Opening Windows on Surveillance: the Scholarship of Gary Marx

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Abstract Gary Marx's work on surveillance is important to those concerned about the causes and implications of modern surveillance technologies. This essay addresses the themes of reality, complexity, and transdisciplinarity that are prominent in all of Marx's work including his 2016 book, Windows into the Soul: Surveillance and Society in an Age of High Technology.

Keywords Gary Marx · Privacy · Surveillance · Technology

Gary Marx's work on surveillance has provided a touchstone for many of us who have become intrigued by the causes and implications of modern surveillance technologies. His analyses and insights root us in the reality of what is actually happening; remind us that we must appreciate and embrace the complexity of that reality if we are to further our understanding; and caution us not to work within narrow disciplinary or theoretical perspectives but to broaden the vantage points from which we approach surveillance. This essay will address each of these three themes of reality, complexity, and transdisciplinarity that are so prominent in all of Marx's work including his 2016 book, *Windows into the Soul: Surveillance and Society in an Age of High Technology.*

But first I would like to begin on a personal note. I met Gary in 1985 when he was a participant on a congressional Office of Technology Assessment (OTA) workshop on Electronic Surveillance and Civil Liberties. At that time, I was an analyst at OTA and the principal author of the report by the same name. I recall Gary as being one of the very wise and prescient voices at that workshop. His remarks and his 1985 article in *Technology Review* on "The New Surveillance" made the issue of surveillance possibilities concrete and the need for some policy action apparent to all. His knowledge, his sense of humor, and his passion were obvious. That was the first of many conferences and workshops where our paths have crossed – interspersed with phone calls, emails and exchanges of draft papers. I am always in awe of, and inspired by, his intellectual curiosity and the depth and breadth of his knowledge of contemporary society, as well as the history that undergirds it. Marx demands much of his own thinking and challenges the rest of us to do likewise.

Marx's thinking about the ideas in *Windows into the Soul* has evolved and refined over the years. I was privileged to be at his 2008 "Windows into the Soul" conference at Harvey Mudd College where multiple facets of surveillance, technology and society were explored. At that time, Gary's plan was to expand on the notion of *maximum security society*, which he had developed in the last chapter of *Undercover* (1988), and to analyze eleven related sub-societies: including, a hard engineered society; a soft and seductive engineered society; a dossier society; an actuarial society; a transparent society; a self-monitored society; a suspicious society; and a networked society of ambient and ubiquitous sensors in constant communication. Although *Windows* does not employ these as its organizing principle, as Marx notes, "these efforts at rational control are illustrated throughout the book" (2016, 4).

At the 2008 Harvey Mudd conference, I presented the initial work that Deborah Johnson and I were developing on using a sociotechnical systems framework to analyze both surveillance and transparency systems – and, quite consistent with Gary's views about such systems, we concluded that these systems operate as "houses of mirrors" where: systems designed for purposes of transparency, such as campaign

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finance disclosure, become surveillance systems; systems designed for surveillance but without transparency, such as Secure Flight, mean that the terms of accountability are hidden from those the systems are holding accountable; systems designed for transparency of institutions, such as American Red Cross, require surveillance of institutional actors; and that systems with multiple accountabilities operating simultaneously, such as Facebook, compromise the integrity of the original accountability relationship (Johnson and Regan 2014, 162-9). Marx's quest to draw together the various threads of surveillance in modern society informed and enriched the research that Johnson and I were engaged in and the remarks at this conference strengthened our analysis.

Gary Marx's key insights into the cultural enormity of the changes we have been experiencing, and will continue to experience, have remained somewhat unchanged. He continually seeks to bring conceptual clarity and order to all the various intersecting, interlocking, and interdependent aspects of modern surveillance. His quest leads him to deep dives into technological artifacts, music lyrics, commercial advertisements, science, movies, fiction – indeed to all aspects of modern life as all are components of the puzzle he wants to understand and help us to understand. Marx is famous for lists grouping similar things together and challenging us to see new connections. His curiosity is infectious as is perhaps best illustrated by his various conference presentations and keynotes where he challenges his audiences to probe behind the normality of ads, cartoon, new products, or policy proposals to understand their hidden meaning and rationality.

This brings me back to the three themes that I find most prominent in Marx's work and that continue to inform my own work – the themes of the *reality* of what is occurring; the *complexity* of that reality which we should embrace and not simplify; and the need for being broad or *transdisciplinary* in our perspective and not locked into narrow disciplinary lenses. Each of these will be explored below.

Reality

Gary Marx is an eclectic thinker who is deeply appreciative of the importance of what is actually occurring in the real world. His focus is on the empirics of this reality as is best illustrated by his many lists and his presentations with concrete illustrations from ads. As he said in his 2011 remarks accepting a lifetime achievement award from the Society for the Study of Social Problems, "I am in the uncovering business." (Marx 2011) In this respect, the context of surveillance practices has been in the forefront of his analyses and this is true in *Windows into the Soul* as it is for his earlier work. In this way, he reminds all of us that concrete illustrations and analyses are preferred to the abstract. Context matters as to whether surveillance has positive or negative implications for society. And in analyzing

context in *Windows*, Marx builds on his earlier work and on Helen Nissenbaum's (2010) framework in identifying four contexts for surveillance – work with contracts highlighting the rationale; children with care highlighting the rationale; the private within the public highlighting a more free-ranging, because it is possible, rationale; and the government highlighting the coercive element of surveillance.

Marx's analyses are always rooted in reality and he was talented at doing this by using contemporary cultural artifacts – intent on "linking the cultural images of surveillance to social, political, economic, and technical factors. Rather than a reductionist model, stressing the causal primacy of any one of these factors, they are interactive. Culture both shapes and is shaped by the available technology." (1996, 195) Perhaps my all time favorite, found in print in this 1996 chapter, was his citation of the Police lyrics from "I'll be watching you" at David Lyon's workshop at Queen's University in 1993, a workshop at which I presented a paper on workplace surveillance (Regan 1996). Marx's use of music lyrics and film dialogue to make a point is found in many of his writings included sprinkled, effectively and entertainingly, throughout *Windows into the Soul.* I know many of us in the surveillance community only wish we could be so clever and appropriate.

In *Windows,* Marx adds an effective element of creativity to even more starkly reveal the reality of modern surveillance practices. Recognizing that a single "real" case study cannot raise all the issues and reveal all the intricacies of modern surveillance in the contexts in which he is most interested, Marx employs fictional, somewhat satirical, vignettes to convey his points. The one that most grabbed my attention was the "true fiction" speech that the Honorable Rocky Bottoms gave to the Society for the Advancement of Professional Surveillance. The speech is a "composite of remarks" (2016, 242) that Marx had gathered in his research into the surveillance and security community. The pithy one-liners are numerous but here's one that is illustrative: "Where there is the slightest whiff of suspicion, or if costs of failure are great, it would be irresponsible not to use all the ammunition in our arsenal. Do I sound paranoid? OK— that's because I am the one with the facts and know what we have to worry about." (2016, 245)

Complexity

Marx recognizes that it is hard to get the facts, that the reality that we seek to understand in surveillance studies is enormously complex. But rather than try to over-simplify that complexity, Marx embraces and dives deeply into that complexity. He rejects the simplistic choices of "black or white," "good or bad," – instead seeing and appreciating nuances and complexity of the relationships that surveillance studies scholars seek to understand and, if possible, untangle. He recognizes that causal arrows are hard to draw but links between

things (events, people, technology and occurrences, past and future) can be identified and queried – and quite possibly reveal more of importance to understanding contemporary events. As he wrote in a 2007 article:

> I suggest a situational or contextual approach that, while not denying some commonalities across surveillance behavior, emphasizes patterned differences. Central here is the identification and contrast of means, goals, role relationships, the structure of the interaction, the characteristics of the type of personal data involved (whether involving sensitive information or form such as audio or video), and cultural and social dynamics. (127)

Further complicating the complexity of modern surveillance practices is the fact that they are continually changing. As he notes in the preface to *Windows*, "Writing about a contemporary topic is like working with a jigsaw puzzle to which new pieces are continually added and others subtracted even as the formal structure of the puzzle shows constants." (2016, ix) His pieces of the puzzle are the means of surveillance, the goals of surveillance, and the data characteristics revealed by surveillance. As Marx acknowledges, the goals piece is the most difficult to discern and analyze in part because "the focus is on subjective, often obscure, varied, and changeable points of view of multiple internal actors at different locations" (2016, 62). But it is important that surveillance scholars explore these with the recognition that "awareness of the complexity and difficulty in determining goals can moderate the claims made" (2016, 63). Marx's moderation is not equivocation or avoidance of conclusions but instead expresses a humility that surveillance scholars need to bring to such a complex, ever-changing topic.

The challenge for the social analyst is to give shape and meaning for the constants in this ever-changing complex environment. In *Windows*, Marx sees his task as "offering a soft-driving argument that identifies questions central for explanation, evaluation, and regulation and parses empirical possibilities into categories involving types of behavior and four basic surveillance contexts [discussed above]" with a focus on "three major strands: social scientific, cultural, and normative" (2016, 8) His thoughts on the normative strand intrigue me the most as my own work (e.g., 1995, 2011, 2015, 2016) has focused very much on the questions of values and policy with an interest in encouraging "public policy informed by logic and evidence" (265). In developing public policy, as Marx notes, there is often "trouble articulating what seems wrong with a surveillance practice beyond saying that it doesn't seem quite right – often with a vague reference to the invasion of privacy" (2016, 277). As other surveillance and privacy scholars have pointed out, the "nothing to hide" argument provides a rationale, however misguided, for people to justify a lack of concern for privacy (Solove) and there is

evidence of a "privacy paradox"(Barnes 2006) in that people express concern about their privacy but act, according to principles of behavioral economics, in ways that maximize their convenience rather than their privacy. As a result, the "creepiness" of information practices continues but as Marx points out: "Every complex system has ironic vulnerabilities and Kafkaesque absurdities." (2016, 294)

Marx makes the important point that the ethical assumptions underlying data gathering practices are often unstated and need to be revealed and answered in a way that enables society to evaluate the normative implications of these practices. His list of questions (2016, 279-283) provides a comprehensive guide for thinking about the ethics of surveillance practices and is helpfully subdivided into relevant categories. Whether these questions will ever be asked in a way that informs the public is a political issue – but pointing out the relevance of these questions to the ethics of surveillance is an important contribution. The questions also underscore one of Marx's fundamental points – "surveillance is neither good nor bad but context and comportment make it so" (2016, 284). Acknowledging complexity entails avoiding easy answers.

Transdisciplinary

The final theme that has been consistent throughout Marx's scholarship is his rejection of "disciplinary dark glasses" (Marx 2014, 172). In somewhat classic Marx style, he wrote in 2007:

> For the systematic, comparative, contextually, and empirically focused social analyst, much of the current work—while often elegantly phrased, exploratory, and useful in offering background knowledge, raising issues and sounding alarms—remains conceptually undernourished, non-cumulative, and non-explanatory (at least in being conventionally falsifiable) and is either unduly abstract and broad, or too descriptive and narrow. (126)

His work transcends typical disciplinary boundaries drawing upon philosophy, political economy, anthropology, STS, cultural studies and, of course, his home base of sociology. Surveillance studies has attracted scholars from all of these fields. The questions raised by surveillance practices cross disciplinary lines and invite analysis from different scholarly perspectives. Marx's caution to surveillance scholars is that we should not stay within those disciplinary silos and tout the value of one disciplinary perspective over another or speak in narrow, jargon terms to those within our discipline. Instead we need not only to talk and write in ways that cross disciplinary boundaries – an interdisciplinary perspective – but also look for ways that create scholarship that integrates concepts and methods in new ways – a more transdisciplinary perspective.

The perspective of social control has provided the conceptual basis for Marx's work and the consistent vantage point for his investigations. In this way, he has been able to bring his own unique perspective to issues of privacy, technology and surveillance – and to be truly original and so very eclectic in his analyses. In terms of methods, he describes the conceptual framework used in *Windows* as "analytic induction…Here, one starts with empirical cases and extracts broader organizing concepts. One then asks if the categories can encompass the variation offered by other empirical examples." (2016, 8) His method here reminds me of Richard Fenno's (1978) "soaking and poking" as he followed U.S. House members around their districts with the goal to understand how their constituents affected their behavior.

In the tradition of social science, one must go back and forth between one's theory and one's data – and not try to squeeze either into conceptually or empirically contorted shapes. Rigidity is not something that Marx values or something that reflects reality or complexity. In terms of data, Marx looks comprehensively – "observations, interviews, the academic literature, government reports, periodicals, court records, and popular culture" (2016, 7). Rather than a tightly framed interview protocol, which has a tendency to force meaning from responses, Marx used "a relatively unstructured but directed and opportunistic format" (2016, 7).

Marx's research and writing are very much in the tradition of Lewis Mumford, an historian and philosopher, Erving Goffman, a sociologist, and Seymour Martin Lipset, a political scientist and sociologist – all intellectual giants of the twentieth century whose scholarship revealed and explained much about post World War II society and whose insights continue to inform how we view the world today. Gary Marx's concern that social scientists have been overly concerned with narrow methodologies and speaking to the informed audience sharing that perspective derives from his respect for the earlier social scientists who asked large research questions and systematically evaluated the evidence. It is this type of scholarship that makes a long-lasting intellectual contribution. I suspect *Windows into the Soul* will as well.

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