Article

Exploring Consciousness: The Online Community's Understanding of Mobile Technology Surveillance

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Abstract

This paper examines subjective understandings and experiences of mobile technology surveillance, an area of surveillance studies literature that is significantly underexplored in North America. Drawing on Ewick and Silbey's (1998) popular socio-legal conception of legal consciousness, the paper constructs a similar concept in the domain of surveillance. Surveillance consciousness of two mobile surveillance technologies—drones and Stingrays—is explored through online data. Upon analyzing reactions to surveillance, the paper expounds on the complexities found therein, which conform to Ewick and Silbey's tripartite set of schemas. Such complexities contribute to surveillance studies by addressing whether prevalent theoretical models of surveillance can be sufficiently used to capture the current surveillance society. In its entirety, this paper demonstrates how surveillance and socio-legal studies benefit from greater dialogue and cross-fertilization.

Introduction

State monitoring of individuals and populations has accelerated in the post-9/11 world. Coupled with the prevalence of typically security-related monitoring by governments has been a sharp rise in (mobile) technologies for public consumption. Every day, people use “app-centric media” (see Daubs and Manzerolle 2016), unmanned aerial vehicles (UAVs, hereinafter “drones”), laptops, and health-monitoring technologies to conveniently accomplish certain tasks and maintain their front-row seats for the rise of the Fourth Revolution (see Floridi 2014). Though surveillance is not a new phenomenon (see Weller 2012), contemporary surveillance technologies are much more advanced, as they include but are not limited to police body cameras (see Bud 2016), drones (see Finn and Wright 2012; Jensen 2016), and International Mobile Subscriber Identity catchers (see Bates 2017), commonly known as “Stingrays.”

The proliferation of contemporary mobile surveillance technologies has allowed easy retrieval of information from and about various populations, in many cases across jurisdictional boundaries (see van Hoboken and Rubinstein 2014). The methods and reach of this multifaceted surveillance have extended beyond our imaginations and even Orwell's dystopia described in *Nineteen Eighty-Four* (hereinafter 1984). Populations being surveilled by the state are also being surveilled by corporations like Google and Apple, as “data [has become] a new currency” (Young 2012: 163).

After Snowden's disclosures (see Lyon 2015), some people gradually became aware of how and the extent to which they were under surveillance. Snowden unveiled various programs and surveillance operations

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used by the National Security Agency (NSA), Canadian Security Intelligence Services (CSIS), and other intelligence agencies to inform the public of the surveillance to which they were subjected. One example of a program run by CSIS involves the Operational Data Analysis Centre program, which monitors through mobile technologies and

is a powerful program which processes metadata resulting in a product imbued with a degree of insight otherwise impossible to glean from simply looking at granular numbers . . . [T]he end product is intelligence which reveals specific, intimate details on the life and environment of . . . persons . . . The program is capable of drawing links between various sources of enormous amounts of data. (X[Re], 2016 FC 1105: para 42)

At issue in this paper is not an assessment of data collection methods but rather an engagement with online readers' comments and social media posts to explore subjective understandings of surveillance. Drawing on Ewick and Silbey's (1998) socio-legal conception of legal consciousness, the current study locates a companion concept in surveillance studies: surveillance consciousness, or how people understand and experience surveillance (cf. Gilliom 2006). Particularly, subjective understandings of two mobile surveillance technologies—drones and Stingrays—are explored, given the understudied nature of reactions to these particular technologies. This paper contributes to surveillance literature by directing its attention toward post-Snowden surveillance consciousness, while critically remarking how theoretical surveillance studies can be affected.

This paper unfolds in six sections. The first section briefly outlines two commonly referenced theoretical models of surveillance. Sections two and three detail previous research regarding subjective understandings of surveillance and Ewick and Silbey's conception of legal consciousness, respectively. This is followed by a brief section on methods and procedures. The fifth section is then broken down into various themes located in the data, ultimately exhibiting the subsections of surveillance consciousness. Finally, the paper concludes with the study's limitations and suggestions for future research avenues.

Conceptual Models of Surveillance

A number of theoretical models of analysis have been deployed in surveillance studies. Though reference to these models is common, a brief explanation is necessary. Of utmost popularity and significance is Bentham's panoptic prison later used by Foucault (1995) in *Discipline and Punish*. The intention of this circular model prison was to instill a sense of self-awareness in its segregated prisoners to behave and conduct themselves in a certain way as imagined by the prison guards. The disciplinary model, though highly contested for surveillance purposes, prevails and is continuously developing in surveillance studies.

Haggerty and Ericson (2000) conceptualize a model—the surveillant assemblage—that would supersede the panoptic analysis and serve as another framework for surveillance research. Using Deleuze and Guattari's notion of rhizomatics as a starting point, Haggerty and Ericson describe an assemblage as a “multiplicity of heterogeneous objects, whose unity comes solely from the fact that these items function together, that they ‘work’ together as a functional entity” (608). Their argument to displace the panoptic mechanism and construct a new model suggests “surveillance has become deterritorialized and operates as a heterogeneous network of elements which spreads rhizomatically” (Murakami Wood 2013: 319).

Surveillant assemblages are important when conceptualizing contemporary surveillance experiences, particularly given that *affect* involves an “assemblage of . . . subjective feelings” (Wetherell 2012: 62). Nevertheless, they surreptitiously require particular reactions to surveillance or lack thereof to capture “data doubles” (see Haggerty and Ericson 2000: 606). If people resist surveillance even partially, this may disrupt interconnected assemblages. As mentioned above, an important feature to maintain surveillant assemblages' functioning is the need for their elements to work together. Focusing on surveillance consciousness demonstrates how assemblages are affected by responses to surveillance and whether people are seamlessly captured by them.

Subjective Understandings of Surveillance

Literature on surveillance has neglected, to a considerable extent, people's personal understandings of surveillance practices. Surveillance scholarship has limited itself to analyzing the extent to and the means by which people are surveilled and how frameworks can be used to understand such practices (see Bloss 2002; Magnet 2011). As such, there is little literature focusing on people's "experiential reality" (Harper, Tucker, and Ellis 2013: 175) of and their responses to surveillance (Bauman et al. 2014: 141). Some studies address opinions and attitudes about Snowden, typically through survey research (e.g., Reid 2015).

However, few studies have stressed the importance of these subjective understandings of surveillance. Best (2010) explores experiences of surveillance by users of "digital screen technologies" and employs a Deleuzian conception of the control society to compare with users' experiences. Best's findings indicate how people believe their data to be undesirable for surveillance apparatuses. Beyond this, Vermeersch and De Pauw (2017) explore the effects of how exposure to information about surveillance can alter people's perceptions of surveillance practices. Here, they locate the belief that surveillance technologies are overly complicated and ultimately suggest that such sentiments are not completely a product of the information to which people are exposed: "Individuals' opinions are more than a mere reflection of the information offered to them at a given moment" (66).

Further, Ellis, Tucker, and Harper (2013) focus on the *affective* impacts of surveillance by exploring dominant discourses such as privacy and security as they relate to surveillance. In addition, Harper, Tucker, and Ellis (2013) examine people's *knowledge and awareness* concerning surveillance practices, principally those exhausted by governmental entities. Using quantitative studies preceding their research, the authors also emphasize the "contradictory nature" of surveillance discourse (181). Moreover, Green and Zurawski (2015) call for a holistic approach to researching subjective experiences, proposing that many surveillance practices experienced by people are deemed *mundane*. Entering a more specific area of enquiry, Brown (2016) examines *use of force* behaviour and whether police officers being subject to surveillance, or sousveillance (see Mann, Nolan, and Wellman 2003), modifies their use of force. A major claim here is that officers subject to surveillance are disciplined to the extent that they are *panoptically* aware of surveillance. This surveillance is operative and effective when people are docile, but how does this affect those who completely discount surveillance efforts and behave as if they are not being monitored?

In brief, research on subjective understandings and experiences of surveillance has uncovered an effect on docile people along with an inherent understanding of mundane surveillance practices. Surveillance discourse has been shown to be contradictory, and the effects of surveillance have typically been deemed disciplinary. This paper provides accounts of people's understanding of surveillance that, like legal consciousness, overlap and complement one another and offer complex patterns regarding how people understand and experience surveillance. Surveillance consciousness thus demonstrates what people do and say about surveillance. This allows for a modification and development of existing and future perspectives of surveillance given its focus on the binary of top-down and bottom-up approaches concurrently.

Legal Consciousness: Defining Socio-Legal Narratives

In socio-legal studies, the concept of legal consciousness has been addressed and advanced by several scholars (e.g., Hoffman 2003). Ewick and Silbey (1998) expand on legal consciousness by exploring people's everyday experiences with the law. Here, they locate the "place of law in American culture" (xii) for people of varying demographics. For Ewick and Silbey, legal consciousness refers to how subjects experience the law and "what [they] do as well as say about the law" (Silbey 2008: 1). The authors propose an account of legal consciousness that comprises a tripartite set of narratives or schemas: engaging *with*, conforming *before*, and resisting *against* the law. Such schemas demonstrate how people understand the law, experience it, and are affected by it in their lives. These schemas are discussed in turn.

The first schema of engaging *with* the law is

consistent with the notion that ‘[l]aw is concrete, partial, flawed, and changing.’ It is ‘an arena of competitive tactical maneuvering where the pursuit of self-interest is expected’ . . . Law is a game, open to all, but played by the best legal professionals . . . (Lippert 2006: 73)

Engaging *with* the law involves a game “in which pre-existing rules can be deployed and new rules invented to serve the widest range of interests and values” (Ewick and Silbey 1998: 48). Simply put, laws are seen to be broken by other laws, rules by other rules (cf. Ericson 2007). People engaging *with* the law are more concerned about those who are powerful enough to change and implement laws than with the procedures of law.

Another schema involves conforming *before* the law, where law is a “[hierarchical] system of known rules and procedures” that “transcends by its history and processes the persons and conflicts of the moment” (Ewick and Silbey 1998). Lippert (2006: 73) remarks about the schema: “law is imagined as majestic, authoritative, and external. Law operates ‘by known rules in carefully delimited spheres’ . . . Here law stands outside and above social life.” Most importantly, people accept legal procedure and construction despite any indifference toward the results of such constructions (Ewick and Silbey 1998).

Finally, Ewick and Silbey (2003: 1,336) outline a third schema, namely, being up *against* the law. Here, individuals find themselves up against a kind of force, having “a particular understanding of self and other, of being up against something or someone.” Ewick and Silbey comment:

Tellers of resistance stories [employ] law as a powerful force, describe themselves as a protagonist up against this force, and present some action that [avoids] or [overcomes], if only temporarily, this situation of relative powerlessness. The act of resistance is described in the conventional narrative form of opposition . . . (1,345)

Types of resistance could include “foot-dragging, omissions, ploys, small deceits, humor, and making scenes” (Ewick and Silbey 1998: 48). These forms of resistance against the law can also be temporary. In many cases, resisting can be a way to “exact revenge” against legal institutions, codes, or actors. In short, this schema demonstrates that law can, at any point, “be opposed, if just a little” (49).

It is important to qualify Ewick and Silbey’s (1998) conception of legal *consciousness* to prevent confusion with more psychological expressions of consciousness. For Ewick and Silbey, legal consciousness rather than necessarily referring to a state of mind concerning law—hence the concept of consciousness—is exhibited through discourse about law in everyday life. This paper similarly exhibits surveillance consciousness manifested through discourse about surveillance.

Data Sources and Procedures

This research is guided by data comprising online readers’ comments (see Luscombe, Walby, and Lippert 2017)—or comments below the line (see Graham and Wright 2015)—as well as social media posts (hereafter “comments”). According to Luscombe and colleagues (2017: 746), these “‘popular texts’ deserve scholarly attention as proxies for public opinions.” Two online news sources, the *Canadian Broadcasting Corporation* (CBC) and *The Guardian* (US edition), and two social media outlets, Reddit and Twitter, were used to collect comments. CBC and *The Guardian* were chosen for two reasons: first, these online sources publish many articles regarding the topic of surveillance; second, many comment sections on other online newspapers have recently been removed for various reasons, yet the comment sections here remained.¹ Further, Reddit and Twitter were selected as sources given the heterogeneous set of potential responses from

¹ Initially, there were many online newspapers examined as potential data sources. These sources removed their comment sections for different reasons (e.g., *Toronto Star*, see Cooke 2015; see also Wallsten and Tarsi 2014 on issues of anonymous commenters).

people who do not necessarily observe the news through only one online news source like CBC. For example, Reddit posts included links to a particular news article from varying online newspapers, giving users the opportunity to respond to different news sources, in essence acting as social media-type comments below the line.

A total of 896 comments were systematically selected from the four sources. Tables 1 and 2 list the steps taken in these searches.

Table 1. Online News Source Data Collection

News Sources	Step #	Collection Method	Added Notes
The Guardian & CBC	1	Key words used to find list of all articles (e.g., Stingray surveillance)	Search by “relevance” to keyword(s)
	2	Ensure collection includes articles only “post-Snowden.”	
	3	Select every article (every second for <i>Guardian</i>) to assess (if there are more than thirty comments, then select every other comment; if not, select every comment). Articles selected must have either the given technology’s name or “surveillance” in the title of the articles.	
	4	Upon complete assessment, every second comment is collected.	
	5	Up to five “thread” comments can be used.	
	6	Continue on to other comments past the given “thread.”	

Table 2. Social Media Data Collection

Social Media	Step #	Collection Method	Advanced Search Words
Twitter	1	Search key words, not hashtags (e.g., drone surveillance).	Filter: “Any of These Words” Consider nature of what is attached to the tweet (e.g., tweets reacting to an attached news article referring to breach of privacy rights)
	2	Ensure collection includes tweets only “post-Snowden.”	
	3	Select every fifth tweet.	
	4	Assess tweet for pertinence to both surveillance and the technology.	
	5	Up to five “thread” tweets can be used (must click tweet to check for threads).	
Reddit	1	Search key words (e.g., Stingray surveillance).	
	2	Ensure collection includes posts only “post-Snowden.”	
	3	Ensure title of post pertains to surveillance.	
	4	Select every second post.	
	5	Up to five comments selected in one thread.	
	6	Maximum twenty comments per post.	

Comments were categorized exactly 1,219 times to one or more schemas or an “other” section using a thematic analysis (see Aronson 1995). In other words, comments were coded as being *before*, *with*, and/or *against* surveillance as well as an “other” category with various sub-themes within these schemas (discussed below). Evidently, many comments were coded with more than one theme. The following section explains surveillance consciousness narratives throughout the listed sub-themes.

Analyzing Surveillance in a Socio-Legal Landscape

This section expounds on the key findings from the analysis of hundreds of comments. It is broken down into various themes that echo the schemas. These sub-themes outline consistently located topics defining how people understand and experience surveillance.

Of the most common arguments made by those who simply do not regard surveillance practices as intrusive and disturbing, the “got nothing to hide” (GNH) response (see Solove 2007, 2011) is at the forefront. Given its prevalence in surveillance literature, this will be discussed in brief. The argument is used to assert that “there is no threat to privacy” (Solove 2007: 746). Proponents maintain that their actions have always been law-abiding, just, and permissible. Solove remarks that “the argument reflects the sentiments of a wide percentage of the population” (747).

The following excerpts convey the GNH argument:

Who cares? . . . I couldn't care less if [police] also read every “LOL” I text. I have nothing to hide. Only criminals do.

But at the same time my cellphone conversations are literally just talking to my family about everyday stuff. I'm only one individual in this and personally have nothing to hide. If EPS [Edmonton Police Service] wants to listen in on my conversation with my mom about how hard it is to find a good sports bra, then go ahead.

The final excerpt above suggests an understanding that surveillance does not warrant the commenter's daily activities and communications useful to the grand surveillance system; instead, surveillance practices seamlessly gloss over the person's data with the intention to catch only those who are willingly concealing something. A suggestion offered by many is that people need not worry if they do not engage in deviant behaviour. Solove (2007: 753) eloquently summarizes the argument: “NSA surveillance, data mining, or other government information-gathering programs . . . [are] not likely to be threatening to the privacy of law-abiding citizens. Only those who are engaged in illegal activities have a reason to hide this information.”

Despite the prevalence of this argument, opponents deem it to be a trivial argument at best. The opposition suggests that proponents of the argument are neglecting the crucial point. The allegedly overused argument is dismissed:

The reason this is a big deal is in a free society the police don't get to make up the laws or how they are enforced . . . The point [is] that the police and security service in our country shouldn't be acting outside of the law . . . These are safeguards, because every now and then a PM or a leader comes along and says he has an “enemies list.”

Opponents of the argument posit that every person *does* have something to hide. Without receiving further response, one commenter responds to a GNH commenter by demanding that the latter submit their information openly:

Why don't I post an e-mail here. You can send me all your text messages, transcripts of phone calls, your e-mail accounts and passwords. Banking information, account #'s and passcodes. You'll be fine with that right?

Here, the commenter removes the notion of government or any commercial enterprise and pompously brings him/herself to the position of controlling another's data. From this comment, one can infer that people may hesitate in openly disclosing their information to a stranger, thereby not permitting disclosure to an entire governmental body or commercial enterprise.

Being the most commonly located word in the data, *police* as well as military were praised or blamed for mass surveillance. Stingrays are commonly and primarily affiliated with law enforcement's collection of *metadata* (see Newell and Tennis 2013; Schneier 2014 for discussions on metadata). Likewise, drones are associated with police services and the military for purposes of surveillance and military drone strikes. As West and Bowman (2016: 650) note, drones “are the signature weapon of modern warfare.” This is expressed by one commenter supporting military drone use:

This is an excellent tool to be used for monitoring our coastlines and the far north. Drones will save lives and costs carrying out these missions. If push comes to shove drones with the capability to “shoot back” are absolutely necessary. The modern battlefield demands technology on this level.

Such devices are said to be required for the “modern battlefield” that transcends conventional warfare techniques; these positions display commenters to be situated *before* surveillance, ultimately disregarding surveillance for the defence of the nation. Another commenter similarly calls drones a “no-brainer” and proposes specific types of drones for warfare:

Drones are a no-brainer. And we need to listen to the RCAF [Royal Canadian Air Force] - surveillance and weapons capacity is needed. Reaper drones and the Global Hawk are possible choices.

Yet others do not agree. Instead, a concern with drones is articulated regarding their capacity to engage in surveillance or battle strikes. One commenter speaks to the inevitability of weaponry use:

I find it difficult to understand why anyone would ever think that these drones would NOT have munitions . . . We do have cameras on light poles and helicopters for looking at the traffic on the Don Valley Parkway. This is for military use only not traffic surveillance.

Interestingly, one commenter offers a hypothetical situation to follow, such that military accountability is maintained. That is, the commenter insists that such a solution would facilitate military self-management:

If a country wants to make sure that their drone program is held to the highest level of accountability, all they need do is make it so that 60 days after any drone flight, the recording of the flight is automatically uploaded to the internet . . . [and] tagged with a unique identifier so that government officials could request the full [audio] record . . . Do that, and the military will police itself quite effectively.

Regarding police, surveillance consciousness toward law enforcement channelled a negative undertone whereby police could not be trusted and relied upon. Such thoughts about police ultimately show commenters being situated *against* surveillance. The following are some examples of excerpts regarding police use of mobile technology surveillance:

At least back in the late '70s, the police had to get a court warrant to fly helicopters over suspected marijuana plantings in California's northwest. Now, the police do whatever illegal function they want . . .

There was a time that I had respect for the police. Sadly, that respect has been lost. Weird that it coincided with the advent of cell phones . . . This story will fester for a few days, someone will leak information . . . and then they will finally admit they have “bent” the law and apologize.

The first comment refers to an historical, law-abiding timeline of police. The second commenter expresses lack of respect for police, referring to the trust the commenter *once* had in law enforcement. Uniquely, one commenter opposes use of Stingrays during protests, suggesting such a practice to be unconstitutional:

These are now routinely used at all protests . . . Because they don't have warrants that would allow them to use this information against a person in court, police find other ways that they could have “found” the information . . . They can't fess up to it as a source of their information in court, no one can challenge them on it. This is even more unconstitutional . . . than NSA phone and internet collection surveillance.

Overall, most police references were coupled with a feeling that law enforcement would surreptitiously use mobile technology surveillance for deleterious reasons such as targeting specific individuals, regardless of whether they had committed a criminal act. Here, law enforcement is oppressive, thus illustrating subjects' positions *against* surveillance. Despite the type of negative comments noted, those who supported police and military use of these devices aggressively opposed their adversaries by justifying such use.

The current subsection exhibits commenters referring to others' techniques of resistance rather than their own. In other words, these commenters await others to resist mobile technology surveillance for utilitarian reasons and insinuate such resistance is required regardless of whether the end goal is achieved. They see resistance as lacking and are thus awaiting someone or *something* to resist surveillance. Through these understandings, it was also discovered that given the lack of resistance by many citizens, many commenters argue that citizens have brought mobile technology surveillance on themselves vis-à-vis submitting to the convenience of mobile technologies (see Harcourt 2015). Indeed, they blame the public for willingly taking their own steps to subjugate themselves to mass surveillance.

Awaiting resistance or someone to act against surveillance does not indicate commenters necessarily being situated *against* surveillance. Those who await resistance are thus categorized differently from their resistant counterparts. One commenter posed a question to others asking what they are going to start doing about mass surveillance: "I think enough words have been said. The CIA is our enemy. What are we gonna start doing about it?" Another communicates to others what *must* be done to resist this mass surveillance and what others need to realize:

Dear God. When did we arrive at this dystopian future? . . . [Government's] very purpose now . . . is control, monitoring and surveillance of their civilian population for a variety of ends. And we must, for the sake of anything resembling freedom begin to protect ourselves against it . . .

This excerpt suggests that the public fails to protect its own legal and democratic rights and, as a result, blames others while awaiting resistance.

Other excerpts show a transition from the theme of *awaiting resistance* toward blaming the public for maintaining surveillance's consistency. One commenter's sentiment displays this noteworthy transition in a response to an article regarding thousands of legal cases being overturned due to police Stingray use:

What boggles my mind is how many sheep in this country actually believe that the police . . . are doing anything by the law to protect us citizens. The whole justice and legal system . . . consider us all as state controlled sheep. You all need to wake up and start fighting back against the system and the government . . . We need to bring justice to the citizens of this country . . .

Evidently, this excerpt suggests that others need to awaken to their surroundings soon. What is common among the above excerpts is the belief that the public incorrectly allow themselves to be subject to surveillance either for purposes of convenience or because of ignorance of mass surveillance. These are sweeping and generalizing excerpts that portray an understanding of societies holistically.

Since 9/11, the act of terrorism from both external and internal threats to Western nations has been a vital risk addressed by governments to maintain national security through surveillance measures, as "the War on Terror [has] resulted in forms of surveillance with little or no judicial oversight" (Walby et al. 2016: 7). Citizens of Western nations have been commonly reminded that such surveillance practices "keep them safe, especially from terrorism" (1). As noted by Monahan (2012: 289), "technological surveillance seems to have had very little success in stopping attempted terrorism since 9/11." A similar postulation is evident in understandings of mobile technology surveillance and terrorism. One commenter illustrates this in reference to Stingrays by suggesting that counterterrorism via surveillance has failed:

I'll just go ahead and say it . . . Hitler would have LOVED to have had his hands on this!
Irony: Using OUR confiscated money against US . . . AND . . . they can't locate "terrorists"?!

Further, notions of terrorism along with national security are seen as mere excuses for governmental agencies to engage in surveillance. In other words, surveillance is said to be an intrusive technique to socially control the public through mass practices in light of national security. One commenter responds to an article briefly touching on denied freedom of information (FOI) requests about Stingrays and their use by the police:

How the hell can the [police] deny a FOI request asking a general question? ARE YOU USING SPOOF CELL TOWERS? . . . And I am sick and tired of the government and police using the 'national security' . . . argument.

But commenters also suggest everyday crimes are fought through tactics initially aimed to address acts of terrorism. One commenter epitomizes this sentiment: "Law enforcement using 'terrorism' to obtain surveillance technology to fight regular crime." The transition from the implementation of a surveillance technology from one purpose to another (e.g., terrorism to common crime), or function creep (see Monahan 2007; Greenleaf 2007; Ball 2010), has been established for many mobile technologies used for surveillance. Contrarily, many commenters perceive terrorism and national security as legitimate factors justifying agencies and police services to engage in intelligence gathering, placing commenters *before* surveillance. One argument relates to the GNH argument where the commenter posits that

If you're not doing anything wrong or illegal why the fuss? When you're riding the rail and it blows up don't blame the police for not doing their surveillance . . . You want security but don't want them to do their job . . .

The commenter refers to the inevitability of a tragic event occurring without the implementation of surveillance by law enforcement. Another commenter posits that Stingrays are useful tools to investigate not only potential terrorists but also those with whom they associate:

How do you stop them? This is one good tool by the looks of it. Anyone connecting with known numbers of terrorists . . . gets tagged and investigated.

The notion of terrorism in combination with surveillance was prevalent in the discourse. Indeed, many commenters see national security as a mere excuse for surveillance. Proponents argue that surveillance practices are worth any intangible price given their pre-emptive capabilities. These commenters imply that without surveillance, nations would lose protection and be exposed to internal and external threats.

In previous scholarship, surveillance has been "influenced by popular culture, as the media can shape our attitudes and actions toward surveillance" (Kammerer 2012: 99). Many commenters refer to literature, film, and Snowden's leaks. Commenters countlessly use *1984* to help describe current societies in which they live. According to Kammerer (100), *1984* is "the most famous cultural expression" given that "evocations of a menacing 'Big Brother' have become commonplace in discussions about surveillance and control." Kammerer highlights increasing "debates about whether or not Orwell was 'right' in his predictions" (100) have increased.

This is no big surprise. You are being watched right now, everything you do is recorded.
This is 1984 and big brother is more prevalent than ever.

It has become an Orwellian nightmare from which there is no awakening.

The commonality among the statements above is clear: the acknowledgement and actualization of Orwell's predictions. However, one commenter suggests that surveillance is so unfathomable that even Orwell himself could not have predicted it:

This is just the soft sell for the hard-stuff that is lurking just around the corner. . . . They are developing drones the size of insects which will be able to take out . . . just about anybody else . . . that Mr. Obama decides is a threat to national . . . security. You couldn't make it up - even if you had George Orwell . . . writing the script.

In addition to Orwell's powerful book, commenters make references to films and television shows where surveillance technologies are depicted (see also Lippert and Scalia 2015). For example, one commenter uses the television series *Black Mirror* to speak to its ingenious idea of coupling "*drone technology AND [government] surveillance*." The following excerpts similarly invoke films and television shows like *Star Wars*, *Terminator*, and *The Dark Knight*:

Yay now Darth Bloomberg can spy on us to make sure we don't go over our allotted serving size for soft drinks.

America is sleep walking toward a corporate and military *Skynet*.

This is basically Nolan's Batman surveillance, except instead of a highly trained billionaire they have an underfunded group of often violent or uninterested law enforcement.

Overall, these excerpts demonstrate by their allusion to surveillance through *Skynet* and the *Terminator* series that the commenters are up *against* surveillance.

Finally, Snowden was commonly mentioned. For many, Snowden is conceived as a person who opened people's eyes to recognize mass surveillance—a giver of freedom to the public. In addition, commenters point to Snowden's emphasis on what is said to be the true intention behind surveillance: "Edward Snowden says: Surveillance is not about safety, surveillance is about *power and control*" (emphasis added). One commenter suggests, "this could be another Edward Snowden moment." Such a statement treats the Snowden revelations as a watershed moment. Nevertheless, it is worth speculating whether the Snowden revelations brought change to people's understandings of surveillance. In his review of Lyon's (2015) *Surveillance After Snowden*, Specht (2017: 1) notes: "Snowden's words did not constitute a moment of actual change in how surveillance is being undertaken." It is worth exploring whether the transition from pre- to post-Snowden surveillance is associated with commenters' understandings of surveillance.²

Another common theme discovered involved crime and its combination with conditionals. First, commenters proposed different views concerning surveillance and crime, including the assessment of *who* uses mobile technologies for surveillance and for *what* purpose. Some saw the positivity in mobile technology surveillance for detecting crime. Such commenters advocated for anybody's use of the device—such as law enforcement agents—to help locate criminal activity:

With the crime rate . . . skyrocketing . . . and the amount of fentanyl . . . being imported and sold in Edmonton alone, maybe something like a Stingray isn't a bad tool.

Police have been using drones for years. I seem to remember a spike in drug busts at a music festival a few years ago which was attributed to drone surveillance—good to know they save them for the heavy crimes and don't just indulge in persecution . . .

² To explore whether this was such a significant moment in subjects' experiences of surveillance, one must compare discourses on surveillance pre- and post-Snowden. Such an examination is out of the scope of the current study given that the pre-Snowden era was not examined but can and should be undertaken in future research.

Here, commenters are *before* surveillance while partially indifferent to whether surveillance is beneficial. The commenters convey an acceptance of the utilitarian-style surveillance system. Contrary to more positive expositions toward surveillance as a pre-emptive tool, others had more negative crime-oriented feedback to offer:

It is part of the complete surveillance of every single human being for reasons having nothing to do with terrorism or crime.

It's called stalking when you listen in on someone's conversation. It doesn't matter who you work for. If you do this without legal cause you are a criminal. That goes for the good guys as well.

The second excerpt above refers to any persons who use such tactics, regardless of their occupation, as defying the law. This commenter posits that anyone who surveils illegally is a criminal, leaning toward being situated *against* surveillance.

Second, with many comments about crime and surveillance came conditionals in the logical philosophical sense of the word. As indicated by Bennett (2004: 96), a conditional is simply a statement following the logic of “if . . . then.” Many commenters express their sentiments through conditional language, suggesting that if certain processes are met—such as legal ones—then these surveillance tools and devices are certainly useful for keeping criminals off the streets. The following excerpts delineate similar conditionals:

No problem whatsoever with the Stingray—if EPS provides all documented evidence and public videos of all officers' conduct without FOI requests.

Bottom line, *as long as there is a clear structure* of having to go through various levels of management, and various levels of risk need to be met, along with warrants with extremely specific scopes of use, and information gleaned that is not within the specific scope of use is discarded immediately, I think I'm fine with it . . . (emphasis added)

These excerpts befit the three narratives and show surveillance at one point to be acceptable for certain purposes, but at other times oppressive or useful for one's advantage in some way. One discussion between two commenters concerns whether mobile technology surveillance is justified. The conversation (between C1 and C2) concludes with C1 suggesting that such surveillance by law enforcement is permissible *since* criminals are tracked:

C1: Thanks for the good police work. Keep it up.

C2: Are you against all freedom and civil liberties, or just the ones you don't value?

C1: I'm against the criminals. What is wrong with that?

C2: You're supporting government spying on innocent civilians.

C1: The police are using the device to track and investigate criminal activities not innocent civilians.

Finally, one of the most common discursive topics with which commenters were concerned involved some sort of privacy or legal matter. First, commenters see the law as something ultimately disregarded. If not to this extreme, commenters also show belief in an existing “gap” in or several violations of the law. These commenters see law in North America to have been breached by mobile technology surveillance:

Elsewhere it is reported that purchasers of the Stingray are required to sign a document that prevents them from revealing the purchase. Wouldn't this requirement be a violation of the Canadian Charter of Rights and Freedoms?

Ugh. Taking one Amendment away from us at a time.

Among other things, commenters also suggest that the law's effect on such surveillance is minimal given their belief that they are "*not sure it's going to make much of a difference.*" Other sentiments involved jokes (recall *against* narrative) about the law, also suggesting its limited applicability: "Passing a law to prevent warrantless spying? Why didn't we think of that 300 years ago?" Here, law is deemed ineffective and unable to keep up with technological advances (see Wadhwa 2014 regarding law keeping up with technology).

As such, some commenters offer their ideas concerning the type of laws and/or regulations needed for mobile technology surveillance. The first excerpt demonstrates that resistance may be unnecessary and cautions of possible legal liability:

We need a law that requires a license prior to a drone flight and insurance . . . in case the thing crashes and hurts someone . . . In certain situations like firefighting . . . they may be of use . . . Just like planes you should need permission and prior flight path prior to takeoff . . . Shooting them down is ridiculous. If you shoot a gun in the air . . . you'll get charged.

Another commenter echoes this sentiment:

So, have "terrorists" figured out, yet, that they can use drones to fly their "next-generation suicide bombs" a few miles to a desired target area? . . . Is that a good enough reason to have lots of "regulations" monitoring/regulating this new product? Yes . . .

Despite some negative views exhibited toward the law, some commenters defend the state, citing the famous Oakes Test:

Re-read section 1 of the Charter. Right or wrong, things like this have passed the Oakes Test and have been interpreted as a reasonable infringement on your fundamental rights. I'm not coming out on one side or the other, just answering your question.

Second, an important theme pertinent to surveillance consciousness involves privacy. Privacy issues were expressed in ways seemingly aligning with Floridi's (2014) two characterizations of privacy, namely the reductionist and the ownership-based interpretations, which also befit Ewick and Silbey's three schemas. Floridi defines the reductionist interpretation:

The value of privacy rests on a variety of undesirable consequences that may be caused by its breach, either personally, such as distress, or socially, such as unfairness. Privacy is a utility, also in the sense of providing . . . possibility of good human interactions, by preserving human dignity or by guaranteeing political checks and balances . . . (2014: 116)

Here, the reductionist approach coincides with not only being up *against* surveillance due to unfairness or "making do" with situations but also characterizes an engagement *with* surveillance, where privacy is a personal utility expected not to be breached. The comments below illustrate such depictions. They most importantly focus on the consequences of privacy being breached as a political check:

This is called a house and another reason why most walls aren't see-through. Most people don't live in glass houses because of this. Also . . . this is exactly why they are called "privacy fences."

The erosion of our basic civil liberties is too high a price to pay for the sake of whatever benefits this technology offers by way of enforcement. What alarms me as much as their use of it was their lying about it at the outset. This does not engender much in the way of trust.

Conversely, the ownership-based interpretation moves away from the intangible notions of privacy and argues that informational privacy needs to be respected because of each person's rights to bodily security and property, where 'property of *x*' is classically understood as the right to exclusive use of *x*. A person is said to *own* his or her information . . . and therefore to be entitled to control its whole life cycle . . . (Floridi 2014: 116, emphasis original)

The ownership-based interpretation moves strictly toward people's understandings engaging *with* surveillance given the emphasis on one's *own x*, whatever that may be, ultimately protecting one's own interest. The final comment below also partially exemplifies being up *against* surveillance. As such, the following excerpts show how privacy is seen as one's *own x* where commenters defend the idea that whatever *x* is, is particularly *theirs*:

The advent of . . . the NSA, etc . . . has eliminated privacy. Get over it folks. *Your* life is an open book. (emphasis added)

I'm not the least concerned about videos *of* them I'm more worried about videos *from* them. What I do on *my property* is absolutely nobody's business but *my own*. (emphasis added)

Floridi's two interpretations of privacy display a very similar perception of privacy that commenters have exhibited throughout this examination of surveillance consciousness. However, this is not to insinuate there were not any positive, more accepting interpretations of privacy where commenters' understandings were ultimately situated *before* surveillance as shown below with one commenter referring to a "formally-ordered, rational" (Ewick and Silbey 1998: 47) system. This commenter suggests that surveillance conducted by different agencies is not necessarily illegal as some may mistakenly understand:

This report assumes all of this was done illegally . . . where is the proof? . . . Any court case whereby illegal info was obtained will be thrown out . . . not sure this privacy issue is as big as it is being painted . . .

Beyond the Narratives? The Temporal Aspect of Surveillance Consciousness

The following commonly referenced theme was the most prevalent among an "other" category to which excerpts were categorized if they did not (or even did) seemingly fall into the scope of being *with*, *before*, or *against* surveillance. This discourse deals with the temporal aspect of surveillance consciousness where subjects, overlapping with the *before* schema, are visionaries.

People tend to prophesy future surveillance situations to which they and others will be subjected. In other words, one could suggest that people "Orwellianize" themselves and, instead of believing surveillance to have climaxed, offer a predictive sentiment toward surveillance advancements. This theme was discerned to be encompassed by being situated *before* surveillance, being "distinctive, yet authoritative and *predictable*" (Ewick and Silbey 1998: 47, emphasis added). Surveillance is described here by people who "depict legality as timeless and transcendent . . . understand[ing] that [it] changes and develops" (95). Some sarcastically express that the current surveillance society was inevitable and obvious: "I totally didn't see this coming. Nope, not at all."

Some excerpts had an apocalyptic undertone to them whereby such references were *before* surveillance given the idea of surveillance being temporally transcendent to human existence. The following comments emphasize this apocalyptic message:

The bad days are going to come more often for all of us, the way things continue to go.

You know the end is coming soon when these blatantly wholesale surveillance techniques are used and no attempt is made to explain or justify it.

However, contrary to this approach many—like those discussed in a previous section—claim to *foresee* a resistant population to mobile technology surveillance:

They say they will be used for good things, but how many times have we seen technology turned against us? I have no doubt that people will begin taking action and start . . . shooting these things out of the sky if given the opportunity.

The old Mafia goodfellas made it a point never to discuss their business over the telephone, on the assumption that the line could well be tapped. Now that the criminals in Vancouver know the technology is being used by the police, the smart ones will start using code words that can't be used for an indictment.

These comments exhibit people's belief in the inevitability of resisters of surveillance, including those who are criminals, ultimately differing from those who expressed apocalyptic understandings.

Furthermore, some people also spoke of surveillance becoming even greater and more surreptitious, echoing the changes foreseen in the law—but here with surveillance—as shown by Ewick and Silbey's analysis. Though being *before* surveillance acknowledges the grandeur of surveillance, the power of the surveillance system is emphasized and legitimized. This narrative observes people's understanding of surveillance to be continually advancing. For example, the evolution of drones was communicated by one person: "Wait till the drone is the size of a housefly and there's one following every citizen in the country 24/7." It is at this point where commenters are helpless and suggest there is no future threat to surveillance given that "there is no stopping the program[s]."

Interestingly, some proceeded to predict even the type of mobile surveillance and innovative technology that would be available in the future. Consider the following examples:

So then we're only 20-40 years from the little floating face scanners . . . ?

Nope, that's what these things are, just bigger . . . Next security innovation will probably be a device that stops reproduction.

These excerpts imply that there is something more to current surveillance practices than the technologies being used. Interestingly, the second excerpt can be seen as up *against* surveillance, as the commenter denotes others easily giving away their liberty as well as a technology that could completely leave populations powerless.

In short, the excerpts above display subjects foreseeing the future of the surveillance society. Here, people express their sentiments with the notion of being *before* and briefly up *against* surveillance. The former is shown through the idea that the surveillance society is predictable and temporally transcends human existence. The latter is subtly exhibited through later comments in this section where the future of the surveillance society appears to be one absent of liberty but replete with complete control and oppression.

Conclusion

What we discover upon exploring surveillance consciousness is a complex set of subjective understandings regarding contemporary mobile technology surveillance. This complexity allows us to see shortcomings in previous conceptual models of surveillance. Such gaps emphasize the error and disadvantage of using *one* model to capture current, continually evolving surveillance societies. However, the complexity of surveillance consciousness and its various directions is ultimately encapsulated by Ewick and Silbey's three

schemas, notwithstanding what at face value appeared to be completely beyond the schemas, namely the temporally driven responses to surveillance. As shown in this paper, the common themes constituting surveillance consciousness conform with one, two, or all three narratives, showing the adaptability of a key socio-legal concept to surveillance studies.

Two conceptual models were addressed at the outset: the panopticon and the surveillant assemblage. After exploring surveillance consciousness, various discourses were located. What surveillance consciousness represents is an analytical tool used to engage with conceptual models of surveillance. The panopticon is, as others have noted, limited in its appreciation for the current surveillance society. Commenters for the current study would not commit robotically with complete docility to the panoptic gaze, but instead would resist or engage with surveillance and use such monitoring to their advantage. Even the anger toward their own powerlessness displays commenters who in many cases are not docile and arguably uninfluenced by surveillance apparatuses. The panoptic model does not account for such understandings of surveillance.

Such understandings would also affect the operation of surveillant assemblages. In many instances, commenters using fully encrypted software, for example, would essentially tear one portion of an assemblage to pieces until a new rhizome could begin building itself. In every person's data double would thus reside a gap—varying in size—in information gathered. This suggests that many assemblages are weakened by people who could conform with surveillance, use it to satisfy their own ends, and/or resist what is said to be its oppression. Inevitably, it is difficult for a data double to be “complete” with the varying types of surveillance consciousness located in this study.

It is worth noting the struggles the surveillant assemblage and the panopticon may have in dealing with those who express temporally themed responses to surveillance. For such people, a panoptic form of surveillance is deemed static and stationary, thereby being inconsistent with their beliefs of advances in technology and surveillance. Panoptic surveillance strictly follows one particular form of deterrence to influence behaviour under the gaze. In light of surveillant assemblages, although “visionaries” include those who believe that no person can escape the certainty of their data doubles' completeness, some suggest otherwise. They posit that because surveillance practices are so predictable, people can easily oppose them and forcefully break the interconnectedness of a surveillant assemblage's constituents.

The panopticon or surveillant assemblage alone may account for those who surveil and particular surveillance situations, but for one to delve into the *experiences* of people with only *one* model to establish comprehensive insight into subjective understandings of surveillance is difficult. This exploration of surveillance consciousness has provided a basis that can be used for future research around subjective understandings of surveillance. Such research could involve using surveillance consciousness to gain knowledge of subjective understandings in various institutions and spheres of social life. Further research could also use this framework more broadly beyond *mobile* technologies.

Like all research this paper was not without its limitations. First, the choice of sources for this study was limited given the prevalent removal of comment sections. Second, using comments for data restricts the research's scope to online communities and thus discounts those who do not engage with online mediums. Third, particular subjectivities of commenters could not be accounted for when retrieving the data. Nearly all commenters had unique usernames when posting comments—perhaps a form of inherently being up against surveillance—and their profiles were inaccessible to provide a brief overview of their gender, ethnicity, and so on. Future research could focus more on subjectivities, whether there exists variation among races and/or ethnicities, genders, and other dimensions and whether these factors play a role in determining episodes of one's surveillance consciousness. Here, one could examine the effects of “categorization and sorting” as well as the “symbolic violence” attributed to surveillance efforts toward “marginalized [o]thers” (Monahan 2017: 192). Though there are benefits to observing surveillance consciousness without speaking to people, interviewing them would also give researchers the ability to ask particular questions, perhaps facilitating even more nuanced responses.

The aim of this paper was to explore how surveillance from mobile technologies is understood by commenters. Drawing on previous surveillance and socio-legal literature, this paper investigated surveillance consciousness. It has provided groundwork to better grasp how people respond to surveillance and what this means for technologies and privacy in society. This exploration has demonstrated too the concerns some people have about surveillance in addition to other subjects' satisfaction with the current surveillance society. As such, this paper discerned notable consistency between how people in Ewick and Silbey's research understand law and how commenters understand and experience surveillance. One broader implication of this is to suggest how two sub-disciplines, surveillance and socio-legal studies, benefit from greater dialogue and cross-fertilization.

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