

Reimagining Public Health Surveillance Law: A Relational Approach in the Post-Pandemic Era

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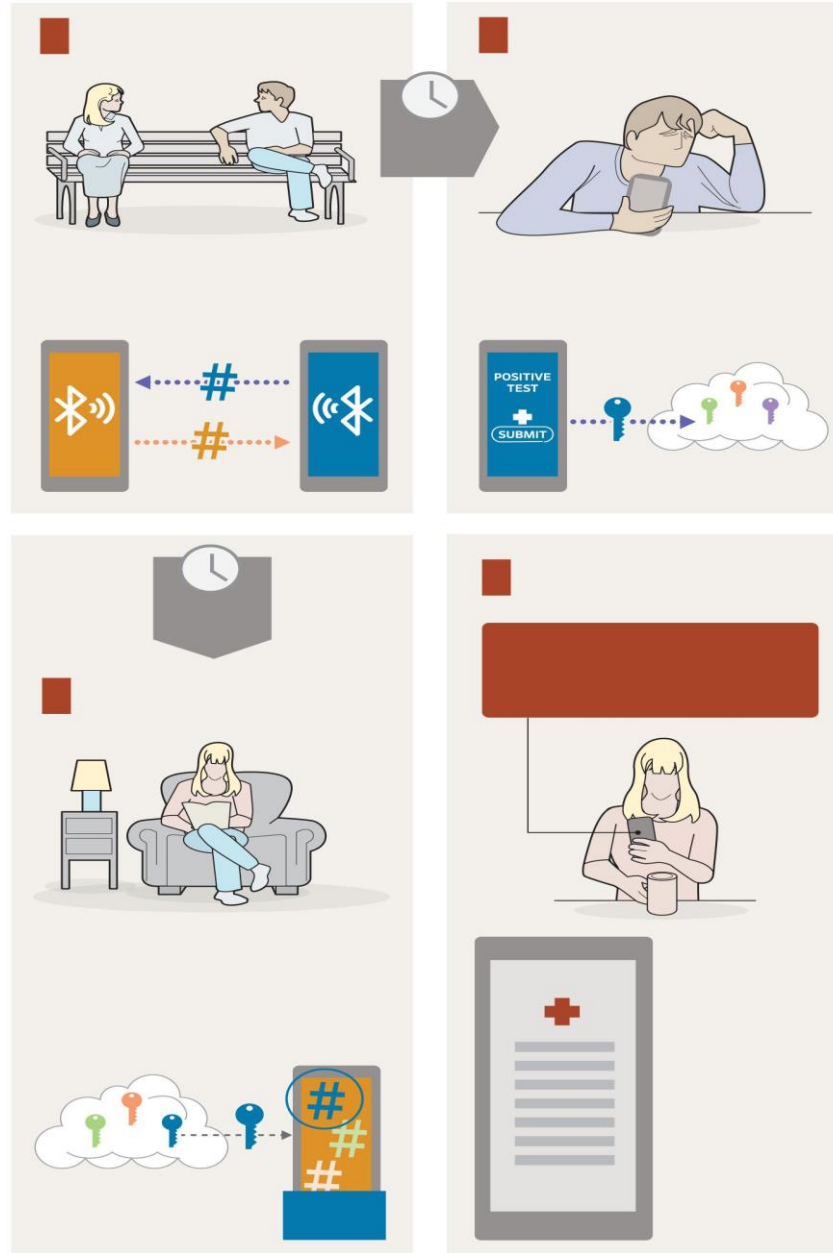
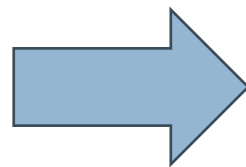
Overview

- Public Health Surveillance Law During and After COVID-19
 - Policy Documents During Pandemic (focusing on Digital Contact Tracing)
 - Guidelines and Policy Post Pandemic
- How the “Relational Theory” Provides Lessons
- Preliminary Conclusion

案1203相關接觸群聚案公共場所活動史(1/2)

(案1203、案1218、案1219、案1223、案1224、案1225、案1226、案1227、案1228、案1229、案1230、案1245、案1246、案1248、案1250、案1251、案1253、案1255、案1256、案1257)

日期	時間	地點
5月4日	晚上 (調查中)	晶華亭餐廳 新北市新莊區中港路199號
	晚上 (調查中)	臺北市萬華區某茶藝館 (調查中)
5月6日	約16:00-17:30 (調查中)	來來按摩 蘆洲長安店 新北市蘆洲區長安街116號
	16:00-16:40	家庭理髮店 新北市三重區中正北路上，調查中
	19:00-21:00	大風車婚宴會館 新北市三重區集賢路395號
5月7日	06:00-06:30	菜市場 福壽街及中原路口
	11:00-20:30	楊老爹肉圓 新北市新莊區復興路一段35號
	16:00-18:00	遠東SOGO台北復興館 台北市大安區忠孝東路三段300號
5月8日	約07:30-08:30 (調查中)	三重力行市場 新北市三重區力行路一段38巷2號
	11:00-20:30	楊老爹肉圓 新北市新莊區復興路一段35號
	12:30-13:30	菘賓餐廳 新北市成泰路2段183-12號
	19:00-20:00	阿秋越南美食 新北市蘆洲區中央路93號對面，無門牌
	19:30-21:00	林口三井Outlet 新北市林口區文化三路一段356號
	21:00-22:45	三重區某熱炒店 (調查中)
5月8日	晚上 (調查中)	翻同燒肉夜食五號店 台北市信義區松壽路22號2樓
	調查中	國父紀念館 巧虎奇幻音樂世界演奏會 (場次10:30) 台北市信義區仁愛路四段505號
	調查中	台北市地下街
	調查中	方記三杯滷味 桃園市蘆竹區泰山路一段1號



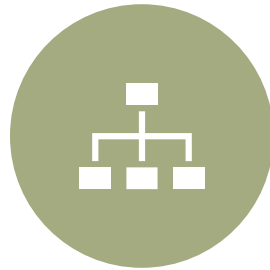
Contact Tracing Data of Infected Patients

Digital Contact-Tracing Tools

Digital Contact-Tracing Tools (DCCT): Typologies



GPS (LOCATION DATA) V.
BLUETOOTH (PROXIMITY DATA) V.
SMS-BASED CONTACT TRACING



CENTRALIZED V.
DECENTRALIZED



VOLUNTARY V. MANDATORY



TOP-DOWN V. BOTTOM-UP

Challenges for DCCTs

- **Ethics:**

Privacy concerns

- **Legality:**

Warrants or legislative authorization.

Voluntary vs. mandatory.

- **Effectiveness:**

The adoption rate of contact-tracing apps varies across countries (3%~40%).

Policy Documents for DCCTs During Pandemics

Ethical or Policy Documents	Key Points
WHO Ethical considerations to guide the use of digital proximity tracking technologies for COVID-19 contact tracing (2020/05/28)	<ul style="list-style-type: none">• Assist manual contact tracing but not completely replace it. Integration with the public health system is necessary.• Balance between effectiveness with sacrifice of privacy.• Discriminatory and exclusive problems for vulnerable populations.• Recommended 17 Principles: Non-mandatory; Centralized or decentralized approaches (leaning toward the latter); Anonymized data for research with supervision mechanisms.
EC Joint Statement on Digital Contact Tracing (2020/04)	<ul style="list-style-type: none">• Evaluation criteria: effectiveness; trust and voluntariness; impact assessment of Privacy by Design; purpose specification; data minimization; automation; de-identification; security; transparency; portability; supervisory mechanisms.
European Data Protection Board Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak (2020/04)	<ul style="list-style-type: none">• Voluntariness; Privacy-by-design; information security standards.
US CDC Preliminary Criteria for the Evaluation of Digital Contact Tracing Tools for COVID-19 (2020/04)	<ul style="list-style-type: none">• Criteria for evaluation of DCCT:<ul style="list-style-type: none">➤ Identify infected patients, detect contacts, notify contacts, conduct tracking.➤ Platform support, data portability, trustworthiness, usability, customization, privacy.

Guidelines and Policy Post Pandemic

Guidelines or Laws	My Views
<p>Principles and Guidelines on Human Rights and Public Health Emergencies (2023): Art. 18: Obligations related to public health surveillance or data collection (including digital technologies) Art. 19: Public health measures must minimize harm and undergo rigorous scrutiny of methods</p>	<ul style="list-style-type: none">• Provide guiding ethical principles• Balance public health and data protection. But only protect “sensitive data” for seeking consent. Are footprints and contacts sensitive data?• The “minimizing intrusion” principle seems to prefer voluntary model than mandatory ones. However, are DCCTs really of minimal risks?
<p>WHO, Future Surveillance for Epidemic and Pandemic Diseases: A 2023 Perspective (2023):</p> <ul style="list-style-type: none">- Participatory surveillance- Problems of datafication	<ul style="list-style-type: none">• Acknowledge digital surveillance’s new level of stigma and privacy concerns.• Public health data could be used for non-health purposes with compelling reasons. Non-identifiable data can be shared for public health purposes. Prioritize utilization of data than subject autonomy.
<p>WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response (May 2024 draft): Art. 6: Preparedness, readiness and healthcare system resilience</p>	<ul style="list-style-type: none">• Solidarity and One Health approach.• Declare the necessity of a national health information system in compliance with data governance for pandemic prevention.

Lessons from Relational Theory (1/3)

Relational theory & data governance:

- The oppressive and exploitative nature of data collection and use.
- The interconnectedness of data.

Relational theory & public health ethics:

- Mutual vulnerability and shared responsibility.
- Concerns for oppression and inequality over disadvantaged groups.
- Solidarity, reciprocity, and participation.

Lessons from Relational Theory (2/3)

- Regulation of “contact”
 - The relevance of social connection. Isolation and surveillance brings impact to interpersonal relationships and coexistence.
- Reflections to techno-solutionism
 - Compared to traditional contact tracing: less or more intrusive?
 - DCCT apps addresses concerns of governmental surveillance, but the power asymmetry remains. “Big techs tyranny”

Lessons from Relational Theory (3/3)

- Policy documents regarding DCCTs during the pandemic emphasized voluntariness and data governance.
- Post-pandemic documents demonstrate the following shifts:
 - individual rights protection
 - Prioritize Public health use of data, sometimes at the expense of core data governance principles
 - Equity and solidarity. However, they do not provide concrete application in surveillance and related privacy concerns
- Relational theory provides important reminders about equity and solidarity, particularly:
 - Power asymmetry of surveillance
 - Encouraging the voluntary sharing of information through reciprocity.

Preliminary Conclusions

- Key points of regulatory frameworks for public health surveillance during COVID-19 in existing literature:
 - Warrants or legislative authorization.
 - Comprehensive deliberation and benefit-risk assessment prior to implementation.
 - Data collection and storage necessary for specific purposes.
 - Continuous oversight and sunset clauses.
- Relational theory supplements the above frameworks:
 - Power imbalances and the necessity of mechanisms for accountability and sympathy.
 - Trust in surveillance technologies relies on transparency and participation.



Thank You.

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