The Ethics of Using Cameras in Care Settings

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www.telehealth.global

Context: Concerns about Abuse

www.clearcare.com

- *A wide range of facets*
- *Various kinds of perpetrator*
- *Often hidden*
- *Frequent media exposés*
- *Increasing (?) concern*

- *How can technologies help?*
- *Do they protect or intrude?*
- *What are the key issues?*
  [many have an ethical dimension]
- *How should technologies be seen?*
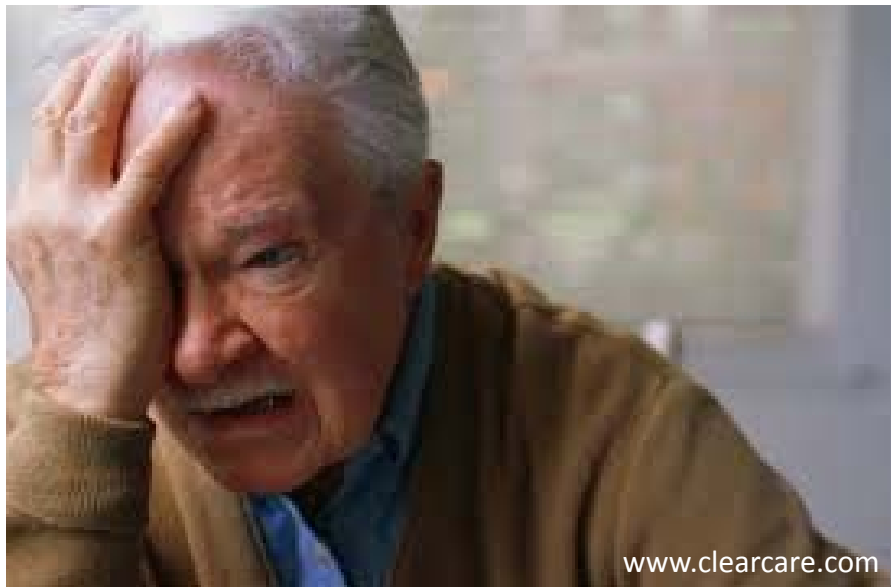
What are the Key Issues?

- *The 'privacy dilemma' and overall legitimacy (ethics) of surveillance in care settings*
- *The manner of use of different technologies (more than cameras) in helping support care provision*
- *What information (images, etc.) is gathered by cameras and other AT?*
  - *how is that information gathered is stored and used*
- *How technologies could / should fit within frameworks for safeguarding*
- *Individual rights of older people and others acting on their behalf*
- *What impact on care relationships?*
- *Can social theorists and ethicists help us?!*

Social Theory [1]

- Meanings of 'autonomy'
- Meanings around 'care'
- Significance of technologies
- Tom Beauchamp, James Childress
- George Agich
- Joan Tronto
- Peter-Paul Verbeek

Social Theory [2]

- *Tom Beauchamp* and *James Childress*
  - *Ethical Touchstones ...*
- *in 'Principles of Biomedical Ethics' (1985)*
  - *(respect for?) autonomy*
  - *beneficence*
  - *non-maleficence*
  - *justice*

- *Now in seventh edition!*

- *Still very strongly present in work around medical care.*

Social Theory

- *George Agich*

- *'Dependence and Autonomy in Old Age: An Ethical Framework for Long Term Care'*

  - *Originally published as 'Autonomy and Long Term Care' 1947; revised 2003*

  States that 'Maintaining a <u>sense of</u> autonomous well-being is <u>consistent with dependencies</u> on medication or professional care if those dependencies help maintain a more basic sense of functional integrity in those areas of life that individuals value'

  Laments tendency to define autonomy 'primarily in terms of human persons as rational, independent agents and decision makers'

- *Joan Tronto*
- *'Moral Boundaries: A Political Argument for an Ethic of Care' (1993)*
  - *Four 'ethical elements' of (nursing) care*
    - *attentiveness*
    - *responsibility*
    - *competence*
    - *responsiveness*
  - *Focus on 'attentiveness' and 'responsiveness' - linking to <u>observation</u> and <u>noticing</u>*
    - *providing opening for legitimisation of use of (some) technologies for 'surveillance'*

Social Theory 5

- *Peter-Paul Verbeek*

- *'What Things do: Philosophical reflections on Technology, Agency and Design' (2005)*

- *Technology analysed in terms of the role it plays in social processes … technologies as mediators (not to be feared as means of 'control')*
  - *but looks at coercive and persuasive technologies*
    - *Points to responsibility of designers*
  - *around universal design (an ethical 'good')*

States that 'Technological mediation is part of the human condition – we cannot be human without technologies … Designing technology is designing humanity, in a sense.'

... privacy

The Privacy Dilemma

- *How private are we in reality; how private do we want to be?*
- *The importance of 'attentiveness' and 'responsiveness' (Tronto) in care (and in life)*
- *Our (special) ethical and moral obligations to those who are vulnerable … recognising lack of autonomy (Agich)*
- *Our (parallel) need to recognise people's rights and protect their privacy*

… leading to questions about the use of technologies (mediating: Verbeek) and new kinds of service frameworks to resolve the 'privacy dilemma'

… and maybe (? in terms of practice) there's a 'balance' to be struck between care and protection - with an ethical underpinning (?)
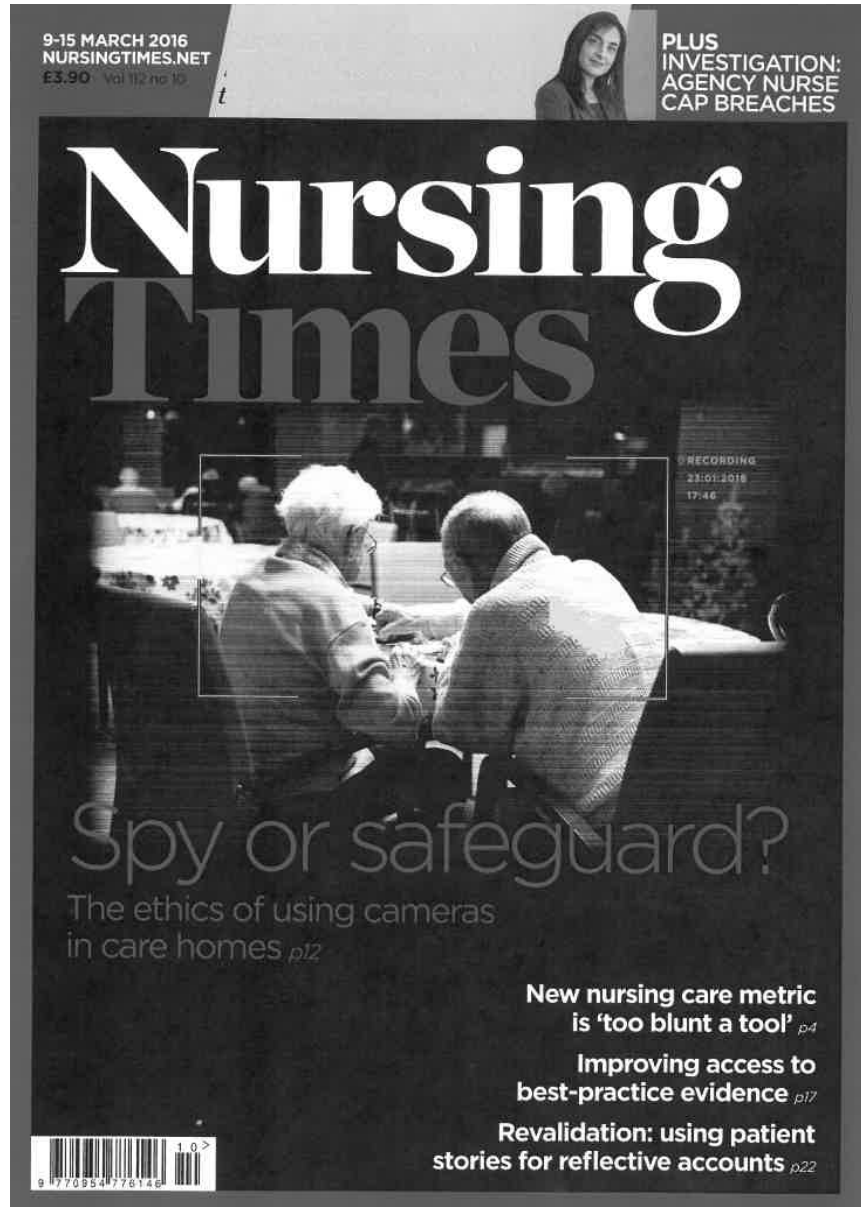
- *The UK Debate …*

The UK Debate

- *Nursing Times* *
- *Primary Care Nursing Review*
- *Working with Older People*
- *CQC*
- *Charitable bodies* *
- *Media*
- *Campaigning organisations* *

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The UK Debate
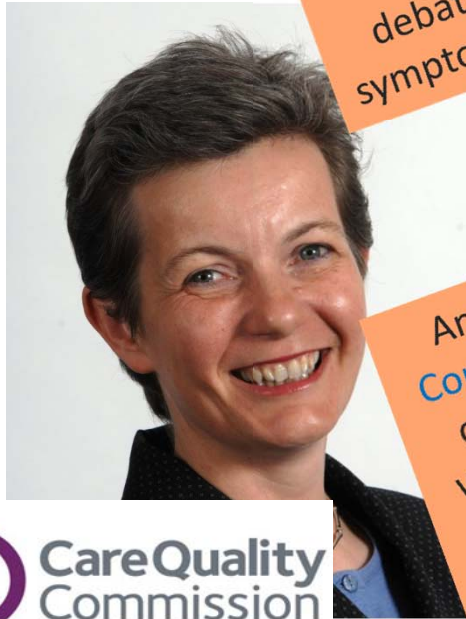
Gary Fitzgerald (Action on Elder Abuse): Cameras are not going to catch the real abusers. We are getting caught up in a debate about cameras when they are a symptom of the problem, not the problem.

Andrea Sutcliffe (Care Quality Commission): For some, cameras or other forms of surveillance, whether openly used by services or hidden by families, are the answer. Others feel this is an invasion of people's privacy and dignity.

Davina Ludlow (carehome.co.uk): We need to train, support and inspire the next generation of carers, not create a 'Big Brother' culture where people are afraid to do this vital job

The UK Debate (Care Homes)

- **Care Quality Commission** consultation and provision of _information_ (not guidance) re. cameras in care homes (2014-15)
  - aimed at service providers and for family members
  - simplistic view of cameras and fails to consider other technologies e.g. telecare, audio-recording, entry/exit
  - strong on legal issues

- **Surveillance Camera Commissioner**
  - privacy, blurring, etc. but _no_ attention to care settings
  - welcome note on PIAs (Privacy Impact Assessments)
  - GDPR

The UK Debate (Care Homes)

- _HC-One_ consultation (2014): cameras as 'safeguarding tools'
  - opt-in scheme for _visible_ cameras?
  - 'yes' for **47**% residents; **87**% family members; **63**% staff
- GMB survey (2014) of its _HC-One_ staff
  - 'visible cameras could help identify and prevent abuse' **70**% Yes
  - 'cameras should be introduced only with consent …' **79**% Yes
  - 'there would need to be clear rules …' 92% Yes
  - 'cameras don't tell the whole story …' 87% Yes
- _HC-One_ now 'reviewing this issue again' at senior management level

Prevalence of Cameras in Care Homes: UK

- *Overall position not known (in context of <u>no</u> guidelines)*

- *<u>Bramley Court</u> (Zest care home) – Birmingham*

Over 100 cameras overall (none in bathrooms or en-suites)
Recordings triggered by movement/noise
Big issue of consent … residents (issue of capacity), family members, LPA: Lasting Power of Attorney issues (affordability for families)
Meetings, letters, discussions with staff … moving from 'My God, we're going to be watched' to 'We'd rather be with cameras than without' and 'Nobody can doubt what we say – it'll show people exactly how we behave'
Footage viewed by ex-social services staff in Northern Ireland
CQC emphasis on consent - but OK in corridors, lounges, etc.

Prevalence of Cameras in Care Homes: UK

- _Wensley House (Beling care home) – Epping_

  "Wensley House support their team with CCTV, being proud of what they do and believe that transparency builds trust, and trust builds relationships."
  "We are proud to have newly installed CCTV, if you want it, and a wonderful team of staff."

- _Questions around who pays? Types of system? Who monitors?_

Prevalence of Cameras in Care Homes: US

- *First with a law on 'granny cams' (Texas 2001) …*
  o *Monitoring of resident's room permitted using 'electronic monitoring devices' with express written consent of resident or guardian and 'roommates'*

- *California (2x private care homes) with specific licensing framework … including Vista Gardens (San Diego)*

Gated community for people
with dementia
Cameras in common areas and
residents rooms –
excl toilet, bath and showers
No audio
Secure holding of recordings
(30 day limit)
Resident choice (opt in; opt out)
Restricted access to senior staff

Moving Things Forward … The Problem of Evidence

- *Very limitedevidence!*
  - *therefore … we must, in part, be driven by <u>ethically</u> guided judgements*
    - *the social theories can help!*

- *<u>Yes</u> or <u>No</u> to cameras? We must be wary of being swayed by emotions ('Big Brother' etc.) … need to see bigger picture for surveillance and assistive technologies*

- *Need to recognise the agenda of 'practice' seems a long way from academia (and the social theorists)*

- *But … what types of technologies (how far do we go - robots?)*

How Far do we Go?

- Robots?
- Cameras ... what sort, what restrictions?
  - Overt or covert?
- Audio recording?
  - Less intrusive?
- Activity (and movement) monitoring?
- Continence and seizures?
- Monitoring of medication compliance?

.. etc.
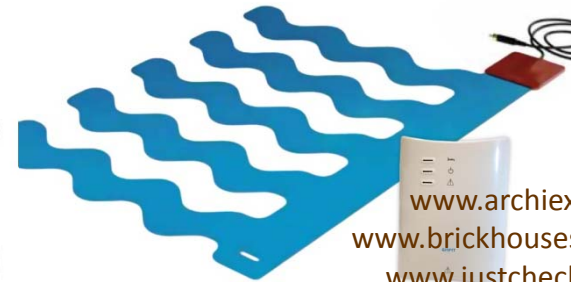
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The Intrusiveness of Cameras
- invading privacy, compromising rights

- *The issue is mainly one of images and their treatment … not cameras per se*
  - *attentive (Tronto) but not seeing?*
  - *not forgetting options around audio-recording and activity monitoring*

- *Issues of intrusiveness and privacy demand clear frameworks … this is not a black and white issue of 'do we have them or don't we have them'?*

- *Flexibility around technologies, their configuration and usage (mediating role? Verbeek)*

- *Options for treatment, storage of and access to images (Flórez-Revuelta)*

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(a) Real image (b) Blur (c) Pixelating (d) Emboss

(e) Solid silhouette (f) Skeleton (g) 3D avatar (h) Invisibility

The Way Forward through Regulation?

- 2014 and 2015 'Information' from the CQC
  - what are their issues?
  - what is needed?

- What ethical principles should underpin any framework?

- Who pays?

- What can we learn from other parts of the EU? or the US?
  - not a lot!

… Netherlands and Sweden exploring (for care home + home settings)

'Liever bloot dan dood' ('Rather naked than dead!') *per Mextel /TKH*

- Therefore … *suggested principles* to guide camera use (and wider range of surveillance technologies in the UK)

Principle 1

Any reasonable level of surveillance, including cameras, is appropriate for common or public areas in care homes

o *Surveillance should be overt*

o *Clarity needed in information, contract documents, etc.*

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Principle 2

Care homes should be able to provide or should be willing to permit or facilitate the use of surveillance technologies (including cameras) within a resident's room or other private areas

- o Subject to consent, taking account of capacity of resident
- o Allows for surveillance in bedrooms and bathrooms but demands very careful consideration of way that images, audio or video-footage are treated
- o New service model?

Principle 3

The location of surveillance technologies should be carefully considered. They should be visible or otherwise clearly known to be present

o *Issues of décor etc. can be addressed but must be visible or clearly pointed to … e.g. when embedded in light-fittings, clocks, etc.*

o *[Extra?] Exception: with authority in context of investigation*

Principle 4

Staff should be fully aware of their responsibilities in relation to surveillance technologies

- o Staff must understand and support reasons for use … recognising that it can also safeguard them

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Principle 5

Access to data, images, audio or video footage should be restricted only to authorised persons or agencies in particular, defined circumstances

- o *Including controls on levels of access*
- o *Allowing for escalation*
- o *Circumstances could include falls, theft, and 'positive' occasions*
- o *External body?*

Principle 6

Data, images, audio or video footage should be treated as if owned by the resident – gathered, held and used for his/her benefit.

- … but not able to be accessed by them except in special circumstances
- Full erasure after defined period
- Ability to suspend surveillance e.g. with trusted visitors

Principle 7

Consent for the use of surveillance technologies that might intrude excessively on an individual's privacy should be subject to approval by the appropriate regulatory agency

o Accounting for prior experience, extent of control and compensatory effects

Principle 7

Consent for the use of surv... ...hat might intrude excessively on an in... ...oject to approval ...ulatory agency

o Accou... ...compensatory effects

And for all the principles ... Key Question ... How do they resonate with ethical principles and key aspects of the social theories pointed to e.g. around attentiveness / observation; privacy; autonomy, care and dependency; and the mediating role of technologies?

Conclusion 1

- *Abuse is with us and remains an (growing?) issue*

- *Surveillance (monitoring) can be supported in the context of care - <u>ethical</u> case can be made supported by social theory)*

- *Key ethical dilemmas:*
  - *role of technologies – care, control, enablement (Verbeek)*
  - *touchstones – autonomy? How realistic (Agich)?*
  - *what form of surveillance / observation (Tronto)?*
  - *maintaining confidentiality (privacy) for data, images*

- *And recognising the world of practice*
  - *positives and negatives for recipients, families, care staff*
  - *overcoming / minimising any adverse impacts (esp. for privacy)*
  - *escaping from 'Big Brother' notions of cameras … thinking about data (not images) and wider AT*

Conclusion 2

- Key benefits can be pointed to … but all the questions are far from being answered
  - The seven principles offer an initial way forward
    - Next steps must
      - build the ethical framework more robustly … placed more carefully in social theory context
      - making the approach work in practice … better safeguarding (less abuse) and better quality of life

Thank You
Diolch yn fawr

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