

whereabouts at the time in question to disprove Oswald's alibi—and this could not have been predicted beforehand.

As well as it being clear that one usually cannot know in advance what information the agents of the State are morally permitted to secure, it is also clear that once it becomes evident what information they are permitted to secure, gathering this is frequently difficult—as the continuing controversy over “who shot JFK?” indicates. Putting these two facts together, then, it is evident that there should be no moral bar against the agents of the State installing surveillance devices to secure all the information that they might potentially be permitted to secure access to, provided that *they only access the information thus gathered in circumstances where this access is morally permissible*. Thus, since it is *potentially* morally permissible for agents of the State to secure information about events no matter when or where they take place, it is morally permissible for the State to subject its citizens to surveillance at all times and in all places, provided that the information thus gathered is only accessed in the morally appropriate circumstances.

FURTHER CLARIFYING THE ARGUMENT

Yet despite the above disclaimer that this argument is by no means as radical as it appears the conclusion that it is morally permissible for the State to subject its citizens to constant surveillance might still seem chilling. To alleviate this concern the above pro-surveillance argument should be clarified in two ways. First, it must be emphasized that although this argument leads to the conclusion that it is morally permissible for the State to place its citizens under constant surveillance, it does *not* lead to the conclusion that it is morally permissible for the State to have access to *all* of the information that its surveillance devices secure. Instead, this argument leads only to the conclusion that the State should have access to the information recorded by these devices that it is *morally permissible* for it to have access to. Of course, the question of the extent to which the State is morally permitted to secure information

about the actions of its citizens, or the events that they are involved in, is a vexed one. It is, for example, debatable as to how far the privilege that is accorded to information divulged within certain professional relationships (such as those between clergy and penitents,⁹ doctors and patients,¹⁰ lawyers and clients,¹¹ counselors and clients,¹² or journalists and sources¹³) should extend, and for what reasons (if any) such privilege should be trumped by other considerations.¹⁴ It is also debatable as to whether the increased powers accorded to law enforcement agencies by the Patriot Act to secure information about suspects or “persons of interest” are morally legitimate.¹⁵ However, it must be stressed that the question of *what* information the State that subjects its citizens to constant and universal surveillance should have access to is separate from the question of *whether it is morally permissible to place them under surveillance at all*—and it is the *latter* question that is at issue here.

The second way in which this pro-surveillance argument must be clarified is related to the first. In cases where agents of the State *are* morally permitted to access information about the actions of others the information that they are morally permitted to secure is limited to the *minimum* that is needed for them to achieve the legitimate purposes for which they need it. Accordingly they are not morally permitted to have access to, for example, videotaped records of the actions of others if the information that they are morally permitted to secure could be gleaned from an automatic transcription of such videotape. Thus, although it might be morally permissible for an agent of the State to secure detailed information about a criminal defendant's past adultery if this is relevant to the State's case against him in a criminal trial, it does not follow that it is also morally permissible for this agent to watch a videotape of the defendant in the act. Similarly, the agents of the State would only be morally permitted to place citizens under surveillance in private areas such as their homes or offices if they could achieve this without accessing more information than they were morally permitted to access. It would thus not be morally permissible, for example, for the agents of the State to enter a person's house to