

2.2.4 In Praise of Big Brother: Why We Should Learn to Stop Worrying and Love (Some) Government Surveillance

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In the previous selection, “Bigger Monster, Weaker Chains” (2.2.3), Jay Stanley and Barry Steinhardt decry the growing use of surveillance technologies that they see as a threat to privacy. Not everyone agrees, however, that increased surveillance by governments and corporations is such a bad thing. James Stacey Taylor presents a contrarian view in which he argues that what matters is *not* whether someone is watching over you but *what* they do with the information obtained by contemporary surveillance technologies. Rather than opposing the use of these technologies for gathering personal information, we should encourage their use as long as we observe the distinction between the surveillance itself and the question of who is permitted to access the gathered information and the ways in which that information is used. This argument is based on the principle of polypotency of technologies under which the same technology can be used for good or bad purposes. Stacey’s argument turns on our accepting the idea that, with proper legal safeguards against governmental abuse, omnipresent surveillance can actually promote important social benefits such as deterring crime and lessening the need to subpoena reluctant witnesses to testify in trials. He argues that, rather than violating rights, the morally legitimate use of surveillance technologies can actually make us safer and enhance our autonomy and privacy.

FOCUS QUESTIONS

1. What is Taylor’s argument for thinking that use of surveillance technologies by the state should be morally acceptable to both rights theorists and consequentialists?
2. Under what circumstances should the state be permitted to access the personal information that it gathers through the use of constant surveillance? What limitations and safeguards does Taylor propose to minimize abuse of these powers?
3. Does it matter what kind of government employs surveillance technology to monitor personal behavior? Should U.S. citizens be wary of increased reliance on these technologies by their own government?
4. Can a person be harmed by being spied upon if he or she does not know that this is happening? Do you agree with Taylor’s view? Explain.
5. Comparing the argument in this reading with the previous one, which do you think has the better argument? Explain.

KEYWORDS

autonomy, consequentialism, dystopic, harm principle, libertarianism, privacy, surveillance

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In recent years surveillance technology has undergone a revolution. Spy satellites are now so accurate that they can be used to track the movements of individual people, and even read license plates on cars. It is now simple to intercept faxes, pager messages, and telephone messages, for rooms to be bugged, and for tracking devices to be installed on vehicles, goods, and even individual persons. Spyware software can now be covertly and remotely implanted onto Internet-linked computers to monitor the keystrokes that their users make and the websites that they visit. And in many areas of the developed world persons now live much of their public lives under the panoptic gaze of closed-circuit television monitors that record their every move.

This revolution in surveillance technology is often regarded with horror. Discussions of its ethical implications frequently draw analogies between it and Big Brother's sinister surveillance of the citizens of Oceania in George Orwell's *1984*. Worse yet, as many of the participants in such discussions note, the surveillance capabilities that are now available to governments and corporations dwarf that which Big Brother had access to. In *1984*, people could be sure that they could not be watched by Big Brother's telescreens if they were in a crowd.¹ Face-recognition software now renders such a hope futile. In *1984* people could escape the omnipresence of Big Brother's telescreens by going out of the cities and into the country, where they only had to take care that their conversations were not monitored by hidden microphones.² Such escape is now impossible, for spy satellites can be used to monitor people wherever they go.

With the dystopic vision of *1984* lurking in the background it is clear that one need not possess any pronounced Luddite tendencies to oppose the expanding use of surveillance technology. It will be argued in this paper, however, that rather than opposing such an expansion of surveillance technology, its use should be *encouraged*—and not only in the public realm. Indeed, the State should place all of its citizens under surveillance at all times and in all places, including their offices, classrooms, shops—and even their bedrooms.

AN OVERVIEW OF THE ARGUMENT

At first sight, the conclusion that the State should place all of its citizens under constant surveillance is alarming. Yet this alarm can be dispelled once it is realized that this conclusion flows naturally from the plausible and widely held view that, in certain circumstances, it is morally permissible for the State to secure information about past events. It is, for example, widely held that in certain circumstances it is morally permissible for the State to compel witnesses to testify about past events in criminal trials. The State, however, can only use hindsight to determine what information it is morally permitted to have access to, for it will only become clear in retrospect what information is relevant to (for example) solving a crime or judging mitigating circumstances. To ensure that it gleans all of the information that it is morally permitted to access, then, the State can gather information about all events that occur, provided it only accesses that which it is morally permitted. Given this, then, the State is in principle morally permitted to place its citizens under constant surveillance. The purpose of this paper is not, however, only to show that the State is morally permitted to place its citizens under constant surveillance. It is also to show that a situation in which the State used such surveillance would be morally *preferable* to one where it did not. To establish this it will be shown that under such a system of surveillance it is likely that crime will decrease, that justice will be better served, and that fewer costs will be imposed on witnesses. Finally, four objections to the use of such a system of State surveillance will be examined and rejected: that it would be open to abuse, that it is not morally permissible for the State to secure information about past events, and that such surveillance would violate citizens' privacy, or autonomy, or both.

Before moving to develop the above argument in favor of constant State surveillance an important initial clarification is in order. This argument is based on two claims: (i) that if it is ever morally permissible for the State to secure information about past events, then it is morally

permissible for it to do so through the use of surveillance devices, and (ii) that in some cases it is permissible for the State to secure information about past events. As it stands, however, it is not clear whether (ii) is the claim that the State's acquisition of information respects a person's moral rights (e.g., to privacy or autonomy), or the claim that in some cases the consequences of securing such information justify the State's acquisition of it. That is, it is not clear whether this argument is one that would be acceptable to a rights theorist, or only to a consequentialist.³ This unclarity can be dispelled once it is recognized that the argument presented here is compatible with *both* a rights-based and a consequentialist approach to ethics.⁴ This argument is acceptable to a rights theorist because, as will be argued below, when the State is morally permitted to access information it will not violate anyone's rights in so doing. If the arguments below are sound, then, claim (ii) will be true if one accepts a rights-based approach to ethics. This argument is also acceptable to consequentialists, who could also accept claim (ii).⁵ For a consequentialist to accept (ii) it must be the case that there is at least *one* time at which it is clear that the consequences justify the State's acquisition of information about a certain past event. And, as will be argued below, such a situation is simple to envisage. As such, the argument of this paper is amenable to both rights theorists and consequentialists alike.⁶

SURVEILLANCE AND TESTIMONY

Despite appearances, then, the conclusion that there is no principled reason why a State should not place all of its citizens under constant surveillance is by no means a radical one. It is merely an extrapolation of the widely accepted view that, under certain circumstances, it is morally permissible for agents of the State to secure information about past events. It is, for example, widely accepted that it is morally permissible for judges to subpoena witnesses to require them to disclose information. It is also widely accepted that it is morally permissible for judges to permit law enforcement agencies to install surveillance devices

to monitor the activities of persons they suspect of criminal activity, provided that such agencies demonstrate that they have probable cause for their suspicions.⁷ The claim that it is morally permissible for agents of the State to secure information about past events is thus innocuous.⁸ Moreover, if it is morally permissible for agents of the State to secure information about past events through the subpoenaing of witnesses or the use of surveillance devices, then there should be no moral bar to their gaining such information through securing access to records of past events that might have been generated by preexisting surveillance devices. (Provided, of course, that in securing such information the agents of the State are subject to the same restrictions on their powers that are in place with respect to their subpoenaing of witnesses or the placing of suspects under surveillance.)

However, that it is morally permissible for agents of the State to secure access to information about past events that has been gathered through the use of surveillance devices does not show that it is morally permissible for the State to place its citizens under constant surveillance. To reach this further conclusion it must first be noted that it cannot (typically) be known in advance what information it would be morally permissible for the agents of the State to have access to. Instead, one can only use hindsight to determine what events it would be morally permissible for them to access information about. For example, it could not have been predicted that knowledge of the actions performed by Billy Nolan Lovelady, a worker at the Texas Square Book Depository in Dallas on 22nd November, 1963, would be relevant to assessing who assassinated the President of United States. However, the defenders of Lee Harvey Oswald (who was accused of this assassination) claimed that at the time of the shooting Oswald was standing unarmed in the doorway of the Texas Square Book Depository and produced a photograph purporting to prove this. Once this had occurred, knowledge of Lovelady's actions became relevant in showing that the man in the photograph who was claimed to be Oswald was actually Lovelady. In this situation, then, it was morally permissible for agents