

Surveillance and Social Justice

May 2017



The Church of Scotland

Church and Society Council

Surveillance and Social Justice

'Are not two sparrows sold for a penny? Yet not one of them will fall to the ground unperceived by your Father' (Matt 10:29 NRSV)

'O Lord, you have searched me and known me...Such knowledge is too wonderful for me' (Ps 139: 1, 6 NRSV)

1 Introduction

1.1 David, who suffers from chronic anxiety, had his welfare benefits cut for three weeks because he was late for an appointment at the Job Centre. David is subject to surveillance. Sarah tests the hardware that collects communications data from every mobile phone and internet browsing data from every user in the UK. Sarah is a surveillance agent. Tom develops computer code that enables commercial companies to categorise and filter-out less profitable customers. Tom is a surveillance analyst.

1.2 Jack suffers from dementia. His daughter carries a pager that alerts her when he steps on the mat inside his front door during the night. Jack is subject to surveillance. Anne manages a team at the security checks at Glasgow airport. Anne is a surveillance agent. Charles designs algorithms that cross-reference NHS and international databases to identify trends in disease risk. Charles is a surveillance analyst.¹

2 Rationale

2.1 Surveillance encompasses many, if not all, areas of life. Entire populations experience suspicion-less surveillance, sifting through data which might identify targets for more focused scrutiny. Such closer observation may be aimed at detecting criminal activities - but equally it might be to find potential customers, more risky borrowers, or people vulnerable to disease. Police investigations, covert monitoring by the intelligence services and tactics associated with oppressive regimes are only *some* of what surveillance means today.

2.2 Mirroring the focus of Jesus, this report highlights those who are already marginalised and often find their experience of surveillance to be counter to their flourishing. It is a timely report because it has become increasingly easy to collect and speedily process complex data. There is increased public awareness of surveillance. Particular groups of people in our society are unfairly under considerable suspicion.

2.3 Whilst digital surveillance is absent from the Biblical narrative, the Psalms and the New Testament provide a picture of a God who sees all. In the portrayal of some Pharisees, the Gospels also illustrate the power that can come from being those monitoring other people. At a more fundamental level, Scripture addresses fear, to which surveillance is often a 21st century response: "perfect love casts out fear" (1 John 4:18).

3 Aims

3.1 Many of us are, often unwittingly, surveillance agents (towards our family, friends, colleagues, parishioners, students, patients, or strangers). It is hoped that the report will encourage Christians to engage in re-considering surveillance in everyday contexts.

3.2 In this report, we seek to expand the Church's understanding of surveillance as an approach to perceived danger and its appreciation of how surveillance shapes those being watched, and those doing the watching. Appeals in society are regularly, and often rightly, made to the right to privacy (Article 8 of the European Convention on Human Rights) and we contribute insights from within this paradigm. Data Protection Legislation also exists to protect people's privacy and we seek to broaden the discussion into how 'cultures of surveillance' can intensify discriminatory relationships.² Theological reflection on contemporary surveillance is a new field of study, so this report contributes to a national and international debate that is likely to grow.

¹ These vignettes capture the reality of contemporary surveillance.

² Torin Monahan, 'Surveillance as Cultural Practice,' *Sociological Quarterly* 52 (2011), 495-508. See also David Lyon, 'The Emerging Surveillance Culture,' in André Jansson and Miyase Christensen (eds), *Media, Surveillance and Identity: Social Perspectives* (New York: Peter Lang, 2014), pp. 71-88.

3.3 It is our intention that this report and its outcomes will contribute to the Church and individual members being able to offer biblical and theological affirmation and challenge of everyday surveillance culture and, in some cases, of expert knowledge systems. The report comprises three major sections.

- **'Surveillance from the Data-centre'** examines what we mean when we talk about surveillance, who it affects and in what way. It explores contemporary understandings of surveillance.
- **'Surveillance from the Cross'** opens up theological perspectives that re-orientate surveillance in terms of the Cross, God's relational way of knowing, privacy as a gift for dignity and flourishing. It draws on Biblical examples of how people manage their visibility, as a way of connecting with contemporary cultures of surveillance.
- **'Bio-data, Borders and Benefits'** articulates a dialogue between 'Surveillance from the Data-centre' and 'Surveillance from the Cross.'

4 Surveillance from the Data-centre

4.1 Merely watching people does not generally imply surveillance; there must be some intentional effort to collect information. Surveillance can be defined as 'the focused, systematic and routine attention to personal details for purposes of influence, management, protection or direction'.³ Personal details are much more than birthdate, address, ethnicity or employment statuses which were easily available in earlier times. Today, however, personal information may include biometrics such as retina patterns, samples of DNA in saliva, and fingerprints. Our digital footprint can be extensive: alongside a list of actual purchases, data can be collected about the alternatives we explored before coming to a decision. A record of phone numbers we call can be enriched with not only information about when, and for how long we spoke, but the geographical location of that call.

4.2 There are many times when consent to our personal details being "collected" is assumed. For example, the act of using an airport implies that our consent to surveillance has been given; if we do not wish this to happen then our only option is not to fly. When data is not available for the behaviour that interests an organisation, proxies or stand-in data can be substituted. For example, statistical correlations might be identified between someone's postcode and age and their potential to repay a loan. The extent to which acting upon such proxies is discriminatory and/or illegal varies from country to country.

5 Theories of surveillance

5.1 Earlier forms of surveillance (familiar to anyone who remembers their teacher sitting at a desk on a raised dais at the front of the classroom) could be described as *the few watching the many*. This is the notion of *panoptic* surveillance.

5.2 Such a model is increasingly accompanied by one in which the many watch the few. 'The few' can be those who are deemed to be in some way different: 'them' rather than 'us'; deviant and dangerous rather than normal and law abiding.⁴ This can be termed *synoptic* surveillance⁵ - a term that helps draw attention to the ways in which already present 'them-and-us' categories are replayed and reinforced. 'Immigrants', 'benefit scroungers', 'foreigners', and 'Muslims' are each in their own way containers which can then be populated with prejudice and bias.

5.3 There are also practices of "*surveillance from below*" (*sousveillance*) for example, when protestors record the actions of police officers to secure evidence of civil rights breaches.⁶ In many cases, surveillance is not targeted at suspects, but at whole populations. That does not mean, however, that the consequences of surveillance are the same for everyone. If you are on welfare benefits you may experience surveillance that is unknown to others fortunate enough to be spared such intrusions into their personal life.⁷

³ David Lyon, *Surveillance Studies: An Overview* (Cambridge: Polity Press, 2007), p. 14.

⁴ Rachel Finn and Michael McCahill, "Representing the Surveilled: Media Representations and Political Discourse in Three UK Newspapers," in *Political Studies Association Conference Proceedings* (2010). quoted in Inga Kroener, "Caught on Camera": The Media Representation of Video Surveillance in Relation to the 2005 London Underground Bombings,' *Surveillance & Society* 11: 1 / 2 (2013), 121-33.

⁵ A term coined in Thomas Mathieson, 'The Viewer Society: Michel Foucault's 'Panopticon' Revisited,' *Theoretical Criminology* 1 (1997), 215-34.

⁶ Steve Mann, Jason Nolan, and Barry Wellman, 'Sousveillance: inventing and using wearable computing devices for data collection in surveillance environments,' *Surveillance & Society* 1: 3 (2003), 331-55.

⁷ The classic study is John Gilliom, *Overseers of the Poor: Surveillance, Resistance, and the Limits of Privacy* (Chicago: University of Chicago Press, 2001).

5.4 In much the same way that, to our shame, an Irish accent once aroused suspicion in the UK, or skin colour could be legally used to bar someone from rental accommodation, many Muslims currently find themselves frequently designated as members of an outsider group, assigned to a 'them' rather than 'us' category, and consequently put in danger of physical or verbal attack.

5.5 While surveillance does not impact all equally, the consequences of surveillance do not fall only on minority groups. Anyone using the internet is presented with online advertising, much of it picking up on data from previous searches, seeking to influence not only what you purchase, but possibly affecting how you see the world.⁸ State authorities make the case that it is necessary to be able to break encrypted emails and online messaging on grounds for example of national security or child protection.

6 Datafication

6.1 We are living in an age of 'datafication', where more and more forms of social interaction and transactions produce collectible digital data.⁹ It is possible to analyse many more different *types* of data using complex, automated algorithms, some of which are designed to be self-learning and refine their processing over time. Commentators are moving from talking about data as being 'collected' to talking about it being 'ingested'.¹⁰ This opens possibilities for 'predictive policing' where patterns of behaviour can point to *potential* (as opposed to actual) criminal acts.

6.2 Not all databanks are capable of being accessed or cross-referenced by particular corporations or even government investigators. Nevertheless, as sources of data, we become valuable commodities when corporations can monetarise us. Our propensities and tendencies extrapolated from the fragments of our past may be misleading or unrepresentative- but are commercially valuable.¹¹ It could be argued that, whilst workers choose to sell their labour we now have little option about our (digital) selves being sold.

7 Security

7.1 States gather intelligence and choose to designate particular threats as imperilling "national security." There then follows a 'securitisation of identity', which offers 'conditional access to...the benefits of liberty'.¹²

7.2 Fear of the unknown operates against a possibly catastrophic horizon of devastating harm (such as a biological weapon in terrorists' hands), and the more immediate horizon of day to day surveillance. We are sure that significant terrorist threats exist but unsure of the specifics.¹³ However, state authorities can retrospectively justify their practices by claiming it impacts on security, which offers the possibility of using fear and unease as a way to govern.¹⁴ To designate a group or person as a threat to 'national security' attempts to close down critical discussion.

7.3 The assertion of human rights can be used to push back against this trend, but, under the European Convention on Human Rights, a fundamental danger is posed by the absence of any agreed definition of 'national security'. National security is frequently invoked to erode human rights, not only with regard to the right to privacy (Article 8, ECHR) but Article 6 (the right to a fair trial). For a right to a fair trial to be assured, it is essential that communications between lawyers and their clients are protected by rules of professional privilege and professional secrecy. However, there is constant pressure from security services in democratic societies (including the UK) to be able to conduct surveillance of such communications, leading to a need for lawyers to seek to use technical means (which can never be wholly effective) to prevent such

⁸ The personalisation to different users of content within web pages can result in living in a 'filter-bubble' that reinforces rather than challenges one's existing views.

⁹ 'Datafication' was likely coined by Kenneth Neil Cukier and Viktor Mayer-Schoenberger, 'The Rise of Big Data: How It's Changing the Way We Think About the World,' *Foreign Affairs* May/June (2013), 28-40. Also, it is important to note that personal information is only one dimension of Big Data because it includes non-personal information such as weather forecasting or environmental monitoring, see House of Commons Science and Technology Committee, *The big data dilemma*, 2016. HC468.

¹⁰ Louise Amoore and Volha Piotukh, 'Life beyond big data: governing with little analytics,' *Economy and Society* 44: 3 (2015), 341-66 at 345..

¹¹ Louise Amoore and Volha Piotukh, 'Introduction,' in Louise Amoore and Volha Piotukh (eds), *Algorithmic Life: Calculative devices in the age of big data* (Abingdon: Routledge, 2016), pp. 1-18.

¹² Nikolas Rose, *Powers of freedom : reframing political thought* (Cambridge: Cambridge University Press, 1999), p. 243.

¹³ Claudia Aradau and Rens Van Munster, 'Governing terrorism through risk: taking precautions, (un)knowing the future,' *European Journal of International Relations* 13: 1 (2007), 89-115 at 108.

¹⁴ Didier Bigo, 'The (in)securitisation practices of the three universes of EU border control: Military/Navy – border guards/police – database analysts,' *Security Dialogue* 45: 3 (2014), 209-25 at 211.

intrusions.¹⁵ Human rights activists, journalists, lawyers and arguably ministers of religion may need to have secure ways of communicating confidentially, especially where governments are hostile.¹⁶

7.4 In the event that there is any future change in Human Rights law in the UK, vigilance is required to prevent any further erosion of the benefits of liberty in the name of 'security'.

7.5 Securitisation comes into focus at international borders. Passenger information goes ahead of travellers with clearance sometimes given before departure (as with US immigration operating at Shannon airport in the Republic of Ireland or British immigration officials working on French soil in Calais). However, for many people the 'border is everywhere' with negative effects in cities where ID cards and identification are checked in multiple ways.¹⁷ We cannot even be confident that our bodies present a border to the securitisation of identity. Invasive and non-invasive gathering of biometric data, including swabs for DNA sampling, can be utilised in surveillance.¹⁸

8 Risk and mistaken public perception

8.1 The perception of threats can emanate from specific sources, such as actual terrorist threats, calculated economic risks, or published local crime rates¹⁹. Fear can mean that strangers need to demonstrate they are harmless.²⁰ Whereas we once 'took a risk,' we now tend to think of ourselves as 'being at risk'.²¹

8.2 Public perceptions, fuelled by sections of the media, are often wildly mistaken. For example, there is a widespread perception that £24 in every £100 claimed in welfare benefits is fraudulent; the actual figure is 70p in every £100.²²

8.3 This degree of public misperception is the context in which severe bureaucratic surveillance blights the lives of people claiming welfare benefits, resulting for many in punitive sanctions. In 2015, the Church of Scotland as part of the Joint Public Issues Team, called for the UK Government to rethink benefit sanctions.²³ Ken Loach's 2016 film *I, Daniel Blake*, tells the story experienced in real life by too many in our society.

8.4 The Campaign for a Fair Society argues that budget cuts by the UK government disproportionately fall on people in poverty and those with disabilities. The campaign estimates that people with the severest disabilities will be burdened by government cuts 19 times more than the rest of the population.²⁴

8.5 Datafication together with securitisation can exacerbate our sense of being at risk. On the other hand, datafication provides evidence to contradict false perceptions of risk, and perhaps challenge the securitisation of people too readily framed as threats. This is one of the paradoxes of contemporary data-gathering.

¹⁵ 'Recommendations on the Protection of Client Confidentiality Within the Context of Surveillance Activities'

(CCBE: Brussels, 2016); 'Guidance on Improving the IT Security of Lawyers Against Unlawful Surveillance' (CCBE: Brussels, 2016).

¹⁶ In July 2015, Amnesty was informed by the UK intelligence tribunal that its private communications had been intercepted and accessed by the UK's intelligence agencies, Tanya O'Carroll, "Human rights groups cannot do their jobs in a surveillance state", Amnesty International <http://bit.ly/1HeB0rN> (accessed 10-Feb-16).

¹⁷ David Lyon, *Identifying Citizens: ID Cards as Surveillance* (Cambridge: Polity, 2009), p. 142.

¹⁸ Irma van der Ploeg, 'Biometrics and the body as information: normative issues of the socio-technical coding of the body,' in David Lyon (ed.), *Surveillance as Social Sorting: Privacy, Risk and Digital Discrimination* (London: Routledge, 2003), pp. 57-73 at p. 71.

¹⁹ Sandra Walklate and Gabe Mythen, 'How Scared Are We? ', *British Journal of Criminology* 48 (2008), 209-55.

²⁰ Gabe Mythen, Sandra Walklate, and Fatima Khan, 'I'm a Muslim, but I'm not a terrorist: victimization, risky identities and the performance of safety,' *British Journal of Criminology* 49: 6 (2009), 736-54.

²¹ Frank Furedi, *Politics of Fear: Beyond Left and Right* (London: Continuum, 2005), p. 79.

²² IPSOS MORI, *Perils of Perception* (London: Royal Statistical Society, King's College London and Ipsos MORI, 2013).

²³ Joint Public Issues Team, *Time to rethink benefit sanctions* (2015).

²⁴ Simon Duffy, "A fair society? How the cuts target disabled people", Centre for Welfare Reform <http://www.centreforwelfarereform.org/uploads/attachment/354/a-fair-society.pdf> (accessed 26-Oct-2016). This figure seems to refer to England.

9 Convenience and privacy

9.1 Another paradox lies in the need to balance convenience and privacy. Datafication eases life, yet it reshapes our idea of privacy. Data protection and regulatory regimes attempt to balance these potentially competing desires.

9.2 Tailored financial services, ease of online shopping, recommendations for similar purchases and cashless travel cards all rely on data-gathering and processing. These conveniences depend on our willingness to share (or surrender) personal data. At the same time we are concerned about 'identity theft', illegitimate sharing of data between companies, and intrusion by state intelligence services.²⁵

9.3 The mantra 'I have nothing to hide so have nothing to fear' is widespread but mistaken. It wrongly assumes that privacy is simply about secrecy, and that secrecy is only about hiding bad things. However, aggregating personal data might, for example, disclose that someone searching online for wigs and books about cancer is undergoing chemotherapy. This should be a matter in which they have the right to privacy.

9.4 At another level, governments gain considerable power over citizens (and non-citizens) by processing vast amounts of personal data. Currently governments may have honourable intentions; future governments may not. Discrimination in the future could be made systematic through data given today in good faith. It is 'the accretion of a slow series of relatively minor acts' that threaten privacy.²⁶ Given that we can become acclimatised to surveillance by accepting it in many rather inconsequential areas of life, we might well condone it unthinkingly in more significant domains.²⁷ As the German Constitutional Court noted, surveillance changes the way people behave. If you feel controlled you behave differently and this endangers your participation.²⁸

9.5 The opportunities and challenges of contemporary surveillance are immense. Finding and developing theological and biblical resources by which to engage critically with it is a vital task.

10 Surveillance from the Cross

10.1 Sparrows fall to the ground, and people's innermost thoughts and every action takes place within the sight of God. This is a powerful theological paradigm. At different times in the Christian life, this can be comforting and unsettling. A framed motto hanging above your bed reminding you that God sees everything, coupled with reminders of sin and its consequences can turn the comfort of God's watching into a threat.

10.2 Sadly, censorious and intrusive disciplinary actions by churches (mostly in the rather distant past), and Christian traditions that have deployed sacramental confession to keep people in line, tend to convey a negative dimension to the notion of God's gaze.²⁹

11 The Surveilled and Surveilling One

11.1 In an approach aimed at redressing such dominating associations around God's watchful gaze, a number of theologians have advocated that we talk about 'surveillance from the Cross'.³⁰ Jesus was a man under surveillance, by the Pharisees, the Romans and his followers. More importantly, the Cross is not only an event but it discloses the character of the one crucified. It is the self-surrendering, caring Jesus who expresses his nature as God on the Cross.

²⁵ Something of the extent of state data-collecting was exposed by Edward Snowden, see Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State* (New York: Picador, 2014).

²⁶ Daniel J. Solove, *Nothing to Hide: The False Tradeoff Between Privacy and Security* (New Haven & London: Yale University Press, 2011), p. 30.

²⁷ This is what is called 'liquid surveillance', see Zygmunt Bauman and David Lyon, *Liquid Surveillance: A Conversation* (Cambridge: Polity Press, 2013).

²⁸ BVerfG, Judgment of 15 December 1983 - Cases 1 BvR 209, 269, 362, 420, 440, 484/83 (Volkszählungsurteil/Microcensus case)

²⁹ For but one source, see Alison Hanham, *The Sinners of Cramond: The Struggle to Impose Godly Behaviour on a Scottish Community, 1651-1851* (Edinburgh: John Donald, 2005).

³⁰ Eric Stoddart, *Theological Perspectives on a Surveillance Society: Watching and Being Watched* (Aldershot: Ashgate, 2011). There are not many other theological treatments of surveillance but important contributions are made by David Lyon, 'Surveillance and the Eye of God,' *Studies in Christian Ethics* 27: 1 (2014), 21-32; David Lyon, 'Whither Shall I Flee? Surveillance, Omniscience and Normativity in the Panopticon,' *Christian Scholars Review* 14: 3 (1995), 302-12. In Sweden, Susanne Wigorts Yngvesson of Stockholm School of Theology is currently developing theological work on surveillance, particularly around the tradition of the eye of God.

11.2 As one who himself knew surveillance, Christ watches the world. He places Himself in solidarity with all under surveillance, particularly those for whom the consequences of surveillance may be discriminatory. Surveillance from the Cross focuses our attention on the qualities of the One watching; One who is *with* us rather than dominating us.

11.3 This understanding of God's watching over us (surveillance) distances the more imperialistic connotations of traditional images. Surveillance from the Cross affirms the possibility that 21st century surveillance systems can be acts of care. It rehabilitates our language about surveillance so that it cannot simply be dismissed as bad. At the same time, Jesus' solidarity with marginalised people turns attention to the ways in which contemporary systems of monitoring reinforce (or even create) new forms of injustice and discrimination.

12 Relational knowledge

12.1 Some Christians feel uncomfortable talking of God's *surveillance*, even when this is articulated as the caring gaze of Jesus. Quaker theologian Rachel Muers has explored the idea of relational knowledge as a challenge to de-contextualised and objective information *about* someone.

12.2 True knowledge is not about information possessed, shorn of context or wrenched from the matrix of relationships in which it is gained. Knowledge arises within specific relationships which carry and invest knowledge with responsibilities. Muers builds this model of 'hearing knowledge' from God's way of knowing which, she argues, is 'knowledge within the context of God's relation to what – and whom – God knows.'³¹ God's knowledge is thus relational or covenantal knowledge; God does not gather information about us.

12.3 We have here a theological critique of contemporary datafication. In counterpoint to much of modern surveillance, a Christian theology of surveillance is built on relational knowledge and has care and solidarity at its heart.

13 Privacy as a gift for dignity

13.1 In 1973 the General Assembly of the United Presbyterian Church in the USA, demonstrating a remarkable level of foresight, rendered its discussion of privacy in a resolutely theological key:

"It is especially important to be reticent about demanding or exposing another's record, and to respect each person's unique context. Christian faith stresses the dignity of persons and groups living by grace in a fallen world. We rejoice in a forgiving God who in his mercy can decide to forget the past and to open the future to his creatures. His liberating grace empowers us to care all the more for individual and social freedom."³²

We are, they argue, not to be reduced to information, but our personhood is to be respected: "we belong to a social system of informational exchange; but we belong to it also, or seek to, as *persons*".³³

13.2 The Background Report draws on the Book of Genesis to talk about the "gift of privacy" which comes from the garments of animal skin that Adam and Eve receive from God (Gen 3:21). With this gift of privacy, humans receive "the right of...reticence before the eyes of each other, and even before the eyes of God".³⁴

13.3 Human dignity and the freedom to flourish authentically is the Roman Catholic Church's principal theological defence of the right to privacy.³⁵ There are inter-personal dimensions too. We respect another's privacy and hold confidences shared with us because we are obligated to be faithful to truth. We are to give others a just portrayal, and not constrain the space in which they might develop their God-given potential.³⁶

13.4 To put this into a Reformed key, John Calvin's theology of liberty of conscience can help us see how privacy is not so much a withdrawal into 'private space' but into Christ who is the believer's righteousness

³¹ Rachel Muers, *Keeping God's silence : towards a theological ethics of communication* (Oxford: Blackwell Pub., 2004), p. 194.

³² United Presbyterian Church in the U.S.A., 'Privacy: The Preservation of Privacy - Policy Statement and Recommendations adopted by the 185th General Assembly (1973),' *Church & Society* 63: 6 (1974), 22-28 at 22.

³³ United Presbyterian Church in the U.S.A., 'Right of privacy and its protection,' *Church & Society* 65: 2 (1974), 4-49 at 5.

³⁴ United Presbyterian Church in the U.S.A., 'Right of Privacy,' at 13.

³⁵ *Dignitatis humanae* (1965)

³⁶ *Communio et progressio* (1971)

(Matt 6 v 6).³⁷ What matters far more than the state's intrusion into your 'private life', Calvin says in effect, is what use you make of that privacy. Do you use it for bolstering your own self-righteousness or is it a meeting point with the Grace of God?

14 Visibility

14.1 Whilst we will struggle to find 'privacy' directly within the Biblical narratives, the notion of being made more or less visible is present.³⁸ To varying degrees Jesus managed his own visibility, often removing himself from the crowds or going off to pray on his own. Much of the infancy narrative is about Jesus being made invisible on the journey to Egypt so that the holy family are kept safe from King Herod. Once his ministry begins to unfold, Jesus consciously makes his table fellowship both obvious and controversial: "Why does your teacher eat with tax collectors and sinners?" (Matt 9:12).

14.2 In another example, Jesus makes Zacchaeus very visible, not only in the immediate moment of summoning him from his vantage point, but in Zacchaeus' response - paying back in abundance what he has taken from the poor (Luke 19:8). If anything is going to make you hyper-visible in your community it is giving people money, especially when that is money that you have illegitimately taken from them. It was not Zacchaeus' choice to manage his visibility in this way. His visibility was taken out of his hands by Jesus with profound implications for how Zacchaeus and his family lived.

15 Bio-data, Borders, and Benefits

'Surveillance from the Datacentre' should be evaluated in terms of 'Surveillance from the Cross'. Affirmation as well as challenge arises when we bring contemporary understanding and practice of near-all pervasive surveillance into the light of Christian theological commitments. This task is best carried out with reference to particular contexts rather than about surveillance as a general concept, therefore we narrow our attention to three significant arenas that serve as examples of what a Christian critique of surveillance might look like.

16 Bio-data

16.1 Datafication can save lives and our theological framework encourages us to affirm important acts of care. Physician John Snow's information gathering in London in 1854 enabled him to understand that cholera was water-borne rather than air-borne. Sir Richard Doll's informal observations in Oxford of cigarette smokers developing lung cancer led to later painstaking statistical testing that established a causal link. Records stored for one purpose can, perhaps years later, be of use for a totally different purpose. It is possible that had there been a robust programme of post-marketing surveillance in place when the drug thalidomide ("distival") was licensed in 1958, the correlation with birth defects might have been identified earlier and the drug withdrawn sooner than 1962.

16.2 Early intervention to prevent a genetically-transmitted disease occurring may be counselled within NHS support systems. However, there are also commercial companies who offer genetic testing for a wide range of genes known to be implicated in a variety of diseases. Ease of collection of DNA samples (e.g. a hair bulb or smear of cells from inside a cheek) raises concerns that the stored samples could be used by the firms for other studies without the knowledge and consent of the donor. It is not difficult to imagine the value of such data to insurance companies who could ameliorate potential losses by ever more targeted, premium, rates for people labelled as having a higher likelihood of developing certain conditions.

16.3 Surrendering bio-data is integrally bound up with the notion of informed consent to any intrusion into a person's privacy. In other words, *informed* consent is a social justice issue. The solidarity of Christ, expressed in the metaphor of 'surveillance from the Cross', demands justice, not mere equity of treatment where consent to bio-data gathering is dependent upon educational or economic advantage.

16.4 Similarly, surveillance that enhances the flourishing of people must take seriously the threat of re-identification of anonymised information.³⁹ 'People with leprosy' who feature in the Gospels can be a

³⁷ John Calvin, *Institutes*, trans. Henry Beveridge (London: James Clarke & Co., 1957). Book 3, Chapter 19, especially sec. 7.

³⁸ Sociologist, Andrea Brighenti has proposed that proper attention is paid to visibility as an important dimension of how we organize our social relations, Andrea Brighenti, 'Democracy and its Visibilities,' in Kevin D. Haggerty and Minas Samatas (eds), *Surveillance and Democracy* (Abingdon: Routledge, 2010), pp. 51-68. Visibility is a social process in which 'seeing and being seen are intimately connected', A. Brighenti, 'Visibility - A Category for the Social Sciences,' *Current Sociology* 55: 3 (2007), 323-42 at 325.

³⁹ Yves-Alexandre de Montjoye and others, 'Unique in the shopping mall: On the reidentifiability of credit card metadata,' *Science* 347: 6221 (2015), 536-39; Greg Slabodkin, "Data Re-Identification Remains Risk Despite HIPAA Safeguards", HealthData Management <http://www.healthdatamanagement.com/news/data->

paradigm for all who are sorted and acted upon by the gathering of surveillance data. On the one hand, concerns for public health are valid, but as re-identifying of individuals within large datasets becomes more sophisticated the temptation to monetise this information increases considerably.

16.5 Whether by accident or malicious intent, data that can be processed to re-identify people with existing or likely future conditions endangers not merely their privacy but their status in society. Their visibility is taken out of their control. Jesus who surveilled from the Cross is the one who declared in his Nazareth Manifesto that he had been sent 'to proclaim release to the captives...and to let the oppressed go free' (Lk 4:18). Rigorous legislation does not immunise against temptation, so whilst Christians ought to advocate for the former we must be ready to be bearers of the Kingdom of God, that is evident in freeing those who are, or who will become, oppressed through re-identification of anonymised personal health information.

17 Borders

17.1 National borders are sites of particularly keen surveillance, especially if one is assigned to a category deemed risky, suspicious, or otherwise unwelcome.

17.2 The Old Testament contains sufficient endorsements of keeping watch on city walls or at gates to highlight the necessity of guarding against attacks. The shepherd analogy in the New Testament likewise affirms an appropriate defence of the 'borders' of the fold. Yet, there is a significant difference between a predominant disposition to embrace strangers, and an attitude that first and foremost considers others as a threat to be managed, even excluded.⁴⁰

17.3 In this sense, borders become focal points around which a state's self-image and values are disclosed. Rigorous scrutiny of travellers is appropriate given the history of successful attacks upon aircraft, but unwillingness to acknowledge and address unjust scapegoating and discriminatory sorting is not. Surveillance that is welcoming is attentive to discrimination; rejecting surveillance has little regard for the misuse of the power to monitor. Another shepherding analogy familiar to hearers of Jesus' parables endorses the search for one missing rather than the overwhelming majority (here the 99%) having a monopoly on the shepherd's protective care (Lk. 15:4).

17.4 Borders are not confined to ports of entry but appear at multiple points in everyday life, whenever identification for authorised access to services or buildings is required. It is when people cross cyber-borders that they are made more visible. In a search for missing persons the police can make extensive use of such 'border-crossings' to trace someone's path from one CCTV coverage to another, or for example when they withdraw money from a cashpoint or use a form of electronic payment.

17.5 Prejudice on grounds of, for example, race, religion, gender, age, or socio-economic status can be played out through surveillance strategies. A young black man may well have a very different experience of being monitored to that of a middle-aged, middle-class white woman travelling through the cyber-check points of a busy retail park. Jesus' warning to those who judged by external appearances sits alongside the apostle Paul's radical vision of dismantled social divisions, which although a charge to the Church, overflows as a critique of prejudice more widely in society: "There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus" (Gal. 3:28).

17.6 Where people are categorised through big data their identity is at stake. Surveillance systems may deploy the power to name someone as a perpetrator on the basis of what people like them have done. Instead, it is God who gives a new name, new nature and a new future.⁴¹ By making people visible at national and everyday cyber-borders, surveillance imputes identities at the same time as it demands identification. Attitudes of prejudice, fear and suspicion alter people's life chances. The process of accessing welfare benefits bring these to the surface to a profound degree.

18 Welfare Benefits

18.1 The proper administration of welfare benefits requires information about people to be gathered and retained. It helps to ensure that people get the benefits to which they are entitled. The hitherto neglected widows of the Early Church could testify to the positive contribution of others watching and reporting their need to the Apostles (Acts 6:1).

re-identification-remains-risk-despite-hipaa-safeguards (accessed 30-Oct-2016); Russ B. Altman and others, 'Data Re-Identification: Societal Safeguards,' *Science* 339 (2013), 1032-33.

⁴⁰ Miroslav Volf, *Exclusion and Embrace: A Theological Exploration of Identity, Otherness, and Reconciliation* (Nashville: Abingdon Press, 1996).

⁴¹ Jürgen Moltmann, *Theology of Hope: On the Ground and the Implications of a Christian Eschatology* (London: SCM Press, 1967), p. 286.

18.2 The same monitoring systems raise alerts when someone makes a mistaken benefit claim. In a political climate where welfare benefit clients are regularly vilified as a group, it is distressing that data gleaned through surveillance is conflated in such a way that figures for mistaken claims are included within those for fraudulent claims.⁴² This is a clear example of the wilful misuse of information.

18.3 A Judeo-Christian position can be shaped by remembering the Biblical figure of Hagar.⁴³ Hagar is oppressed in three ways: as a slave; a foreigner; and as a woman.⁴⁴ In the midst of her oppression, she speaks up for herself finding that this has negative consequences. Those who are under surveillance, possibly sanctioned for actions over which they have little room for manoeuvre, are sisters and brothers of Hagar who is honoured in the biblical narrative as the only woman to name God:- *el Roi*, the God who sees. This mirrors the warning of Jesus in his parable of the unwittingly righteous (Matthew 25) that he *is*, and not merely *with*, the 'least of these.'

18.4 In a culture of a suspicion-driven welfare system, claimants are easily de-humanised within a regime of datafication. It is Jesus who is under surveillance whether the monitoring is disproportionate, intrusive and life-quashing, or proportionate and enabling. Conscientious and compassionate advisors and managers working within the benefits system may feel they are a minority, but their kindness towards those whose data is demanded is, from a Christian perspective, thoughtfulness toward Jesus himself.

19 Conclusion

19.1 We live in a world in which the level of surveillance has been increasing as the technology which facilitates it has become more sophisticated. Such developments, though rapid, have tended to be incremental. Thus, the considerable changes in society which they bring have tended to escape public notice.

19.2 It is vital that we reflect upon these developments, and grapple with the profound modifications they make to society. Our report is a contribution to this debate.

19.3 Surveillance from the data-centre can be immensely valuable but deeply discriminatory. Although cloaked in the seeming objectivity of computer coding, surveillance is a social phenomenon that often reflects and shapes subjective prejudices. Surveillance is frequently legitimated on the grounds of security, safety and crime prevention, and too readily absorbs and magnifies fear and suspicion.

19.4 Surveillance from the Cross offers a counter-vision that makes compassion the dominant response. We are known not as objects of information but as people enjoying a relationship of divine love. Privacy is to be protected because it is a sacred space for becoming all we can be in God. As UK citizens we have the responsibility to welcome or challenge specific surveillance strategies carried out in our name. As Christians we are called upon to embody Christ's love by solidarity with those for whom surveillance diminishes dignity.

O Lord, we are being searched and known...Such knowledge is too unnerving for us.

O Lord, we are searching and knowing...Such knowledge is too tempting for us.

O Lord, you have searched us and known us...Such knowledge is too wonderful for us.

⁴² <http://www.methodist.org.uk/news-and-events/news-archive-2010/churches-write-to-cameron-asking-him-to-set-the-record-straight>

⁴³ Genesis 21

⁴⁴ Elsa Tamez, 'The woman who complicated the history of salvation,' *Cross Currents* Summer (1986), 129-39.

Deliverances agreed at the 2017 General Assembly:

Instruct the Church and Society Council to develop appropriate resources to ensure the wider discussion of the issues raised in the Surveillance and Social Justice report.

Instruct the Church and Society Council to continue to challenge organisations, including governments, in their inappropriate use of surveillance especially with regards to the poorest and most marginalised in society.

For further information contact:

Church and Society
121 George Street
Edinburgh EH2 4YN
churchandsociety@churchofscotland.org.uk
0131 225 5722