

There are at least two distinct standards of privacy in Jersey.

For normal residents who move around the streets in the open, enter and leave buildings, catch buses etc there is constant CCTV surveillance which may in some instances, include audio recording.

On the other hand, the primary commercial activity of the Island – as a Finance Centre employing 12,000 people - is founded upon providing “secrecy” for thousands of wealthy individuals and companies.

Thus, although the 100,000 residents who live in Jersey enjoy only minimal standards of everyday privacy, those unknown numbers who simply exist here behind a business nameplate have their confidentiality vigorously protected – at least in theory - by an army of professionals and a whole governmental and political philosophy.

Of course, the 21st century obsession with collecting information ensures that all our activities are now monitored in some way or other and data is extracted and stored about all aspects of our lives and even the very composition of our being.

We are spied upon from the sky whilst Google cameras follow us around the streets posting images of our homes and secure places across the world for all to see. Even if we wanted to curtail these intrusive activities we are powerless so to do and the business interests involved are just simply too big and powerful to challenge. Not just at an individuals rights’ level either – “too big” means even for the Jersey government to challenge in many cases.

Whilst mobile ‘phones ensure that our precise personal location is known day and night, wherever it might be, Jersey provides a safe “haven” for many corporations, trusts, foundations and other legal creations with world-wide interests and assets of £Billions...although Jersey’s total annual budget is less than £700 millions.

I have been lobbying for some years in Jersey for governmental examination of the “surveillance” activity in this Island.

The partial Scrutiny Inquiry that has now been announced (April 2013) is a start but remains a very incomplete response.

It is no longer appropriate to separate “camera” based surveillance from the myriad of data collection that takes place whenever we use a ‘phone, draw money from a bank, make a purchase, eat at a café, travel, consult a doctor, borrow a book, watch TV...

Only last week the Jersey Minister of Health gave absolute assurances in the States about the security of Islanders’ medical files – but it was a particularly hollow undertaking since she had no idea *where* they were supposedly securely stored!

The sheds of many old Jersey farms are stuffed with the “secure files” of many Finance businesses but whether their world-wide clients would sleep so easily if they realised this is not obvious.

The recent escape of data files from the HSBC in Jersey to the UK Revenue is just the latest among many likely “whistle-blowing” incidents around the world. No matter how wealthy or powerful, it seems that security cannot be assured or bought. So what chance that mere regulation might protect Joe or Jill Bloggs on an everyday basis? Is there even any point in trying...?

As a blogger (no pun intended) I am constantly rebuffed by government departments and refused the sight of “press releases” or to speak with officials etc because I am not “accredited media”. Yet, as we all know, it is the very same self-regulating “accredited” press and broadcasting organisations such as the late *News of the World* and the BBC that have dragged the reputation of journalism to its lowest ever levels through one ethical failure after another. Yet we are supposed to rely upon a healthy “free press” for so much of the information that we receive! It was a BBC Panorama TV team that undertook a “concealed camera” interview at a Jersey Bank to reveal potentially illegal money laundering a few years ago – was this a justified intrusion of privacy? Self regulation – leaving it to the “professionals”- has been revealed as the total con-trick that GBS described decades ago...yet the several dozen “free spirited” bloggers in Jersey and many hundreds in the UK have behaved remarkably well in contrast.

Now we are promised some sort of new Royal Charter to beef-up a media regulatory framework (which may or may not include bloggers etc) – but how this might be applied to Jersey and the other Dependencies is not at all clear.

As usual, the government and administration of Jersey will almost certainly await the initiative of others and for costly and complicated legislation to be drafted elsewhere. Any local application will most likely be on an informal, non statutory basis and useless.

Unfortunately, Jersey has a very weak history so far as human rights and basic freedoms are concerned.

The Island’s own three hundreds or so locally grown lawyers are far too busy protecting their “tax dodging” clients’ interests to be concerned in such matters for the general population. There is no “Human Rights” committee in the commercially obsessed local Society of Lawyers - in an Island where there is no human rights’ compliant legal aid scheme in existence and a dire lack of published legal information on everyday matters.

It is wholly predictable that there is still no proper “Freedom of Information” legislation either – just a voluntary code.

Similarly, there is still no anti-discrimination legislation in place – and none actually planned to be implemented for years to come.

This is against a background of blatant disregard for international human rights standards. Those, such as the UN Conventions to eliminate discrimination against women, to protect the rights of the child or the rights of disabled people have still not even been ratified for Jersey...

Conversely, Human Rights treaties that have been ratified such as the European Convention (ECHR – enshrined since 2006 within Jersey Law) or the UN Covenants on Civil or Political Rights and Economic, Social and Cultural Rights, are hardly made accessible or meaningful.

A complete and accurate statement of the treaties etc that do apply in Jersey does not exist in the public domain.

Although the Island Plan as prepared by the Planning and Environment Department commences with the claim that “over 350 International treaties” etc have to be considered in preparing this most “important” document – my request for a list of these has consistently fallen on deaf ears. Only a few treaties are actually even mentioned within the Plan’s many pages. It is just another facet of the misleading use of information or suppression by government and others of that which might actually be useful to the general public.

It is not just the ordinary Joe and Jill either that can be adversely affected by Jersey’s obscure or unusual practices.

Jersey’s Chief of Police – a very senior officer recruited from the UK- was suspended from his Jersey post in 2010 and subsequently retired. The only outstanding complaint seemed to be centred on the files of “Operation Blast” which was a supposed surveillance and information gathering project operated by the police against Jersey’s elected politicians. He has protested his unfair treatment ever since.

The Acting Chief-Officer who took over from him retired after a short period citing the unlikely excuse of “blogger interference” and left the Island, presumably with his pension assured.

During 2011 the Chief Executive Officer of the States Civil Service retired early taking a £500,000 pay off, the conditions of which he wrote for himself. He cited “bullying” by politicians.

A senior consultant surgeon at the Jersey General Hospital was suspended on full pay in 2006 for four years from active duties after the death of a nurse/patient following an operation.

He retired without returning fully to work but with nearly £½million compensation and he described himself as a “scapegoat.” Total cost of his suspension was £3millions and the subsequent enquiry revealed substantial management failures in the hospital and health service.

A supposed gang of drug smugglers was arrested, convicted and sentenced in 2007 to long periods in prison on conspiracy to import charges. The basis of the police case was surveillance operations in Jersey, the UK and on the Continent named “Operation

Floss” and “Flare” which included illegal bugging of a vehicle and telephone conversations.

Senior Judges in court described the illegal police activity as “a reprehensible and unlawful act” but the evidence was still accepted and the convictions stood. Most of the prisoners are now released.

One Senior Jersey Police officer only remains under suspension.

This case highlights the potential problem that arises under the terms of reference for the current Scrutiny Panel regarding “covert” police activities which are supposedly excluded. But how might illegal police surveillance be treated? Shall covert illegal monitoring be included – especially if the court determines (as they have in this case) that such evidence need not be rejected? For covert read overt?

One blogger has suggested that this whole case was a set-up with international communications corporations behind it. He argued that these large organisations are only present in Jersey (a very small market) because they use the jurisdiction as a base for testing new - sometimes dubious - surveillance products. It is a novel suggestion and makes a change from the usual “tax advantage” reasoning.

Jersey’s Comptroller and Auditor General was forced to resign in 2012 following an acrimonious Scrutiny Panel examination regarding the proposed Police HQ and an exchange of disputed e-mails.

(Strangely, a telephonist still answers his office ‘phone in his name (April 2013) although another person has been appointed and works from the CM’s department)

The Jersey senior designate-Magistrate is currently in jail following conviction, with others, on fraud charges. He has protested his innocence.

The Jersey Dean’s commission is currently suspended by the Bishop of Winchester following allegations of his failure to follow Church of England “safeguarding procedures” regarding sexual abuse claims from a vulnerable adult.

There is now dispute over the constitutional relationships of the Church in Jersey, the Dean’s appointment and the appropriate disciplinary body with much political lobbying taking place.

International police bodies are currently searching for a former Jersey based accountant who is currently sought in connection with the alleged missing £20 millions investment of an Australian film-star cum confessed tax dodger.

The accountant’s former Jersey partner is already in an Australian jail following conviction for that country’s biggest ever tax evasion case.

Such huge international swindles arise regularly in the Finance Industry but are seldom initiated in Jersey. They mostly come to public notice in courts overseas and only revert to Jersey during the quest for hidden loot.

The use and mis-use of information runs throughout such cases as those listed briefly above. But where might Jersey Joe or Jill discover the truth?

Accuracy, like beauty, is to some extent in the eye of the beholder but the means by which reliable facts might be made available to the general public has certainly not yet been discovered in Jersey.

It is important to consider such cases in the specific context of Jersey, where surveillance and data-gathering are intense activities, against a background of “official secrecy” in the Finance Industry. Added to this is the lack of investigative journalism and a government that is constantly filling the information void with “good news” PR statements through its “Communication Units” and other agencies.

No wonder then that *Blogg*ing has erupted in Jersey on such a scale to fill the information and “free speech” gap? There is nothing comparable in Guernsey or the Isle of Man.

Jersey now shares its Data Protection Commissioner with Guernsey and employs a very small staff to deal with the many potential issues that could arise in two distinct Bailiwicks, with differing laws and practices etc.

What happens in other places with regard to the “regulation” of data access is beyond the scope of this memorandum but suffice to point out that the avenues open for complaint or redress are very few in Jersey..

There is no Jersey Ombudsman – although it is often discussed as needed for all sorts of dispute resolutions matters.

The Complaints Board is a very inadequate tribunal that hears about a dozen disputes only each year against administrative decisions of the government. It is cumbersome, decisions cannot be enforced and costs are not awarded.

The Board does not initiate complaints, as happens in some other small jurisdictions.

Resort to the expensive courts and the employment of Jersey lawyers at exorbitant fees is the sole remedy for many whilst others must suffer in silence.

The Jersey Citizens Advice Bureau (CAB) provides a helpful service but is severely restricted against giving advice on Jersey Law matters due to local professional constraints.

That there is only one “local” newspaper is not inevitable – there were several in the distant past – but falling advertising revenue is making traditional newspaper publication a world-wide problem. The Jersey Evening Post (JEP) and Guernsey Press are both owned by the same UK publishing group and have similar formats with ever-increasing “syndicated” content.

Since over £300,000 of JEP revenue p.a. derives from “Gazette” type official advertising from the Jersey government it is not surprising that the editorial content is seldom critical of government policy.

BBC Jersey provides a “local” radio and TV broadcasting service which is seldom politically challenging and caters mostly for a “mature” conservative audience. Much of the output is of a dismal “disc jockey” standard with presentation staff to suit.

Channel TV is the ITV outlet serving the Channel Islands. Its “local” and original content is the minimum that will satisfy UK licensing demands.

Revenue appears to be generated largely upon a tax advantaged re-routing of UK programmes for national consumption.

Radio Channel 103 is a commercial radio station that caters for an audience with empty heads which are ideally filled with noise and advertising jingles.

As if the knowledge void was not already complete, Jersey has no political parties so that the 51 elected politicians are left largely to their own devices so far as research is concerned or to their own prejudices when making decisions.

There are very few Island NGOs and lobby groups tend to be one-subject orientated – often related to a specific disease or charitable cause.

Alcohol and drug abuse, mental illness and suicide are all at a high level of incidence so that the PR image of a wealthy, carefree holiday Island with pretty brown cows grazing in green pastures alongside fields of Royal potatoes may be considered as somewhat misleading.

Whilst not wanting to paint too bleak a picture – it is necessary to refer to the “discrimination” that is enshrined in Jersey law and social policies.

The UK government had the good sense to abandon its ID cards with photos plan some years ago – but the project lives on in Jersey. At least, the card does, although the “photo” and micro-chip part is currently on hold.

This “registration card” is an essential part of the new (2013), “improved” attempt to “limit population growth” through immigration controls coupled with housing and work restraints. All Islanders wanting work or moving home will soon have to produce a card proving their residential status.

There are to be four categories of residential and work qualification;

Registered (the non-qualified)

Entitled to work only (those with 5 years residence)

Licensed (those currently with J-category, essentially employed status)

Entitled (those who have lived in the Island for 10 years or more)

All those moving to Jersey must register when they apply for a job and pay a fee to the Social Security Department.

Employers need a licence to employ anyone who has lived in the Island for less than five years.

Clearly, such a system of control requires surveillance and enforcement.

There will be inspectors, spot checks, policing, arrests and prosecutions.

Data will be collected from all government and administrative departments such as Social Security, Health and Medical records, Income Tax, Driving and Car Licences, TV licences, Rates and Parish records, Electoral rolls, Telephone Directories, Libraries, Police and Criminal data resources, Courts, schools etc.

Inevitably there will be mission creep and leakage. Accuracy of stored information will be subject to keyboard and cognisance skills of staff in a community which has an ever changing and international make-up. Many names will be entered incorrectly into the data base “register” which will take years to compile and need constant revision. Qualifications and status for some people can be lost through absence from the Island. On the plus side, those who have not achieved 10 years residence will enjoy the right to lease a property with security of tenure (a new right from 2013).

This package of restrictions is being applied already. Those without 5 years residence are being “eased” out of the job-market to make way for unemployed “locals.” More tolerance is to be shown in the “Hospitality” and “Agriculture” sectors of employment where many vacancies are low paid, seasonal or temporary and not attractive to permanent residents.

A policy of revoking “licences” is already being implemented when workers without five years residence leave a job, in order to free up that vacancy for “locals” only. Many people in Jersey resort to unofficial or not approved places to “live” such as sheds, garages, boats, camper-vans, a friend’s floor etc. These will have to be declared under this new improved plan since all workers will have to produce evidence of a bona fide address ...

Since 1949 Jersey has had a Housing Law which has sought to limit population growth by making it more difficult (or impossible) for many people to rent or buy proper living accommodation. Since 1970, this has resulted in the perverse situation where 10,000 (ever changing) working adults (about one fifth of the working population) do not enjoy equitable housing and employment rights. During this period Jersey has followed a policy of economic and population growth (from 70,000 to the present 100,000) but the community is divided by such discrimination policies and this is now to be subject to the surveillance and regulation of the “registration card” system. Although the official economic plan calls for further “growth” the inevitable population expansion makes it impossible ever to satisfy the demand for housing accommodation or employment opportunities for all with equity. Discrimination has therefore become the accepted control tool and is enshrined in law, policy and the Island’s mindset.

It is necessary to comprehend that Jersey is not just a slightly strange part of the UK. The laws and policies here are substantially different although much information and some opinions arrive here (via the UK media) and there is a superficial appearance of “sameness”.

Many employers are UK based and may follow more or less UK standards on staff employment, voluntarily.

Businesses such as security providers (G4S employs 500 staff in Jersey) may follow UK guidelines and practices but this is not inevitable.

Any examination of something like “surveillance” must draw upon practices elsewhere but the Jersey difference has to be fully considered too. I offer these observations as an introduction to some of the differences that need to be considered. 7 end