

Surveillance in the New Jim Crow Era

By

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ABSTRACT. Modern American society is plagued with the features of the New Jim Crow era, a term first coined by Michelle Alexander. The news of innocent and unarmed Black Americans being killed by police officers is almost regarded as commonplace. The mass incarceration of Black Americans continues to be wrongly justified and disregarded. This New Jim Crow era is characterized by the increased suspicion, policing, and incarceration of Black Americans. This article aims to build off Alexander's term to identify the role of surveillance and advancing surveillance technologies like police-worn body cameras, facial recognition, and social media surveillance on the increasing criminalization of Black Americans.

BACKGROUND

Previous research examines the growing phenomenon of surveillance in urban areas, yet there remains a lack of literature on the effect of surveillance on the increasing criminalization of Black Americans. Specifically, this article aims to fill these gaps and address the role of surveillance in what is known as the New Jim Crow, an era highlighted by the increased suspicion, policing, and incarceration of Black Americans. This article will discuss how the U.S. utilizes various mechanisms of covert surveillance including video surveillance and monitoring techniques, police body cameras, and facial recognition technologies to hyper-police poor minority communities, often consisting predominantly of African Americans. The disparities between those being surveilled and those doing the surveilling bring up the concept of the "white gaze." The act of surveillance allocates significant power and privilege to those doing the watching, leaving the watched vulnerable to the policies and practices of their monitors (Byfield 2019). When surveillance is practiced and enforced, it becomes racialized, meaning that "blackness" essentially becomes the site being surveilled (Byfield 2019). In this way, the technologies, practices, and legislation associated with surveillance create and reinforce social hierarchies, allowing white overseers to socially control those who they deem "dangerous" or "criminal." Surveillance then acts as a mechanism for those in positions of power, often white police officers or governmental officials, to target, police, and control communities, specifically those of color, based on preconceived ideologies or stereotypes (Iverson and Jagers 2015).

Although not all police officers and police chiefs identify as white, police officers have similar implicit biases about Black people, regardless of their race, explains Rashawn Ray (as quoted by Doubek) (Doubek 2020). Officers, regardless of their race, are more likely to associate weapons with Black individuals rather than white individuals (Doubek 2020). Thus, nonwhite officers contribute to the persistence of the "white gaze" and the

involuntary association of Blackness with criminality. A recent study that gathered information from 7,000 police officers within the Chicago Police Department from 2012 to 2015 found that a police officer's race does in fact influence police-civilian interactions (Ba and Mummolo 2021). Black and Hispanic officers make significantly fewer stops and arrests than their white counterparts and use force less often against Black civilians (Ba and Mummolo 2021). These differences became more apparent in majority African American communities within the Chicago area. Specifically, Black police officers made 39% fewer stops of Black civilians and used force against Black civilians 38% fewer times as compared to white police officers (Ba and Mummolo 2021). Black police officers were also 33% less likely to make stops based on "suspicious behavior" as compared to their white counterparts (Ba and Mummolo 2021). As is consistent with the current literature, white police officers are more likely to employ methods of policing in order to survey African American populations.

In a study that analyzed all New York City police stops from 2007 to 2014, 85% of all individuals stopped were Black, although African Americans only make up 20% of the population (Kramer and Remster 2018). This same study found Black individuals to be 27% more likely to experience force by police, which included physical assaults as well as verbal abuse or the presence of a weapon, during a stop than white civilians (Kramer and Remster 2018). This hyper-policing of Black Americans is associated with higher arrest rates and more killings of Black individuals during police encounters (Byfield 2019). In a separate study, researchers interviewed 23 undergraduate Black males at a predominantly white university in the Midwest (Iverson and Jagers 2015). The Black participants revealed they were commonly surveilled and policed by campus security and law enforcement (Iverson and Jagers 2015). Several students, part of a Black Greek organization, noticed being visibly surveilled by campus police during house parties (Iverson and Jagers 2015). Previous literature heavily emphasizes that surveillance leads to hyper-policing and increased police encounters within Black communities. However, the question remains as to whether surveillance is in some ways responsible for the characteristics of the New Jim Crow era including mass incarceration and police brutality. A nationwide study, organized by the Stanford Open Policing Project, gathered evidence from 93 million traffic stops from 29 police departments over the country between 2001 and 2017 and found that Black drivers are 20% more likely to be pulled over by police officers than white drivers (Pierson et al. 2020).

With the advancement of surveillance technologies came the advent of police body cameras and facial recognition, two more methods that made Black bodies increasingly visible under a white lens. Body-Worn Cameras (BWC's) emerged with the passing of the Patriot Act during the post-9/11 era that allowed for massive expansion of surveillance techniques (Hood 2020). Facial recognition technologies have since been integrated into BWC's in an attempt to make transparent police misconduct (Hood 2020). However, police officers have the ability to switch on or off their cameras, ultimately giving them the power to decide which actions are recorded and which are left out (Taylor 2016). Newell's (2017) survey of police officers in Washington state makes apparent officers' concerns of body worn cameras in regards to their own privacy. More

than 50% of officers surveyed agreed that use of BWC's intrudes on their privacy, many of them citing fears about public reactions to their behaviors and actions (Newell 2017). Glasbeek's interviews with police officers in Canada yielded similar results. One participant expressed the common argument made by police officers: "all you see is me grab him, drop him, and go to the ground and cuff him. So, you think, oh my god, that's police brutality...All you catch is the end result" (Glasbeek et al. 2020:337). Officers consistently justify their ability to manipulate the recordings of their BWC's, citing reasons relating to privacy concerns. However, this biased control inherently thwarts the original purpose of BWC's: to accurately, with a third-party perspective, make transparent police officer actions. Studies on facial recognition technologies, which are widely used by police departments to identify suspects, have also been shown to be deeply problematic. The U.S. National Institute of Standards and Technology tested facial recognition technologies in being able to determine whether a photo of someone has a match in one of four U.S. databases, including mugshots (Grother et al. 2019). These facial recognition systems were consistently worse at matching Black faces than white faces and produced higher rates of false positive matchings for African Americans, making them more susceptible to being falsely accused of a crime (Grother et al. 2019).

Beyond facial recognition technologies and body worn cameras, police officers are increasingly utilizing social media surveillance to "build evidence for criminal indictments" (Patton et al. 2017:1). According to data from the International Association of Chiefs of Police, 96.4% of police agencies use social media surveillance in some way, the most common being for recruiting evidence for future charges (IACP 2015). Jelani Henry, a young Black man from Harlem, was arrested and subsequently incarcerated because of Facebook posts that made him *appear* like a criminal affiliate (Patton et al. 2017). Henry faced 40 years in prison for two counts of attempted murder because he "liked" Facebook posts of violent gang members (Patton et al. 2017). Although the charges were eventually dropped, Henry never received any compensation for his wrongful incarceration (Patton et al. 2017). While posting pictures on social media with gang signs might just be a friendly joke or an expression of solidarity, it can have especially horrendous consequences for young Black men. NYPD's *Operation Crew Cut* also relied on social media surveillance to monitor suspected gang members. This became problematic as police agencies began to criminalize young men of color who "simply communicate or sympathize" with suspected gang members (Patton et al. 2017). A 2016 study of gang-related charges in Harlem found that 46% of the charges were made based on evidence gathered from social media policing (Lane and Ramirez 2016). Yet while social media surveillance claims to prevent "anticipated future deviance," the case of Dylann Roof proves the inherently racist nature of social media surveillance (Patton et al. 2017:8). Despite his consistently active presence on social media, including a racist manifesto and 60 pictures of racist propaganda and weapons, Roof was not known by police before his attack on a Charleston church (Patton et al. 2017). In essence, Roof's whiteness protected and made invisible his acts of deviance while young Black men are all too often criminalized for their seemingly sympathetic association with potential gang members on social media.

In her book, Michelle Alexander highlights a concept she terms the New Jim Crow (Alexander 2010). While America thought to celebrate the end of racism with the election of Barack Obama, Alexander emphasizes how Black men are still burdened with the weight of criminal records, hoarded into prisons, and at the same time, denied basic human rights (Alexander 2010). Mass incarceration was intensified by President Nixon's war on drugs (Moore and Elkavich 2008). As the media fueled fear and panic nationally, there seemed a greater need to escalate the war on drugs, which led to increased policing, stricter laws, and increased incarceration (Moore and Elkavich 2008). People of color are not more likely to use drugs, yet they are more likely to be arrested and incarcerated for their use (Moore and Elkavich 2008). As of 1996, Blacks made up 62.6% of people convicted of drug offenses in American prisons (Moore and Elkavich 2008). Increased policing of Black communities and the imprisonment of drug users has grave social consequences for communities of color including a lack of employment opportunities and wages, the inability to vote and participate politically as well as mental and physical health effects (Pettit and Gutierrez 2018). Although the U.S. has witnessed decreasing crime rates over the past two decades, the incarcerated population continues to grow (Pettit and Gutierrez 2018). This may be a result of advanced surveillance technologies and greater policing. This article aims to build off of Michelle Alexander's concept and identify the role of surveillance in the existence of mass incarceration and other social injustices committed against Black Americans.

OPPORTUNITIES FOR FUTURE RESEARCH

Based on the review of the existing literature, I invite future scholars to establish a cause-and-effect relationship between increased surveillance and the characteristics associated with the New Jim Crow era. Data might be gathered utilizing mixed-method strategies that can include both structured surveys and open interviews. The survey could consist of multiple-choice questions to determine whether respondents have experienced force by the police, if they have been arrested or incarcerated, and whether or not they have noticed increased surveillance and policing in their area. Examples of survey questions can include: "Have you ever had an encounter with the police? Have the police ever used force against you? Have you ever been arrested or incarcerated? Have you noticed increasing surveillance or policing in your area?" The multiple-choice survey will be helpful in providing relatively comprehensive information on the relationship between increased surveillance and the characteristics of the New Jim Crow era. The open interviews will then give a more detailed, robust account of this relationship. Clearer definitions of terms including force, surveillance, and policing may reduce biases involved in instrument design. It is important that these terms be clarified in order for participants to answer each question with an understanding of their meaning and to ensure the study is valid, or that it accurately studies what it intends to study. Each question could have answer choices to choose from, including yes, no, or unsure. Structured surveys could be conducted among both self-identified Black men and self-identified white men within a given area. Participants could be selected randomly using a probability cluster sampling method. Random, predominantly Black neighborhoods and European white neighborhoods could be chosen. Participants from

these randomly selected neighborhoods can then be selected at random and asked to participate.

After surveys have been conducted, a smaller portion of those who have completed the survey could be chosen randomly to be interviewed. These interviews can be conducted in person, can be open in structure, and all answers could be recorded. Ultimately, these open interviews will provide more detailed descriptions of particular incidents experienced by participants in regards to their interactions with police, surveillance and policing mechanisms, and issues relevant to incarceration. The qualitative data analyzed from the interviews will therefore serve to add detailed accounts to the empirical evidence gathered from the initial surveys.

Data gathered from the survey could be analyzed by assigning numerical values to participant responses. A “yes” answer can be assigned a point value of one while both answers of “no” and “unsure” can have a zero-value assigned to them. In this way, it will be possible to numerically compare respondents’ answers in order to determine whether the hypothesis can be supported or rejected. The hypothesis being tested is that surveillance does play a role in the characteristics of the New Jim Crow era, including issues like mass incarceration and police brutality. To represent and support this claim, the data would need to show higher or significantly higher numbers of “yes” answers from Black respondents than white respondents.

On the other hand, qualitative data from the conducted open interviews can be analyzed with use of codes. Coding approaches may vary based on the researchers’ preferences. A grounded theory approach will better enable the data to speak for itself and reduce the imposition of researchers’ bias. In this way, codes and subsequent analysis will come from the data itself. Analysis might rely on pattern-seeking strategies as well as saturation in order to determine which patterns or themes are the most prevalent. Both manifest and latent codes could be used to analyze transcript documents. Manifest codes can objectively include words or phrases actually stated by participants while latent codes can be more subjective, written based on thematic representations of what was stated by respondents, examples including such issues of Black American abuse at the hands of the police or mass incarceration.

Limitations to such a possible study include issues with the sampling process and selection. There is no accessible national list of U.S. citizens according to race or ethnicity, making it difficult to implement strategies to ensure the population sampled only includes Black and white men. Therefore, time constraints may exist as significant time and effort must be taken to identify the race and ethnicity of respondents before gathering data.

CONCLUSION

As is apparent by the current literature, increasing surveillance and policing has had disproportionate impacts on Black Americans. From being stopped more frequently by police to racist facial recognition technologies and racially biased social media

surveillance techniques, it is clear that minority communities, especially African American communities, are forced to bear the compounded effects of advancing surveillance technologies. Future research could focus on establishing a relationship between the consequences of increased surveillance with the characteristics established by Michelle Alexander's concept of the New Jim Crow era. In striving for racial equity, justice, and accountability, it is essential that the consequences of advancing surveillance technologies are understood, especially in how they contribute to the increased suspicion and incarceration of Black Americans. Future research might also focus on the relationship between increasing surveillance and police brutality, and how, if possible, surveillance technologies can be better utilized to hold police officers, and those in positions of power and authority, accountable for their actions.

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