



BY
INVITATION

By SIMON CHESTERMAN
FOR THE STRAITS TIMES

EARLIER this year, it was announced that officers from Singapore's Bukit Merah West Neighbourhood Police Centre (NPC) would begin trials of body-worn cameras. The aim is to have cameras in use at half a dozen NPCs by next month and islandwide by June 2016.

The cameras are worn visibly and have an indicator that shows when they are recording. Data cannot be downloaded without proper authorisation and, in the absence of an ongoing investigation, will be deleted after 31 days. During the Budget debate this year, Second Minister for Home Affairs S. Iswaran memorably described the cameras as "light, compact and not too sinister-looking".

How do we evaluate the decision to use such devices?

For the past four years, I have been an external adviser to a European Union project that examines the ethical, legal and practical issues involved in the use of surveillance technologies for the prevention, investigation and prosecution of terrorist activities and serious crime. We will be presenting its key findings tomorrow at the European University Institute's State of the Union event in Florence, Italy.

Entitled "Surveillance", this is not some attempt by a radical organisation to derail the surveillance state. On the contrary, the project takes surveillance seriously and is intended to help analyse it, like any other government policy.

Nor is it an ivory-tower enterprise by academics: one of the consortium partners is Merseyside Police Federation and there has been extensive outreach to other police and intelligence service personnel.

There are two basic aims: to map the surveillance technology that is currently being deployed in Europe and elsewhere, and to assess the costs and benefits of using that technology. In essence, we wanted to get a picture of what is happening and why.

Neither is simple, but it turns out that the "what" is easier to answer than the "why".

Surveillance is now a multibillion-dollar industry. Publicly available figures show tens of billions of dollars being spent annually on video surveillance and interception of e-mail, telephone calls, and other messages. *Forbes* magazine has predicted a tenfold growth in the IT security industry over the next 10 years.

Such investments represent a cost – in terms of dollars as well as in terms of lost privacy – but how do we assess the asserted benefits?

Security vs liberty?

UNFORTUNATELY, this is not an area in which decisions are always rational.

The debate is often framed as the need to balance a supposed

The use of more body-worn cameras by law enforcement officers allows for more surveillance

of citizens – but also keeps an eye on the surveillance state as it carries out its duties.

BODY-WORN CAMERAS

To monitor citizens and the surveillance state



ST ILLUSTRATION: ADAM LEE

tension between security and liberty. The problem is that, when framed like this, liberty – privacy in particular – always loses.

This is partly because the side of liberty is often reduced to platitudes. Soon after the Sept 11, 2001 attacks in the United States, for example, senators were debating the USA Patriot Act's surveillance powers.

One of them invoked a founding father: "As Ben Franklin once noted: 'If we surrender our liberty in the name of security, we shall have neither.'"

But he misquoted Franklin, who was more nuanced. What Franklin actually said was: "Those who would give up essential Liberty to purchase a little temporary Safety deserve neither Liberty nor Safety."

If there is one benefit of the Surveillance project, it is that from now on, debates within Europe and elsewhere about surveillance technology should be a little bit more rational.

Costs and benefits of surveillance

THOSE debates, it is hoped, will be informed by a matrix that quantifies the effectiveness, ethics and legality of surveillance technology.

In terms of effectiveness, the matrix scores a given technology based on its ability to achieve its stated goal, cost, design features that limit intrusions of privacy, and overall excellence as demonstrated in the field.

Ethical considerations go beyond the strict letter of the law and include the nature of the harm to be prevented, the reliability of evidence, and the imminence of the threat.

The criterion of legality includes the justification for surveillance, the necessity of using intrusive methods if less intrusive methods are available, and the proportionality of the action relative to the harm to be prevented.

These factors are intended to

help policymakers engage in a genuine cost-benefit analysis that does not rely on vague concepts of liberty and security.

The approach also recognises that liberty and security are not mutually exclusive. Some things that might seem to increase security in the short term – such as profiling certain classes of individuals – can actually create the problem they intend to address, as when profiled groups become more marginalised as a result of being targeted.

However, two types of problem still linger.

The first is that agents of the state, like everyone else, often suffer from cognitive biases. It is not hard to imagine how a bureaucrat, for example, when faced with a proposal to use an intrusive new technology against a severe but remote threat, might prefer to allow it. Would you prefer to be criticised for some vague intrusion on privacy rights, or for letting the next shoe-bomber on a plane? For

this reason, many such decisions are referred to judges in the hope that they will be more detached in their assessment.

Secondly, even when the violation of rights is considered as a factor, the limitation of that violation to a certain class of persons means that the decision-maker – and often the majority of the public – do not worry that it will affect them directly. This could be seen, for example, in the American public's blasé attitude towards surveillance of potential terrorists – until Edward Snowden revealed that the American government had expanded that set to include almost everyone.

More surveillance, more accountability?

MOVING forward, it seems unlikely that the surveillance technologies that have already been deployed will be removed. But if the power of the state to watch over us cannot be reduced, there is an

alternative approach to reining it in: increase that power further.

In the United States, for example, a series of police killings of unarmed black men over the past year have led to calls for greater oversight. After Michael Brown was killed in Ferguson, Missouri, last August, there were disputed accounts as to the circumstances of his death. In December, President Barack Obama sought funds to pay for more than 50,000 body-worn cameras to be used across the US. A US\$20 million (\$\$27 million) pilot programme was announced by the new Attorney-General last week.

The funding came three weeks after another man, 50-year-old Walter Scott, was filmed being shot in the back as he ran away from officer Michael Slager – who had pulled over Mr Scott for a broken taillight. That video was taken by a passer-by on a hand-phone, but it led to widespread outrage and showed the potential benefit of more cameras. In the face of such evidence, the officer was sacked and charged with murder.

It is possible, then, that such technology can do more than serve the interests of the state in helping to keep the public safe. It can also play a role in ensuring that the powers of the state are exercised properly and with greater transparency. But this will happen only if there are safeguards to prevent selective use of that technology.

In Singapore, for example, greater use of cameras by police might have offered more clarity on controversial incidents such as the riots in Little India in December 2013, or the death of Dinesh Raman while in custody in September 2010.

If the body-worn cameras are successful, it might also lead to a reconsideration of video-recording statements to police. As MPs Hri Kumar and Sylvia Lim have both argued in Parliament, this could reduce the need for the courts to spend time evaluating whether statements by the accused and witnesses were accurately recorded – a particular concern, given several high-profile cases in which defendants alleged that they were coerced by the police. (In the absence of such recording, as my colleague, Professor Ho Hock Lai, has written in the most recent issue of the *Singapore Journal Of Legal Studies*, it is all the more important to strengthen the right of an accused to have access to a lawyer.)

'Not too sinister'

AFTER opening the new Police Operations Command Centre last month, Prime Minister Lee Hsien Loong posted a photo of himself on Facebook holding one of the new body-worn cameras. "No more 'I say/you say' disputes over what happened," he wrote, adding a smiley-face emoji.

The Prime Minister is right, of course. But as we prepare for the deployment of yet more surveillance technology, it will be important to ensure that those cameras keep an eye on the state as well as on us.

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