Safety and Security vs. Confidentiality

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I recently received a call from an esteemed colleague who said he had an ethical dilemma to discuss as it was an "area of expertise" for me. I was quite surprised when his question was about the ethical use of surveillance cameras. (This, however, would be in the book on All the Things We Didn't Learn in Graduate School as the chapter on how the unexpected paths of our careers lead us to places that we never anticipated.) I became an "expert" on surveillance cameras when I found myself in an ethical dilemma that cast me (and my psychologist colleagues) in opposition to an institutional procedure. As psychologists, we have an ethical obligation to protect the rights, welfare, and confidentiality of our clients (APA Ethical Principles A, B, & E) and to maintain an environment that reduces stigma and minimizes barriers to treatment. As such, we are obligated to take whatever steps we find necessary to remediate situations in which we anticipate potential compromise of these principles.

Several years ago, I worked for a large institution with a center that provided counseling services by a multidisciplinary team which included a number of psychologists. The counseling services were housed in a multi-story building that accommodated many types of offices and services for the institution and occupied the major portion of one floor. After several minor break-ins, the administration determined that continuous (24 hour) video surveillance cameras should be installed in the hallways of the center to monitor the comings and goings from each individual counselor's office. The cameras would transmit a live feed to the desk of the procurement officer in another building and the records of such would be stored and maintained by the security department. Despite my immediate written protest based on ethical concerns around confidentiality, the cameras were installed. Ironically, there was a break-in within a week and, in fact, a photo of the suspect was generated and yet, he was never apprehended. Some weeks later, however, the cameras were ordered off during business hours (an option that had originally been deemed "not possible" by the administration) by an accrediting body who threatened to revoke the accreditation of the institution for the violation of confidentiality.

The concerns about confidentiality were that: 1)the cameras monitored and potentially identified each counselor/client dyad entering and leaving each therapy office throughout the day; 2) the live feed essentially left the center and the control of the staff, and therefore, the confidentiality of which could not be assured by the psychologists involved; and 3) the recordings would be stored by another entity altogether—a security department—again, with whom the psychologists could not guarantee how the records would be held or even for what purposes they might ultimately be used. Several alternatives were offered, including silent door alarms that alerted the nearby police, all of which were deemed unacceptable by the administration. (After the actual robbery, the police did say that had an alarm gone directly to them, they could have arrived by the time the suspect was able to depart the building.)

At that time, I consulted with the chair of the Board of Examiners, the psychologist appointed to the Investigative Review Committee of LLR, a representative in the APA Ethics Office, and representatives from 2 accrediting bodies. The psychologists in the state, both independently of one another, stated that if the administration was not responsive to some compromise, the center should either be reported

to the Board in the form of a complaint or to the State Attorney General's Office for being in violation of a state statute on confidentiality. The APA Ethics Office stated that the issue could be most easily handled by providing a statement in the Information and Consent for Treatment that outlined the use of the video recordings and the limits of confidentiality that the live feed and storage presented. It was also recommended that signage be placed around the center that notified clients of the presence of video cameras. Both the accrediting bodies and the local psychologists shared a concern that the presence of signage and detailed information about limits of use and storage of video records in the consent might present a barrier to treatment to some of the community's most vulnerable patients: those who were already anxious or paranoid (a common presenting problem) and those who might potentially present a danger/threat to the community (a statistically uncommon but very real concern in this type of community). One of the center's psychologists, in the meantime, had proposed that the cameras be placed on the exterior of the building , since, in theory, if our offices were vulnerable to break-ins, so were other offices in the building and that exterior cameras did not specifically distinguish between counseling clients entering the building vs. other users of offices in the building. In the end, the accrediting bodies and the on-site psychologists prevailed and the cameras were turned off during business hours—a very parsimonious solution.

Fast forward to last month: My colleague in another city called to consult with me on behalf of physician who was an owner/tenant of an office building that housed a number of different healthcare practitioners including a psychologist. Following a robbery of one of the offices, the landlord wanted to install external security cameras aimed at the entryways of the building. Each office suite was completely independent of the others and none of the tenant practitioners shared waiting rooms. The psychologist tenant informed the landlord that it would be a violation of his clients' confidentiality to install any cameras and the landlord physician was being careful to not violate any ethics of the practice of psychology for his tenant. My consulting colleague had additionally placed a call to one of the PhD/JDs with the APA Insurance Trust. The APAIT representative stated that the critical issue was the information contained within the psychologist's consent but that, in general, psychologists have a right to protect ourselves and our property. In fact, a psychologist could choose to put cameras in their own waiting rooms, provided that the consent form clearly reflected that information. The information to be disclosed in the consent should include a) the presence of security cameras, b) how the information might be used, c) how and for how long the information is maintained and stored, and d) how the information is destroyed. It was also noted that this practice might, in fact, cost us a few clients here and there if there was someone who completely objected to the use of security cameras. As an aside, this consulting psychologist mentioned that one of the neighboring buildings to his practice had cameras trained on the shared parking lot and that perhaps he should add that information to his own consent forms.

To summarize, the critical issues around the appropriate use of surveillance cameras are as follows:

1. Most importantly, do the cameras specifically identify the client entering/exiting a therapy office?
2. Is the camera in a common lobby area that does not distinguish between therapy consumers and individuals utilizing other offices in the building?

3. In either case, is the specific use of surveillance equipment and the storage and maintenance of recordings outlined in your consent for treatment?
4. Are you satisfied that the presence of cameras does not create a barrier to treatment that might increase the level of risk in your community?

There is no doubt that we are living in an era of less privacy and as such, there is a chipping away of how we have viewed confidentiality in the past. Take the Boston Marathon bombing: this was a crime largely solved by the presence of video surveillance cameras on privately owned and public buildings in the area. There is a trade-off between safety and security and privacy concerns. Surveillance cameras will become more and more of an issue to deal with over time. Clearly, numbers 1 and 2 above are the departing points on a decision tree about whether or not cameras pose a potential breach to confidentiality but, in the end, it is how we handle this information with our clients, in the form of the information presented in our consent forms, that are of primary concern in our pursuit of the ethical practice of psychology.