Award

**Presentation of the Surveillance Studies Network
Outstanding Achievement Award to Gary T. Marx.**
Surveillance & Society Biennial Conference,
Barcelona, April 2014.

Introduction – Kirstie Ball

The Surveillance Studies Network has spent a lot of its money recognizing the efforts of early career scholars and doctoral students. But we also recognize that there are now some very distinguished senior scholars in the field that have paved the way for the rest of us. We would like to honour those people as well. So this year, on the initiative of David Lyon, we proposed an outstanding achievement award to honour some of those scholars who have dedicated their careers to understanding the dynamics and consequences of surveillance processes.

We received a number of nominations, but there really was only one person we could give the award to this time around.

That person is Gary T. Marx.

The award involves a letter of recognition and the now ubiquitous bottle of Jura Whisky. The Isle of Jura in Scotland is where George Orwell wrote *1984*. We would like to honour Gary in this brief ceremony today. I think that many of us in the room will have an affectionate story to tell about how he has influenced and shaped their scholarship. I know I do (and some of us can do a mean impression of him too).

But I'm going to ask David to say a few words about Gary's contribution before we invite him to address us and we can send the Jura on its way.

Presentation – David Lyon

Gary T. Marx has been a leading figure in Surveillance Studies for more than 25 years. His work has broken new ground and established some of the parameters of this expanding disciplinary area. His broad vision, expansive imagination, commitment to sensitive scholarship and to social justice, grasp of several cognate disciplines, support for colleagues and students, awareness of the significance of popular culture plus his irrepressible sense of humour have built his distinguished reputation.

Gary T. Marx received his Ph.D. from the University of California at Berkeley and taught for many years at MIT where he is now Professor Emeritus. His book, *Undercover: Police Surveillance in America*, (University of California Press, 1988) made his name in this field and established him as a careful and prescient thinker who clearly foresaw some of the crucial developments in digital surveillance. As well as the groundbreaking analysis of covert policing, Marx drew attention to some crucial shifts in surveillance

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that amounted, he argued, to a qualitatively different situation. He called it, “the new surveillance”. *Undercover* received the Outstanding Book Award from the Academy of Criminal Justice Sciences and Marx was consequently named the American Sociological Association's Jensen Lecturer for 1989-1990.

Over his long career, he has worked in a number of areas including race and ethnicity, collective behaviour and social movements, law and society but, especially Surveillance Studies. He co-edited *Undercover: Police Surveillance in Comparative Perspective* (with C. Fijnaut) and is author of several other books and contributor to many more. His webpage carries what must be the largest collection anywhere of sole-authored Surveillance Studies research. He has also written popularly and has produced op-ed pieces and other work that engages with policy and the politics of surveillance. His work has been translated into 16 languages. He has received numerous other awards in sociology, criminology and law.

Ever since the Jensen Lectures, Professor Marx has been working towards his *maxime magnum opus*, *Windows in the Soul*, all the while continuing with his ambitious research and writing programme. He takes the view, as he puts it, that “surveillance is neither good nor bad, but context and comportment make it so”. He has contributed profoundly to the creation of a conceptual map indicating new ways of collecting, analyzing, communicating and using personal information. And he has provided some of the crucial concepts to help us understand surveillance today. He was one of the first to use the term “surveillance society”, coined “the new surveillance”, “categorical suspicion”, and “maximum security society” along with many other terms commonly used in Surveillance Studies.

He has also insisted strenuously on the importance of the empirical dimensions of Surveillance Studies and argued that as far as possible the attempt should be made to find ways of measuring and comparing different kinds of surveillance practice. He has illumined areas such as covert policing, computer matching and profiling, work monitoring, drug testing, location monitoring, to name some but not all. He highlights the subtlety of surveillance processes, doubts that new technologies will work as expected, and cautions that context, history and structure always make a difference. And as he says, mushrooms grow well in the dark, but so does injustice. He hopes that his work will make a difference, as it throws light in dark places.

Gary has this wonderful propensity to point out the “elephants in the room”, to expose the “emperor with no clothes” or generally to bring down to earth the pedantry and pomposity of some contemporary social science. Post-modern theorizing has been a particular target, and especially those high-level concepts that can mean everything, and mean nothing. Yet Gary has never been regarded as a reactionary in the field. Rather, the critical edge of his work has, if anything, been accentuated by his refusal to bow to the latest fashionable trends in social theorizing. His empiricism, his insight, his anecdotes, and his constant reminders about the importance of Erving Goffman, have remained very fresh over the years. His work continues to inspire new generations of surveillance scholars—whatever their disciplinary backgrounds or theoretical perspectives.

But I would also like to speak to his contribution as a person, the autobiography that informs his scholarship. Gary is an unfailingly kind and generous colleague. He is always interested in new ideas and has helped countless young scholars better understand and enter the field. He shares his incredible insight and analytical gifts with real humility. It was no surprise to me to see that he has written the introductions to 12 of his colleagues’ books and co-authored publications with 16 of his students.

Gary’s innate curiosity is infectious, and he is an outstanding teacher, both in the classroom and when collaborating with others. His perception is uncompromising and he never shies away from difficult issues, but he approaches them with compassion and a lack of judgmentalism. Moreover, his strong commitment to social justice has motivated him to participate in the broader surveillance debate outside

the academy, writing in numerous newspapers and magazines and tirelessly speaking out for the vulnerable. And he does it all with grace and humour.

Marx has been involved from the outset with the Surveillance Studies community that began to appear from the early 1990s, attending for example the first Surveillance Studies research workshop at Queen's University in 1993. His work appeared along with that of other participants in the pioneering volume, *Computers, Surveillance and Privacy* (University of Minnesota Press, 1996). Memorable on that occasion was the robust exchange between Gary Marx and the late Mark Poster: the clash of modern and postmodern perspectives on that day was symptomatic of the productive debates between poststructural and social scientific approaches that have continued since that time.

Gary T. Marx has been a mentor and friend to many, a colleague that will not be tied down to some "school" and whose performances cannot be predicted. But he can be trusted to remain faithful to the vision that inspires him and relied upon to prod and provoke taken-for-granted assumptions. His prodigious contributions to the field of Surveillance Studies and the spirit that animates them makes him a truly worthy recipient of the inaugural Surveillance Studies Network Outstanding Achievement Award.

Response – Gary T. Marx

You can see a lot by looking.

Yogi Berra

That was a beautiful statement David, I didn't hear it clearly (Barcelona is a long way from Bainbridge Island where I am!), but I sensed the good vibrations. The occasional failed, fail-safe character of the communications technology we love to hate keeps us in business. When Kirstie and I tested it yesterday it did work which suggests the past may not be a good guide to the future.

It is fitting, perhaps even providential, that the theme of this year's meeting is "Ambiguities and Asymmetries in the Surveillance Society". A central surveillance theme for me is awareness of complexity and contradiction in society and the need to appreciate, if not necessarily welcome, the ironies, paradoxes, trade-offs, value and measurement conflicts and the related haze which limit the best laid plans. Mushrooms don't like sunshine but neither does injustice. Sunlight may bring accountability through visibility, but it can also blind and burn. And to varying degrees un-level playing fields seem to endure even as they may change a little.

It is overwhelming to me as an impassioned, scholar-tiller working almost alone since the 1960s in an unrecognized area, to see the rapid growth and vibrancy of today's Surveillance Studies field. In the late 1960s the number of surveillance scholars would easily fit into a telephone booth—even though the phone might be tapped. I assume some of you don't know what a telephone booth is, but among the few who might fit were Stan Cohen, David Flaherty, Jim Rule and Alan Westin.

To have the kind words and appreciation of David Lyon, the scion and the lion of Surveillance Studies, means an astounding amount. I am grateful that the line in the musical, *The King and I*, "If you become a teacher by your students you'll be taught", applies so well to my relationship with David and with many of you in the room today.

Let me summarize a bit what I have tried to do in recent decades after prior work on race relations, social movements and social control and then offer some suggestions to guide research. Surveillance practices need to be understood within specific settings in light of history, culture, social structure and the give and

take of interaction. The high flying ideas of grand theorists must consider the rich variation in the world whether across settings, institutions, countries or time periods.

I sought to create a conceptual map of new ways of collecting, analyzing, communicating and using personal information. That effort necessarily requires considering the old ways and social structures, goals, and processes found across all societies. A sampling of concepts: the surveillance society; the new and traditional surveillance; strategic and non-strategic surveillance; the maximum security society and its sub-societies (e.g. hard and soft engineered, suspicious, self-monitored, transparent, dossier, actuarial, safe, preventive societies of ambient and ubiquitous sensors); organizational and non-organizational and internal and external constituency surveillance; surveillance creep, gallop and contraction; the ratios of surveillance slack, personal information penetration; achieved privacy; and reciprocity-equity; the softening of surveillance; the myth of surveillance; the monetization and commodification of surveillance; neutralization and counter-neutralization; the surveillance occasion and its seven strips or stages: tool selection, subject selection, data collection, data processing/analysis, data interpretation, data uses/action and data fate.

We need a common language of explanation, evaluation and sentiment if we are to measure the fundamental properties of this universal and changing phenomenon. The messy knots of the empirical can be disentangled into categories, even though that effort must not be end in its self. A central concern (expressed on my webpage www.garymarx.net and in the book that is now in press, *Windows into the Soul: Surveillance and Society: In an Age of High Technology*) is to illustrate how and why *surveillance is neither good nor bad, but context and comportment make it so*. It is the setting not the tool. Systematic variation must be identified for explanation and policy.

Context refers to the type of institution and organization in question and to the goals and expectations they are associated with. *Comportment* refers to the kind of behaviour expected (whether based on law or less formal cultural expectations) of, or actually shown by, those in various roles of agent, subject, 3rd party or audience. While sharing some elements, differences in surveillance contexts involving coercion (government), care (parents and children), contracts (work) and free floating accessible personal data (the personal and private within the public) need consideration.

Having a captive international audience of Surveillance Studies scholars is a rare opportunity for me to, if not proselytize, at least to mention some ways of approaching the topic that I feel strongly about (and as some of you know am not above having civil disagreements about). I first note some points about concepts, then suggest some methodological guidelines and finally I will note some techno-fallacies held by some surveillance scholars and activists. As some of you know, given the dynamism and richness of the field, I like comprehensive lists—even if that can be an indication of a risk adverse, impoverished conceptual mind unable to prioritize.

Some Substantive and Stylistic Issues

As the field continues to develop I hope it can be remembered that:

- Surveillance is a generic process characteristic of living systems with information borders and not something restricted to spying or governments or malevolent, often secret social controllers with agendas.
- Surveillance and privacy are not necessarily in opposition and the former can be a means of insuring the latter as with access controls to information.

- While scholarly attention and citizen indignation to the problems associated with inappropriate surveillance (wherever it occurs, but particularly in settings of inequality) is necessary, there are also problems associated with the failure to use surveillance when it is appropriate—a topic almost never mentioned (at least by us!).
- Surveillance needs to be seen in its logical relationships to an extended family of terms such as privacy, secrecy, confidentiality, anonymity, and communication.
- Personal/private data-information need to be thought about within a framework inclusive of access to information and restrictions upon access (guarantees of privacy as well as freedom of information and communication). Among common elements are rules about the protection and revelation of information and ethical and policy issues involving the management of value conflicts.
- Thinking about surveillance and communication within the same framework can advance understanding. Surveillance can cross personal borders in order to take information, while communication can cross them in order to impart information. They may share issues of informed consent and respect for the dignity of the person; perception; and the meaning of the data or information involved. They can also be temporally linked as when surveillance serves as the means to direct communication (marketing based on purchases or life chances based on profiling). Both can involve issues of autonomy, privacy and publicity.
- An alternative to using the vague term surveillance with its disputed meanings is to note the centrality of various kinds of borders around persons and groups. Much of the indignation around abuses of communication and surveillance stems from wrongful crossing of these borders. It is neither the tool, nor the taking or imparting of data/information as such that are key, but the crossing of a border.
- A related aspect is the linking of the public and the private within a broader framework (as well as privacy and publicity). As nouns, privacy and publicity can be seen as polar ends of a continuum involving rules about withholding and disclosing, and seeking or not seeking. In addition to what the rules specify regarding revealing and concealing information, the terms can tell us about the actual status of information—whether it is known or not known to others. This may or may not be consistent with the rules.

A Social Studies Approach to Surveillance

Finally let me note some methodological guidelines I use in teaching. Understanding surveillance from a social science (or the term I prefer, social studies) standpoint will be furthered to the extent that we:

- 1) Identify questions and levels of analysis. Central here for both explanation and policy purposes is awareness of social and cultural factors present within different contexts and institutional settings. In addition how we account for and judge surveillance should depend on the role played and the characteristics of the tool, goals, the kind of data involved and the values at stake.
- 2) Identify variation and then look for correlations and explanatory causes/drivers within a framework of soft determinism, but do not confuse correlation with causality.

- 3) Realize that the same causal factor(s) can have different outcomes and the equivalent outcomes can have different causes.
- 4) Appreciate the advantages of a loose systems approach with some open-ended borders and room for (but limits upon) exogenous inputs.
- 5) Attend to beginnings (or at least prior circumstances)—everything was preceded by something before and new ways of meeting human needs must be compared with old ways.
- 6) A related point is that while some things change, others remain the same.
- 7) View surveillance as a process, as well as a structure or a tool. Central to that is studying interactions involving agents, subjects, third parties and audiences over varying time periods. Surveillance, like love, is a process not an outcome or an inert tool.
- 8) Ask about the appropriateness of both means and ends. Desirable ends do not justify doubtful means, and good means can be misused. Good goals and purity of motives are not sufficient justification. Consider the acceptability of means and ends independently, as well as in their relationship to each other. Recognize that a given tool can serve a variety of goals and that a given goal can be met by a variety of tools.
- 9) Differentiate facts from values. No matter how sound the method or clear the findings, a leap to values, ethics and political choices always remains in what we come to see as facts and in the ends for which surveillance is used.
- 10) With respect to values (and the goals and specific applications to which they are related) be aware of how their abstract nature and conflicts between them mean that surveillance will often be subject to legitimate disagreements among well-meaning persons.
- 11) Listen and learn from those beyond your familiar academic comfort zone and carry a big toolkit. A virtue of the Surveillance Studies Network is the multiplicity of interests and approaches it includes.

Information Age Techno-Fallacies of the Cheerleaders and the Critics

In listening to surveillance rhetoric over several decades I often heard things that, given my knowledge and values, sounded wrong, much as a musician hears off key notes. The off key notes involve elements of substance as well as styles of mind and ways of reasoning and the fallacies can be empirical, logical or ethical. I have identified forty-four “information age techno-fallacies” offered by surveillance cheerleaders in government and commerce. These are a part of the popular culture of surveillance.

Sometimes these fallacies are frontal and direct; more often they are tacit—buried within seemingly common-sense, unremarkable assertions. In the case of the cheerleaders for surveillance the fallacies are organized into five categories: fallacies of technological determinism and neutrality; of scientific and technical perfection; involving subjects; legitimation; and logical and empirical analysis. Fallacies such as that technology is neutral; that the facts speak for themselves; that if some technology is good more is better; and that if you have nothing to hide you have nothing to fear, are well known to surveillance scholars and I won’t repeat them—they were first expressed in my analysis of a satirical speech by Rocky Bottoms (president of the Society for the Advancement of Surveillance).

The fallacies of the cheerleaders and of an unskeptical popular culture are no surprise for a Surveillance Studies audience. But as C.W. Mills argued, we must ruthlessly interrogate our own assumptions as scholars and activists not just those of others. Consider the following techno-fallacies of some critics:

- 1) The hegemonic-power-Ray-Charles fallacy (“them that got is them that get”) in which technology is simply another tool by which the more powerful (employers, merchants, military, police, teachers, parents, men, whites, straights, developed nations) further their control over the less powerful and the related ideas that surveillance is always non-reciprocal and asymmetrical, only flowing downward and continuing to ever-extend inequality and fantasies for the next generation of science fiction writers.
- 2) The fallacy of surveillance as only a rational strategy of domination, rather than as a tool applicable for a variety of goals such as efficiency, caring, entertainment and truth claims, and something inherent in the human condition—even endemic to living things involving the protection of system borders (whether individual or social).
- 3) The fallacy that European Foucauldian social theory must be better in spite of its level of abstraction, lack of systematization and its failure to acknowledge earlier water-walkers such as Max Weber or Erving Goffman.
- 4) The Luddite fallacy that technology is always the problem and never the solution and can only be used to cross informational borders rather than to protect them.
- 5) The Nero-Libra-I like-to-watch fallacy involving undue timidity in taking a position because there is not enough data (but when you can smell the smoke it’s too late for a chemical analysis of the fire); on the other hand there is...
- 6) The fallacy of sacrificing scientific neutrality along with scholarly credibility by taking advocacy positions that far exceed the evidence.
- 7) The “thinking makes it so” fallacy (if you can imagine bad things happening they surely will).
- 8) The iron-law fallacy that because a new technology has failed in the past it will in the future.
- 9) The apocalyptic fallacy of the falling sky, and the related
- 10) Chicken Little numbing fallacy of “crying wolf” too often and too loudly.
- 11) The primal privacy fallacy (privacy ought to take precedence over other values).
- 12) The “more is better” linear fallacy (if some privacy is good more is better).
- 13) The fallacy of privacy as tainted or not so important because it reflects (or is caused by?) the individualistic, anti-community ethos of capitalism and private property, and finally,
- 14) The disreputability and hubris in engaging in passionate, cheap-shot, risk free Monday morning quarterbacking.

In conclusion, there is a path, however twisting, changing, bramble and illusion filled between Tennyson's early 19th century optimism, "For I dipped into the future, far as the eye could see, saw the world, and all the wonders that would be" and Einstein's 20th century worry that technological developments can become like an axe in the hands of a killer. Ambivalence about technology is a hallmark of our age as we navigate between hope and dread and as we continue to need protection both by, and from, authority.

With respect to the issues of the new surveillance, neither a pessimist nor an optimist be—accept in the presence of good data and a logical and well developed argument. It is necessary to define terms, be empirically grounded and be aware of assumptions and values. However, in approaching the issues with humility and appreciation of ambiguity and complexity, do not become an academic eunuch, nor a legitimator of the status quo—absent empirical, logical, and moral analysis. Keep the faith in spite of your awareness of the slowness, difficulty, and unintended consequences of change, the enduring power of un-level playing fields and the resilient, but not impermeable, links between culture and power. Know that ideas matter, as does political organizing.

Surveillance Studies is a reminder that while they (whether the state, commercial interests, new, expanding public-private hybrid forms or people violating personal borders) are watching us, as scholars and citizens we are watching them. Those committed to independent scholarship and the public good (however hard that can be to define), rather than to commercial interests or government contracts have a vital role to play in publicizing what is happening or might happen, what happened in the past, what is at stake and ways of thinking about this. As baseball player Yogi Berra said, "you can see a lot by looking". Subjecting surveillance and privacy-hungry technologies to critical analysis while making them more visible and understandable, hardly guarantees a just and accountable society. However, such actions are surely a necessary condition for one. So my thanks to all of you for so energetically and thoughtfully doing that.