Government Surveillance Through The US Patriot Act

The fall of the Twin Towers in New York City on September 11th, 2001 captured the attention of the world. More importantly, it captured the attention of US government surveillance agencies who worried that there may be more attacks like these in the future. In response, the US government passed a bill to strengthen national security to prevent more attacks from happening in the future. Surveillance is the act of monitoring a person, especially if they are considered to be criminals. (Definition of surveillance). Many of us in the United States live in a time where technology is all around us where most of our life is spent behind screen whether it be communicating, working, entertaining or being entertained. Most of our time spent behind the screen we see all of the beauty that it brings, but there also exists the government behind these screens who use surveillance to collect information. This paper analyzes Government Surveillance through the Patriot Act and how it is on par with ethics, the Timothy Carpenter case regarding social contract, Fourth Amendment, Obama's speech on surveillance, and how this relates to the social contract theory, the Rand Paul case a Senator suing the government, and NSA eavesdropping on public figures. I use Tompkins definition of ethics and the theory used is the social contract theory, the question I address in this paper is if it's ethical for the government to be able to infringe on their citizen's right to privacy at the cost of trying to keep them safe from criminals. I believe that within the limits of the social contract theory government surveillance is ethical.

This paper evaluates one theory, the social contract theory, this paper analyzes the Patriot Act and how it is on par with ethics, the Rand Paul case, Obama's speech on surveillance, and how this relates to the social contract theory. My paper talks about ethics in surveillance through the social contract theory. The social contract theory in the definition is to "show that members of some society have reason to endorse and comply with the fundamental social rules, laws, institutions, and/or principles of that society." (D'Agostino). Meanwhile, the Fourth Amendment of the United States is defined as "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized"(Constitution). According to the United States Government and the people, US citizens have to submit some personal rights in exchange for laws and protection from criminals and people who intend harm. The task of the government is to protect its citizens against criminal harm and attacks if they are unable to do this then the social contract between its citizens and the government is invalid as they are not doing their job as they are supposed to.

Tompkins gives us a good definition of ethics as it is a" ...practical philosophy focuses on ethics as a practice for problem-solving that applies concepts and theories about what is good, right, or virtuous in real-world situations." (Tompkins 6). Using Tompkins's definition of ethics as a practical philosophy as inception for my ethical theories like the social contract theory and the role of the Government, we may be able to determine what the limitations the government has contained for surveillance in its practice. Hyde defines ethics as "... a discipline that deals with what is good and bad and with moral duty and obligation"(Hyde). The idea of determining what is good or bad applied to the person's moral codes, it is similar to Tompkins's definition of ethics as a practical philosophy that is applied to the real world. Looking at the Patriot Act's

intent to prevent terrorist attacks and criminal crimes, one can determine that the U.S. Government's goal is to take some freedom of the U.S. citizen at the cost of being able to keep its country safe from criminals.

To determine what is right and wrong when it comes to ethics and the practice of government surveillance, there is never a good answer to if the Government has the right to infringe on the privacy of its citizens. There are many valid arguments for and against surveillance, this paper attempts to explain why government surveillance is ethical within the limits, by looking at information mentioned in the above articles. The events which led to these laws being created helped pave the road for how the Government chooses to do surveillance. As mentioned before I believe it is ethical to do Government surveillance as there is a social contract between the US Government and the set of ethics they use to figure out what is good or bad to help protect US citizens from criminals.

The bill presented by the government was The USA Patriot Act according to the American Library Association is a bill "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act" (Ewagner) was introduced less than a week after 9/11 and signed into law on 10/26. This bill was created as an effort to be ready so no more catastrophes would happen. This bill was the counterstrike against terrorism which would be introduced to not only terrorists but US law-abiding citizens along the way. The main goal of the Patriot Act was to "... update wiretap and surveillance laws for the Internet Age, addressing real-time communications and stored communications and to give law enforcement greater authority to conduct searches of property." (Ewagner). This new bill would go past the Fourth Amendment and they would use the new bill as a way to pry on an individual's privacy at home through their cell phone. They would be collecting data from your cell phone online and when calling someone else, meanwhile storing that data. This act helped the government be able to get data from citizens, like their internet history, location, messages, and private phone calls if they felt that it was necessary to collect it from citizens.

The Fourth Amendment is an essential piece to ethics in Government surveillance as the Fourth Amendment is a part of the US constitution, that informs us of the power that the Government has as part of their role as the Government in society. The Fourth Amendment states that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."(Constitution) In the most basic definition, it is unlawful for the government to be able to search or seize anything that belongs to you, but if they have a suspicion they can do this. If this amendment is part of the US constitution then having the government use your data as evidence against you is unethical as they are violating the Fourth Amendment as well as the PATRIOT Act as the sole purpose is that they are trying to catch criminals and terrorists.

In a case where the government has tried to violate the Fourth Amendment is in a case that is going to the supreme court is the Timothy Carpenter cell phone tracking case. In 2011 the FBI investigated armed robberies that happened at stores in and around Detroit, the FBI suspected Timothy Carpenter as being the getaway driver for the robberies. The evidence presented by the FBI was the location data from his cellphone, it indicated that he was near the robberies at the time they happened. Timothy argued that tracking his cell phone data was unconstitutional, they refuted by stating that they can use cell phones to track anyone's location at any time

without violating the constitution. The sixth circuit court of appeals agreed with the government, that the Fourth Amendment's warrant requirement didn't apply to cell-phone tracking. In this case, the social contract was violated which in turn makes you question the ethics of the government's choice in using Timothy's information to arrest US citizens like him."Normally, the Fourth Amendment would require the government to have probable cause and a search warrant before examining our private data. But there are exceptions to this general rule. One exception is known as the 'third-party doctrine,' which dictates that personal information exposed to a 'third party' like a phone company employee or a bank teller is no longer protected by the Fourth Amendment" (Tokson). Since Carpenter has no privacy or property rights in location data that his phone transmits, and because it does not reveal the contents of his phone calls, the government can obtain his information without a warrant. If the government were to stick to the ethics provided by the social contract they would be getting information from other resources since the main goal of the government agencies are to protect its citizens not pursue them, by using their laws against them.

Another article that I used for my paper regarding ethics in government surveillance is an article analyzing the NSA speech presented by Obama. President Barack Obama at the time presented a speech that would defend the NSA and their surveillance tactics but gave the NSA a new set of rules for which they would abide by to be able to do surveillance, but not at the cost of the U.S. citizens right to privacy. " We cannot unilaterally disarm our intelligence agencies…' Obama's remarks were bound to give the beleaguered NSA a boost of confidence, while disappointing civil libertarians who wanted to hear the president defend the privacy of American citizens more emphatically." (Ackerman, Spencer, and Dan Roberts). To reiterate the speech given by Obama is a response to its US citizens on how the NSA is going to try and ethically use their surveillance to capture criminals. The key points in his speech were about the government no longer being able to store the phone call information of Americans, and the NSA having a time limit on coming up with new ways of collecting information with the risk of civilian's privacy not at stake. Another point brought up in his speech is that government surveillance agencies must get approved to access American phone records, Fisa court would have a panel of advocates to have a voice in big cases. One of the big points in the speech was that the NSA will not monitor important government officials that are friends of the US government, as well as the US government will be held to a higher standard than corporations who store the data of a user. A statement from the speech he made that correlates with the social contract theory is "We have to make some important decisions about how to protect ourselves and sustain our leadership in the world while upholding the civil liberties and privacy protections that our ideals and our Constitution require," (Ackerman, Spencer, and Dan Roberts). He is stating that the Government's use of surveillance to achieve privacy protections in this sense is ethical by Tompkins definitions because they are abiding by the ideas of doing what is good and since the US government must protect its people under the Constitution. The new points given in his speech were a way to defend what the government is doing, but it would be improved to be done more ethically and concerning the social contract.

In one of the cases regarding the social contract between its citizens and the government is where Rand Paul, a Senator who is part of the government sues the government for surveillance. "Allege that administration is violating the 4th amendment by collecting American's phone metadata and seeking a ruling that would halt the program and purge all the collected data from government databases." (Kaplan). Within the limits of the social contract theory, this is an unethical approach by the government as the social contract of the US government is the U.S. Constitution. If the government is not going to uphold their side of their

contract, we as U.S. citizens have the right to fight back and make sure they are corrected. Barring that the US government works within the social contract Rand Paul felt he was being stripped of his fourth amendment right even though he is a government official. This is unethical as he is a government official who is serving his own country for him to have to be under surveillance causes major concern for how the government is approaching the ethics in surveillance, as a Senator who should not be cause for concern as he took an oath to help his people.

An unethical way that the government was using surveillance outside of the limits of the social contract theory was when the government surveillance agency known as the NSA listened in on public figures among the likes of Martine Luther King, Muhammad Ali, and Art Buchwald. As US citizens they have the right to free speech which is what they did to express their feelings on war, yet when they criticized the war, “Amid raging anti-Vietnam War protests that bedeviled two presidential administrations, snoops at the National Security Agency tapped the overseas communications of war critics including Martin Luther King Jr., Muhammad Ali, Sen. Frank Church (D-Idaho), and even Washington Post humor columnist Art Buchwald”(Leiby). As they only expressed their rights of free speech to criticize not wanting a war with Vietnam they were placed under suspicion and placed under surveillance as US citizens. “Howard Baker (R-Tenn.) — an ardent supporter of the war — also was put on the NSA “watch list” that authorized the interception of the surveillance targets’ overseas phone calls, telexes and cable traffic.” (Leiby). Due to him being in support of the war he was placed under surveillance in which the NSA was able to get information from his private phone calls as well as other information which is considered private. Involving ethics they should not have probable suspicion as they are U.S citizens who only expressed their thoughts about the war, but were never found guilty of coercion against their government. Within ethics, they were never supposed to be placed under surveillance as they are regular US citizens just expressing their thoughts and were never found guilty of doing anything wrong.

Conclusion

In general, Government surveillance can be done ethically within the social contract theory. The United States Government surveillance agency's main role is to protect its citizens from criminal activity, which comes at their citizen's right to privacy. Statewide surveillance is necessary after there have been many horrific attacks, as the surveillance would be able to stop horrific attacks from happening in the future. The Government only does the surveillance, but they don’t pay the price of giving up their safety and right to privacy from the government. As the government has done this many times it has led to the infringement of the Fourth Amendment for the people of the United States. The surveillance of its citizens has led to some unethical Government practices against their people, even if the goal is to protect the citizens of the United States.

The case between Timothy Carpenter and the US Government came from the FBI investigating a string of robberies in Detroit, and the US Government using his cell phone data to present a case against him, which is not how the ethics of social contract of the US Government should be used, in this case. The government was unethical in its practice of saying that they can track anyone’s location without violating the constitution. In the case of the social contract theory, the law-abiding citizen is Timothy Carpenter as he is giving up his rights for peace, but the US Government's social contract is the US constitution as it states what the government can and can’t do to their citizens. By Tompkins definition of ethics, the Government is destroying the

social contract created to bond the people with the Government (Tompkins). The United States Government's case against Carpenter is invalid as they are violating the Fourth Amendment to unreasonable search and seizure due to not having concrete evidence as they are using his phone’s data which is an unreasonable search.

Looking back at the NSA speech presented by Obama we have to understand what are the reasons why the US Government surveillance agencies are doing government surveillance against their people. If the government has a suspicion that the person they are investigating is doing practices that are considered unlawful, it is ethical to investigate. Yet this is not something that the government is doing, they are making invalid the social contract between the government and its society citizens. As citizens, we must be able to accept the reality of government surveillance which is that with the power of good from the government trying to keep us safe from future catastrophes comes the bad of giving up some of our rights to privacy. The importance of ethics as a practical philosophy is necessary when one sees that they work between the government and its people who stick to the laws that the government has created for them, at the cost of certain rights.

The ethical framework used in this paper can be applied to more than just the government and its people, if there are two consenting parties in a social contract among each other, then for each party to abide by the contract, it would make sense for them to use Tompkins interpretation of ethics. If we are to assume that both parties abide by these base sets of this ethical framework, then they shall not break their binding society contracts.

In the end, the government does surveillance to protect its citizens, which in turn is supposed to benefit the society of US citizens at that time or benefit us in the future to prevent major catastrophes.