a much broader state architecture: in the United States, for example, various aspects of the state surveillance system serve to exacerbate pre-existing issues and tensions existing between the Black community and the authorities. “Black males, as a result of hyper-surveillance and discrimination, suffer social, physical, and mental health challenges. Chronic environmental stressors have detrimental effects on the individual, family, and community.” (Sewell et al., 2016). Similar conclusions are reached by Geller and Tyler in their report, *Aggressive Policing and the Mental Health of Young Urban Men* (Geller, Tyler, 2014).

Ever-more sophisticated ‘predictive policing’ technologies, such as the US’ ‘Total Information Awareness’ (TechTarget Contributor, nd) program, are purported to objectively assess trends in crime, and hence render law enforcement agencies more able to ‘pre-empt’ future unlawful acts. The main problem with this logic concerns the fact that the US’ political, legal and law-enforcement institutions have, historically, characterised crime in primarily racist, sexist and classist terms. These characterisations remain mostly intact in the present day and have become “hardened in ways that legitimize this politically constructed idea of criminality (Grasso, 2018). The ‘freedoms’ that are supposedly inherent to the nature of liberal-democratic states has to extend to all demographics, not merely a select few. It is the ethical responsibility of a government – and a state apparatus more broadly – to preserve and protect these freedoms, which is especially important if there are particularly marginalised and oppressed groups existing within a society. In this way, the ethical responsibility of the government and state is also to correct its own systemic prejudices and inequalities.

Given the political nature of crime, if a state introduces measures that are intended to ‘objectively’ analyse so-called ‘criminal’ patterns – aided at every stage by surveillance technologies – without radically reforming its own racist, sexist and classist fundamentals, the problems will continue and the massive impact state violence has on the physical and mental health of particular communities will subsequently also continue. One particular example of

this is the rise of ‘digital stop and frisk’: in every case of a federal class action lawsuit, filed in March 2020 and brought before the U.S. District Court for the Southern District of New York in October 2020, officers stopped and searched the plaintiffs, all from lower socio-economic communities, found nothing incriminating and still demanded to see some form of identification (Speri, 2020).

The plaintiffs’ IDs were “ran... to search for arrest warrants or possibly matches in other law enforcement databases... But police ran those checks without any basis or reasonable suspicion, making the temporary detentions and digital searches unconstitutional, the lawsuit claims” (ibid). Terron Belle, when the police demanded his ID, did what the officers requested. He admitted that he wasn’t going to argue with, or react to, the officers’ unwarranted, disproportionate behaviour because he was afraid of the situation escalating: “It could have gone different, it was night time, there was nobody around us” (ibid). In Richmond Appiah’s case, officers assured him that if he was innocent, there would be no reason for him to worry. He allegedly replied, similarly, that his reasons for “panicking” concerned the unnecessary behaviour of the officers. The encounters left the plaintiffs feeling “scared and humiliated”, in spite of their innocence and the fact that none of them were arrested or had any additional action taken against them (ibid). Merely from this example, it is clear that surveillance programs have different effects on people of different cultural and economic backgrounds (ibid). In all cases, digital surveillance constituted a central aspect of the scenario, which clearly had a negative impact on the wellbeing of the plaintiffs.

(c) Historical Surveillance and Mental Health

Instead of conceptualising surveillance programs, of any sort, as being primarily used to contribute towards the marginalisation and oppression of any particular political and social demographic, they are most usefully understood as targeting *any* individual, organisation or community who concertedly acts on values which contradict those of a particular state, in a foreign or domestic context. Under the US’ infamous multi-administration counter-intelligence program, ‘COINTELPRO’ (Blackstock, 2000), the FBI routinely bugged Martin Luther King Jr.’s phones and hotel rooms, in addition to paying informants to collect data on him, with the intention of exploiting his personal life and coercing him into stepping down from his position as the nation’s foremost civil rights leader, at the very least. This is to say, the FBI also sent King and his family a package, in which was an “anonymous diatribe” berating him and his behaviour in his personal life, and an “electronic surveillance tape” which supposedly provided evidence of King’s sexual activities with women other than his wife, as described in the letter (National Archives, nd). Also included in the letter were the following words:

“King, there is only one thing left for you to do. You know what it is. You have just 34 days in which to do (this exact number has been selected for a specific reason, it, has definite practical significance). You are done. There is but one way out for you. You better take it before your filthy fraudulent self is bared to the Nation” (ibid).

The not-so-subtle suggestion that the Reverend should take his own life, in addition to the various other surveillance tactics employed against him, was sure to have tangibly negative impacts on his wellbeing. Upon receiving the letter, King apparently suffered a “real

emotional crisis” (Pollard, 2020), clearly demonstrating the toll the ordeal took on King’s mental health. With regard to COINTELPRO as an overall program, the Senate Church Committee –a US Government select committee tasked with investigating CIA, FBI, NSA and IRS abuses – said “[Over the course of fifteen years] the Bureau conducted a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect the national security” (Greenwald, 2014).

A large number of the tactics employed under COINTELPRO, in the committee’s own words, “would be intolerable in a democratic society even if all of the targets had been involved in violent activity...” (ibid). The program’s mandate was essentially limitless with regard to the intelligence agencies’ capacity to do what was required to maintain socio-political order (ibid). Revealingly, one COINTELPRO memo detailed that “paranoia” could be disseminated amongst activists by bringing government critics of various kinds to believe “an FBI agent (was) behind every mailbox” (ibid), resulting in the stifling and faltering of numerous important social movements.

Ultimately, whether one chooses to focus on engaged political activist groups, disengaged minority demographics or comparatively more privileged communities, government surveillance does have, and historically has had, negative impacts on people’s mental health and wellbeing. In supposedly free, liberal, democratic societies, the population elects its leaders, who’s primary mandate concerns the protection and promotion of the health and wellbeing of the general population. Government and broader state power is only legitimate insofar as it protects the wellbeing of the people. This essay has provided a number of examples as to why, in the context of surveillance practices and people’s psychological health, this mandate has not been fulfilled.

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