



UNIVERSITY OF LEEDS

Tracking people: looking to the future

Report of Conference

9th November 2017

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Arts & Humanities
Research Council

Programme

- 9.00-9.30 Refreshments
- 9.30-9.35 Welcome
Anthea Hucklesby (University of Leeds)
- 9.35-11.00 Tracking people: controversies and challenges
Anthea Hucklesby (University of Leeds),
Ray Holt (University of Leeds)
Kevin Macnish (University of Twente)
- 11.00-11.30 Refreshments
- 11.30-12.30 Blurring boundaries: justice and health
Chair: Anthea Hucklesby
Jeff Hodgkinson (South Wales Police)
Sara Murray (Buddi)
- 12.30-13.15 Lunch
- 13.15-14.45 Humane, proportionate and necessary tracking of people
Chair: Kevin Macnish
Anita Dockley (Howard League for Penal Reform)
Amanda Keeling (University of Leeds)
Richard Powley (Age UK)
Tom Sorell (University of Warwick)
- 14.45-15.15 Refreshments
- 15.15-16.45 Looking to the future of wearable tracking devices
Chair: Ray Holt
Anthea Hucklesby (University of Leeds)
Justin Keen (University of Leeds)
Mark Griffiths (G4S)
Magali Provensal (Ministry of Justice)
Richard Powley (Age UK)
- 16.45 Closing remarks

Introduction

The final conference of the Arts and Humanities Research Council (AHRC) funded series of initial events for the 'Tracking people' network was held at Woburn House, London, on 9 November 2017. The event focused on the expected future developments of tracking and was attended by over 80 individuals from statutory agencies, private and voluntary sector organisations, and academics.

Technical and ethical challenges

The first panel was dedicated to the controversies and challenges raised during the three preceding events. The landscape of tracking and cross-disciplinary questions were presented by Anthea Hucklesby, the technological challenges were introduced by Ray Holt and ethical challenges to the development and implementation of EM were raised by Kevin Macnish

Hucklesby highlighted that the purpose of the Tracking People network is to draw attention to the aims, outcomes and future uses of tracking in a variety of contexts. What the future of tracking technologies might look like is highly dependent on the debates of the present and the way in which emerging issues are managed. Technological and strategic challenges arising from the use of both removable and non-removable devices were explored. Particular areas worthy of future scrutiny and debate included: the role of the private sector and the implications of increasing penetration of private sector companies across domains. Also highlighted were areas of limited knowledge where further research was required including users' experience. The importance of continued vigilance and debate was noted given the potential social ramifications of increasing levels and penetration of surveillance. Holt presented the socio-technical challenges pertaining to the tracking of individuals. The core of his argument was that tracking devices are not a single technology or device but rather an assemblage of different companies, teams, goals, cultures, pressures and contexts. As such, it emerges within complex and dynamic systems which seek to manage the needs of a variety of stakeholders. Macnish discussed the ethical challenges created by the development and implementation of tracking suggesting that difficult questions need to be debated before new technologies are adopted. He advocated that the future of tracking needs to involve rigorous debate as opposed to simply being the upshot of technological innovation. Building on this foundation, he moved on to explore a range of ethical concerns pertaining to the tracking of people under the themes of, *inter alia*, exploitation, privacy, stigmatisation and 'chilling effects'.

The discussion included an examination of the 'creeping' and 'scary' capacities of non-wearable surveillance through online companies, especially for the purposes of advertising. This segued into the uses and collection of personal data online and the ability of General Data Protection Regulation (GDPR) to protect people from nefarious uses of these data and how we might protect people and shape developments in the future. The undeniably transformative impact of surveillance technologies was agreed, with an 'arms race' emerging between governments and companies regarding tools and regulations. It was suggested that it is 'vulnerable people' who are most in need of protection in an increasingly digitised and monitored world where companies and governments have little reason to curb technological advances.

Blurring boundaries

The second panel consisted of presentations by Jeff Hodgkinson from South Wales Police and Sara Murray from Buddi. They explored the ways in which the boundaries between criminal justice and health have blurred creating overlaps and parallels between domains.

Hodgkinson outlined the application of tracking devices in the context of offender management and discussed the modalities of electronic monitoring (EM) devices currently used by criminal justice agencies. The objectives of EM within this sphere were discussed, with the numerous issues and challenges facing implementation being covered, before potential solutions and opportunities for future use were considered. Drawing on his experience with EM at a grass roots level, Hodgkinson offered suggestions for the use of EM, such as early release and incentives for successful completion of sentences and care of equipment. Murray spoke as a provider of tracking equipment and services. The mission of her company is to deliver technological solutions and innovations in health and criminal justice. She particularly promoted interface systems designed to 'nudge' users toward better health choices, before advocating GPS tracking in criminal justice. Murray highlighted addiction as an important crossover point for both areas and noted that targeting this issue had influenced design imperatives and objectives, leading to innovations in the field, such as the introduction of gaming principles (gamification). Finally, the technological challenges encountered in implementation were discussed, especially short battery life and greater user involvement.

The ensuing discussion included a more detailed description of the uses of EM for offenders. Post-release supervision, bail, and community sentences were outlined as possible uses and the agencies involved in practical delivery and the numbers currently monitored were also discussed. EM was presented as being particularly flexible, allowing increased autonomy and freedom for offenders. Murray was challenged on the capacity of 'nudges' to be effective in tackling addiction when it is seen as a specifically social problem, coupled with a worry that tracking might result in dependency on technology rather than encouraging individuals to take responsibility for their own actions. There was a concern that technologies may provide shortcuts which by-pass the need for personal development and change. Murray disagreed, highlighting randomised control trials which demonstrated the capacity of wearable technologies to help addicts to 'resist temptation'. She also argued that free will and individual choice were foundations of human behaviour, with poor choices identifiable in health issues (e.g. obesity and diabetes) as well as offending. Finally, homelessness was highlighted as a particular barrier to the use of radio-frequency monitoring and it was suggested that GPS technologies was one solution to this problem.

Humane, proportionate, necessary

The third panel focused on ethical issues of tracking. Anita Dockley raised doubts about the continued, let alone increased, use of electronic monitoring in criminal justice. A particular concern was that tracking lends itself to a new form of 'carceral space' that deprives individuals of liberty and provides no sense of definitiveness about punishment. She argued that the role of consumerism and marketisation in the criminal justice system has had too great an influence over the development of EM.

Following Dockley, and in large agreement with her key message about extended carceral spaces, Amanda Keeling spoke on disability and human rights in relation to tracking technologies. Through a legal analysis of the European Convention of Human Rights and details of cases, she argued that according to the relevant legal frameworks tracking devices can be considered a deprivation of liberty. Furthermore, she noted that there need to be more humane guidelines in cases where mental capacity to consent is contested. Richard Powley discussed the potential use of tracking devices for older people, especially those with dementia. Again, consent was raised as an issue, with Powley recognising that capacity to consent may differ across cases, questioning what should be done when capacity fluctuates. He also pointed out that while these technologies provide one solution to giving older people more independence, there are structural barriers which also need to be addressed to foster a more age-friendly society. The final presentation, by Tom Sorell, considered the proportionality issues arising from the use of tracking technologies as a combination of linked scales: seriousness of crime, severity of punishment, expenses, harm, and extent of benefits. He also discussed contexts of privacy, notably private spaces and privileged areas, noting that intrusion of these contexts is becoming normalised with developments in surveillance and tracking.

Following the presentations, there was some discussion regarding the extent to which Dockley and Keeling were correct in their references to extended carceral spaces and the claim that 'a gilded cage is still a cage'. Sorell in particular disputed that tracking constituted a deprivation of liberty but held that it is rather a restriction on liberty. This debate is especially relevant, he argued, in comparing the use of tracking devices with carceral spaces such as prisons, next to which tracking is relatively mild and minimal intervention. This view was echoed by others who noted that despite some negative consequences of tracking, it was still a better option to be released on EM than to spend time in prison in a criminal justice context. Dockley's response was that EM may seem *prima facie* to be the better choice, but there is still very little known about the long term consequences of EM, thus sounding a note of caution for the future.

The future

The final panel discussed the future of wearable tracking devices. Presentations were given by Magali Provensal and Mark Griffiths (who replaced John Potter who was unable to attend) before a panel discussion involving both speakers alongside Hucklesby, Macnish, and Powley.

Provensal discussed ongoing pilots of GPS technologies for bail, sentencing and parole and alcohol monitoring technologies in England and Wales. Early findings from the evaluation of the GPS pilots was that take up had been slow and that the measure was being used more for bail than community sentences. The emphasis of the pilot and on-going work at the Ministry of Justice was on *how* technologies are used rather than *what* technologies are used; the provision of integrated packages of support; incentivised compliance via tapered curfews; and how to avoid 'net-widening'. Provensal fielded a question towards the end of the day regarding the demanding market for surveillance technology that fuels not only constantly improved equipment, but also the desire to further intrude in the lives of those being monitored. Her position was clear: we should be focusing on improving what we already have rather than trying to develop ever-new technologies.

Griffiths reflected on his participation in previous workshop highlighting particular issues which resonated with him drawing also on his experience of working in EM in the context of criminal justice over recent decades. He noted that the pace of change had been gradual and incremental. As an illustration, and in reference to earlier comments, he acknowledged that the prospect of an eternal battery was extremely distant. He also discussed the value of the data collected by companies from tracking services and the implications of what is done with those data. He argued that the data are collected with very little information about its context, so there is little value or profit to be made in its future use. Echoing Provensal's concerns regarding improving current capabilities, Griffiths noted that in most cases RF technology is sufficient to provide the levels of surveillance required for tracking and that GPS would in such cases be excessive.

The subsequent panel discussion recognised that EM in the context of criminal justice only monitors compliance and that it does not and cannot stop bad things from happening. Governments need to be clear about what the consequences for non-compliance should be. In a related reflection, it was noted that whatever happens, tracking technologies should only ever be one element of an overall programme: human contact with wearers of tracking technologies must remain. Furthermore, there was widespread concern regarding the potential for fully automated support systems which are likely to be less effective than systems which combined human and automated solutions. In light of Griffiths' presentation there was also some discussion about private sector involvement in tracking. Private sector providers argued that there was nothing inherently wrong with this model. Contrary to the suspicions of some, they argued, cost is not the primary driver in development and delivery and, furthermore, the contractors typically respond to government contracts: they do not get to write the contracts themselves.

Recurring themes

A number of themes recurred during the event which included:

The expanding role of service providers

Several issues were raised in relation to the commercial and contracted nature of EM service provision. Following Holt's situating of EM within a wide and complex information system, many of the conference attendees raised concerns about the powerful role private companies can have over the fate of people being monitored.

Relative proportionality

The proportionality and severity of EM were also common themes throughout the day. Several panellists, notably Dockley and Keeling, argued that EM was a 'deprivation of liberty' and explored legal frameworks relating to human rights to determine whether such surveillance was an erosion of rights in cases involving vulnerable populations. Others, such as Sorell, argued that EM was a 'restriction' rather than a 'deprivation'. There was a general consensus, however, that in comparison to incarceration or to the panoply of available surveillance technology, or even to the demanding nature of required counselling/social work, location tracking is a comparatively mild sanction.

The need for more research

A third theme of the day was the need for more research into all aspects of tracking and the requirement for data to be made available to researchers to better inform the future use of tracking technologies.

Questions for further consideration

A number of questions arose during the event which included:

1. How will the normalisation of intrusion into private spaces influence our ability to consent (or not) to EM in the future? Related to this, is everyone equally empowered to give or deny consent?
2. Does wearing tracking devices increase risk of harm (e.g. dementia sufferers being mistaken for sex offenders)? With this in mind, should tracking devices be visible?
3. Who does or should own the data collected from wearable tracking devices? Does ownership of (personal) data matter?
4. How is tracking understood within different disciplinary perspectives and domains?

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