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EDITORIAL NOTES

Introducing the Special Issue "Rethinking Surveillance: Theories, Discourses, Structures, and Practices"

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Surveillance theories and discourses develop in parallel with surveillance structures and practices. To observe and reflect on these developments in the context of health was one of the purposes of the 2015 edition of the conference "TILTing perspectives. Under observation," hosted by Tilburg Institute for Law, Technology, and Society. The conference brought together eHealth and surveillance studies—two hitherto unrelated streams of scholarship interested in observation—in order to inspire cross-fertilization between the two fields. Upon reflection on the conference results, it seemed natural to continue to look further into how other contexts beyond eHealth can bring new insights into the legal, ethical, and social meanings of being "under observation" and further lead to "rethinking surveillance."

In practically all social sectors, there has been a significant increase in technologies and structures that enable various types of actors to monitor the everyday activities of individuals and groups. The resulting notion that people are continuously "under observation" has multiple connotations and implications. On the one hand, the various technologies used for surveillance practices are full of promises, such as "lean" solutions to expensive social problems or real-time feedback that enables individuals to take control of their own wellbeing. On the other hand, such technologies are criticized for creating new opportunities for the exercise of behavioral governance. That is, individuals can be softly steered to behave in certain ways, which raises a number of questions about the overarching ethical, legal, and social consequences of these increasingly prevalent monitoring structures.

Many discussions of surveillance in modern society begin with Foucault's (1977) application of Bentham's concept of the Panopticon to explore the relationship between architecture, knowledge, and power. But the increasing permeation of, among others, information and communication technologies in everyday life and the multitude of actors involved in practices of monitoring the behavior of individuals and groups have

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opened up and challenged current understandings of what constitutes "surveillance." Scholars have especially endeavored to extend Foucault's theories beyond the notion of hierarchical surveillance. Thus, whereas surveillance was long interpreted as a top-down practice conducted by, e.g., governments, current scholarship on the relationship between new technologies and current trends in surveillance points to the increasing multi-directionality and mutuality of surveillance practices with and through various technologies. Such "post-panoptic" theories (Iedema & Rhodes 2010) signal the shift from the notion of direct, embodied surveillance to distributed, mobile surveillance, where there is a seeming normalization of "the need to watch and be watched" (Reading 2008, p. 240).

Numerous ideas regarding how to classify new practices of watching and monitoring abound, and especially Mann (and colleagues), have expanded the lexicon of surveillance theory, introducing the notions of *sousveillance* (watching from below), whereby the ability of people to access and collect data about how they are surveilled, whereby they also monitor the behavior of officials and authorities is key (Mann et al 2003). Additional terms that have been introduced include, but are not limited to, co-veillance, which conveys the idea of mutuality in practices of watching and monitoring each other (Mann et al 2003) and self-surveillance or the idea of watching oneself. It should be noted that while these terms are more recent additions to the surveillance vernacular, the ideas behind them are already present in Foucault's theory of discipline and internalization of surveillant practices. In addition to monitoring the behavior of individuals and groups, technologies also enable monitoring the multitude of microtransactions (Andrejevic 2007) taking place online. This has, in turn, led some scholars to discuss notions such as dataveillance and infoveillance. Finally, the idea of continuous, multidirectional practices of watching (as well as the aforementioned idea of the need to watch and be watched) has led to the notion of uberveillance, or the practice of monitoring everything, and the suggestion to drop prefixes connotating a specific type and just discuss "watching," i.e., veillance (Mann, 2013; Mann and Ferenbok, 2013). All of these concepts reflect not only changing theory and discourse but also changing structures and practices in everyday life.

This issue combines contributions from legal, ethical, and social scholars on surveillance theory as well as four case studies on the interaction of surveillance and criminal justice, privacy, and health that help crystallize changing discourses, structures, and practices of surveillance. We are of the opinion that the insights gained through these theoretical discussions and case study examples will fertilize further development of surveillance theory and facilitate "rethinking surveillance."

To open up the discussion on rethinking surveillance, the issue begins with the contribution by Timan et al. The authors undertook a demanding task of introducing the reader not previously exposed to surveillance theories into this messy field of scholarship. They review and reflect on the key theoretical concepts of surveillance and draw out chronological differences in how this notion is and has been understood. Timan et al. attempt to systematize surveillance theory in three roughly chronological-thematic phases, which, they hope, will facilitate future surveillance theory building.

The subsequent articles are the case studies of the morphing surveillance discourses, structures, and practices in different contexts. Two articles examine the relationship between new technologies and practices of surveillance and criminal justice, albeit in very different ways. Hadjematheou's legal analysis examines the relationship between

surveillance and the presumption of innocence. The author takes issue with the predominant position of legal scholars that surveillance techniques are a threat to the presumption of innocence. The author makes an argument that the principle of presumption of innocence should be interpreted to include protection against wrongful criminalization. Relying on this interpretation and empirical evidence on the causes of erroneous charges and convictions, Hadjematheou defends a more nuanced view that surveillance technologies both undermine and reinforce the presumption of innocence and the policies should reduce former and promote latter effect.

Trottier's more sociological approach examines the role of (unwanted) visibility in the case of digital vigilantism, which he sees as a parallel social act to criminal justice. His analysis further shows how practices such as naming and shaming transcend the oft-cited online-offline divide.

Gorzeman and Korenhof examine the relationship between online activities and visibility in their discussion of the balance between online Freedom of Expression and the Right to be Forgotten. They introduce a temporal dimension by examining the web as a panopticon over time and reflect on how the Right to be Forgotten counteracts this working of the web.

The contribution by Sharon is the final "case study" of this issue. Sharon examines surveillance of the self through health self-tracking and quantification devices. Her work reflects on the relationship between these devices and fundamental values of autonomy, solidarity, and authenticity and proposes an alternative approach to understanding such practices of self-tracking for health-related purposes.

These articles, taken together, provide interesting insights in changing understandings of surveillance practices in relation to the permeation of new (information) technologies in various social sectors. They challenge us to continuously reflect on how this influences not only structures and discourses but also the key concepts and theories that inform our understanding of surveillance in modern society.

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