

# STATE OF SURVEILLANCE IN 2023



**BIG  
BROTHER  
WATCH**  
@BigBrotherWatch

# **State of Surveillance**

in 2023



# About Big Brother Watch

Big Brother Watch is a civil liberties and privacy campaigning organisation, fighting for a free future. We're determined to reclaim our privacy and defend freedoms at this time of enormous change.

We're a fiercely independent, non-partisan and non-profit group who work to roll back the surveillance state and protect rights in parliament, the media or the courts if we have to. We publish unique investigations and pursue powerful public campaigns. We work relentlessly to inform, amplify and empower the public voice so we can collectively reclaim our privacy, defend our civil liberties and protect freedoms for the future.

To support our future work, please visit:

[bigbrotherwatch.org.uk/join-us](https://bigbrotherwatch.org.uk/join-us)

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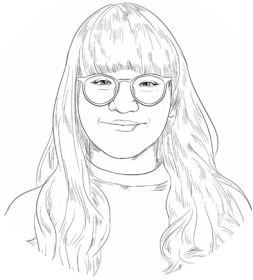
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## Introduction

**Jake Hurfurt**

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**P**ervasive, constant surveillance by the state and corporations puts our freedom to enjoy a private life in peril. Huge companies want to collect growing quantities of data about our behaviour and preferences to make more sales, while the government treats millions of people who rely on state support with suspicion. Protecting our private lives from the relentless gaze of those with power is a key struggle of the early twenty-first century. To protect our democracy and our privacy it is one we cannot lose.

Street corners bristling with CCTV cameras are a classic trope of a surveillance society - but the millions of lenses trained on our public squares are just one form of surveillance that permeate almost every aspect of our lives. Allegedly “benevolent” monitoring is touted not just as a protective measure but as the solution to everything from high grocery bills in the cost of living crisis to reducing welfare overpayments.

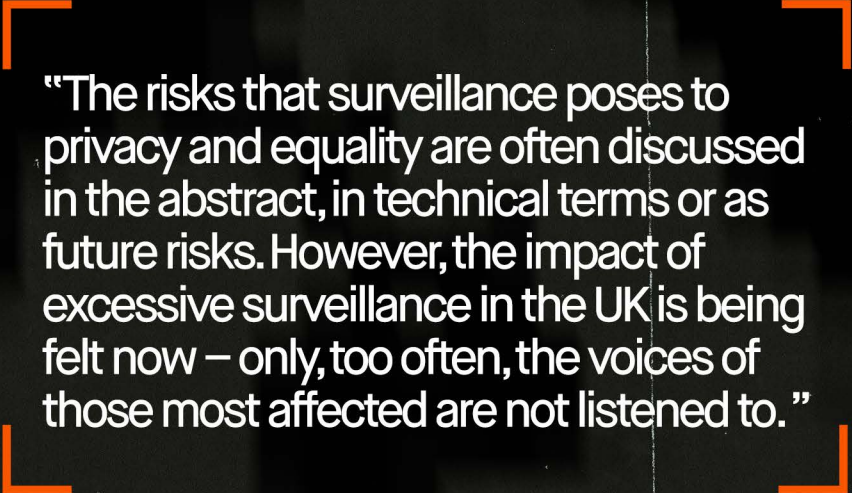
Big Brother Watch has long warned about the dangers of widespread surveillance and the damage it does to society. Marginalised groups suffer particular harm and

these negative impacts will only worsen as surveillance becomes easier and cheaper as a result of new technology and mass-scale data harvesting.

The risks that surveillance poses to privacy and equality are often discussed in the abstract, in technical terms or as future risks. However, the impact of excessive surveillance in the UK is being felt now – only, too often, the voices of those most affected are not listened to.

This collaborative report seeks to tell the stories of some of the groups in British society at the greatest risk of harm from surveillance – in the voices of those closest to the issues. It contains powerful contributions outlining how surveillance underpins the Metropolitan Police’s over-policing of young black men, the experiences of disabled people subjected to monitoring as a condition of accessing state support, and a critique of attempts to repurpose the male gaze to “enhance” women’s safety. Written by those with lived experiences, and campaigners on the frontline, the pieces provide important insights into the impact of surveillance on people’s lives, and the marginalisation and injustice they face.

Big Brother Watch has published major investigations uncovering the state’s use of surveillance against groups facing discrimination in society. Poverty Panopticon exposed large-scale fraud risk scoring in the welfare



“The risks that surveillance poses to privacy and equality are often discussed in the abstract, in technical terms or as future risks. However, the impact of excessive surveillance in the UK is being felt now – only, too often, the voices of those most affected are not listened to.”

system that places a disproportionate burden on people who rely on state support and reduces people's complex lives to a number. Our 2019 report *Digital Strip Searches*: the police's data investigations of victims revealed how police forces were demanding that complainants of sexual violence give officers bulk data from their mobile phones and social media accounts to investigate their behaviour – rather than the alleged sex offenders they were reporting to the police.

Over-surveillance exacerbates power relationships across society - not only in relation to marginalised groups but even close to the core of power. Big Brother Watch has started to uncover the ways in which social media data collection and artificial intelligence are being exploited by the government to know more and more about its opponents.

We exposed Whitehall's "Ministry of Truth" in January 2023, revealing how world-leading scientists, human rights campaigners, journalists and even MPs had their criticism of the government secretly monitored and recorded under the guise of "counter-disinformation" work.

Meanwhile in 2022, openDemocracy shone a light on the Cabinet Office's "Clearing House", a shadowy unit that kept tabs on journalists' Freedom of Information requests.

Some of the contributions to this report examine how surveillance imperils our democratic rights to speak freely, to dissent and to protest. These come from a journalist, an MP and an activist - each illustrating how surveillance can undermine our democracy.

The past decade has seen the government seek to enhance its surveillance powers. Legislation such as the Online Safety Act threatens to turn every mobile phone in the country into a spy in our pockets, encryption is under attack and ministers seek to gut the limited privacy rights we enjoy in the name of innovation.

Despite the growing shadow of the surveillance state, hope is not lost. The past decade has also seen important victories in the pushback to defend our rights. In 2021, the European Court of Human Rights upheld a ruling in our legal challenge, *Big Brother Watch & Ors v UK*, finding that the UK's bulk interception of surveillance data, as revealed in 2013 by Edward Snowden, violated privacy rights. Tireless campaigning led by Big Brother Watch has been a key factor in government departments and major companies moving to scrap right-abusing Chinese CCTV from their premises. Alongside other groups we pressured the government into scrapping plans to ankle tag innocent protestors. And we won our long fight against digital strip searches, securing new legal protections enabling people to report rape and sexual offences without having to surrender their entire

digital private lives.

These victories are evidence that we can push back against the rising tide of surveillance, and the reception from the public and our supporters show that there is no popular support for a digital dystopia. Telling the stories of the people most affected by the surveillance state is key to understanding the danger that digital dystopia poses.

Resisting surveillance and its harms is not a battle that will be won alone. By bringing people together we can co-operate to create a freer future for all.

## The Panopticon of the Welfare System

**Rick Burgess**

*Greater Manchester Coalition of Disabled People*



**D**isabled people have long been subject to the gaze of the non-disabled majority. The Social Model of Disability, which was created by disabled people, confronted the dominant medical model and its various strands such as the charity model and the inspiration model. We hold that while our minds and/or bodies work differently to the normative mainstream, it is mainstream attitudes, laws, ideology and crucially culture, that disables us. Disabled people are oppressed because our different bodies and/or minds are not accepted, included, and supported by society. This disabling mainstream culture became firmly codified through the medical model, and underlined as capitalism further defined a human's worth as largely a function of their productivity or usefulness to the owners of capital.

Social security and social care came into existence less than a hundred years ago and sit uncomfortably within this larger structure. There is always a tension between a capitalist state that gives people money and those who receive it, a "moral hazard" as Adam Smith



might describe it. For disabled people, our very lives and liberty have been held hostage as this tension oscillates from relative generosity, to the current status of a shadow penal system keeping its subjects under tight surveillance, while not allowing them enough to live on.

Disabled people remain subject to structural barriers and oppressions. Our employment rate is persistently around 53%, compared to around 82% of non-disabled people; in work our pay lags behind non disabled people, and overall we are hugely over represented in poverty.<sup>1</sup> In the UK the majority of foodbanks users are disabled people. Whilst we have a social security system and a system of social care, neither have been seen as a desirable social settlement throughout decades of neoliberal reform. Rather, legacy social programmes are problems to be solved, an echo of the medical model where the disabled person is a cluster of conditions, impairments, and symptoms which, if they cannot be cured, render us to be exiled into homes, asylums and wards so as not to further pick at the medical establishment's ego. As we struggled to de-institutionalise and live independently, the campaign for better social care and security won some victories, but those have not endured in the face of "reform".

To the limited extent that the social support systems were once generous and supportive, these safety nets faced cuts upon cuts for the last three decades.

A watershed moment was a meeting of academics and government officials in 2001 in a conference called “Malingering and Illness Deception” regarding welfare benefits.<sup>2</sup> At least they were pretty upfront about their prejudices – casting disabled people as a burden, and as dishonest. These eminent white men (for they were, almost exclusively) were going to do something about us evil disabled “scroungers”. All three main political parties in the UK - Labour, the Liberals Democrats and Conservatives - agreed on this and only ever quibbled about just how cruel they should be towards us. Since the current political consensus in welfare reform emerged in legislation in 2008, the social security system ceased to offer any security. It has transitioned into a punitive, cruel apparatus of denial and surveillance - a shadow penal system.

The panopticon of the DWP (as my late friend, the writer and activist Nila Gupta called it) emerged through both political and media culture, and technological change.<sup>3</sup> The means to assess, monitor, and penalise disabled people has been greatly enhanced by advancing technology and weakening privacy protections. From computerised fake medical assessments, to the infamous Logic Integrated Medical Assessment and Personal Independence Assessment software and ever widening surveillance powers being granted to government bodies, disabled people are watched by the state. The “War on Terror” with its wholesale handing

of power to intelligence and security agencies has also overspilled, so that a disabled person claiming a means-tested benefit might find themselves subject to an arsenal of surveillance that looks little different from what is deployed against suspected terrorists and spies.

For disabled people this has meant a removal of rights, regression into disablist treatment by society, and thousands of deaths. Disabled activists sent evidence to the United Nations, leading to the first ever special investigation of a country. The UN found the UK had engaged in systemic abuse that amounted to a human catastrophe for disabled people.<sup>4</sup> It is due to report again soon and early signs confirm that things have only got worse. For a demographic to be targeted in this way has deep effects. Our culture of survival and resistance has been tested, our organisations stretched to their limits and damaged -with many closing permanently. Yet we persist - but for many their lives have been permanently altered by the shadow penal state.

Many disabled people feel they cannot be themselves in public. If people or cameras see them doing virtually anything, it could all be noted and reported as evidence of "faking it". Many use aliases on social media and the general advice is lock down your accounts to real friends and family only. That is not a free society.

Preponderation for policy changes started in

coordinated media campaigns to paint claimants of benefits as scroungers, faking their disability in order to cheat money out of the system. It remains a pervasive cultural trope.

Disabled parents report fear of being seen to take part in activities with their children, or attending leisure centres or public events. The very expression of pleasure or happiness in public carries a risk, a frisson of fear. We know the Department for Work and Pensions is piloting novel technology, including algorithms, to detect fraud - the Greater Manchester Coalition of Disabled People along with Foxglove are involved in judicial review pre-action over this.<sup>5</sup>

The increasing technological nature of benefits, with Universal Credit being “digital by default”, worsens digital exclusion and for those accessing on their own devices the risk of surveillance and tracking is great. Proposals in upcoming social security legislation present huge threats of the merging of medical data (likely held by Palantir) and yet more ongoing daily surveillance that disabled people must submit to in order to qualify for payments.

How it feels to be subject to this system is to be further disabled by an oppressive structure. It is one that exacerbates mental distress, particularly paranoia, anxiety, hearing voices, and depression,

further damaging physical health. The Deaths by Welfare study has also documented the thousands of fatalities connected with the benefit system.<sup>6</sup> Rather than support people into work, who can and want to, the system has made the prospect more daunting and perversely, evidence of employment has been used to deny disability payments.

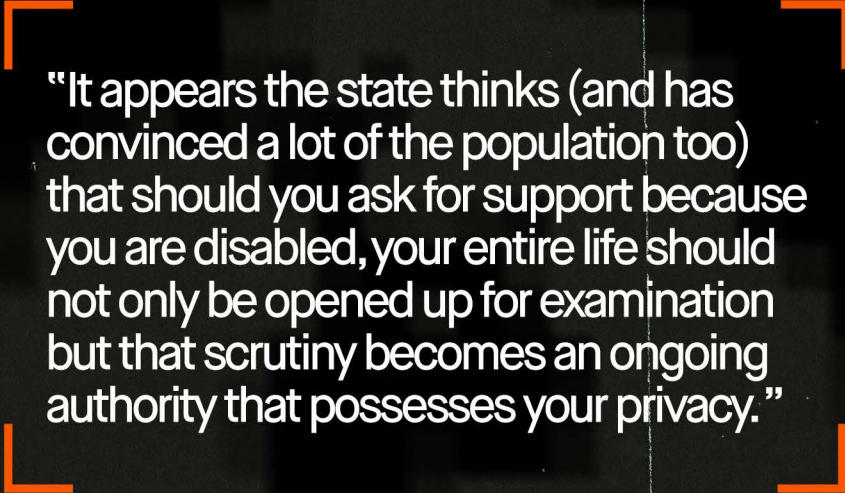
In social care disabled people with the highest support needs have found themselves being hit with increasing charges, with thousands now being in debt and chased by revenue collection systems. Imagine requiring assistance to use the toilet and knowing every time this was provided, it put you further into debt with consequent threatening contact from debt collection agencies. Some adult social care users are being forced to use card payment systems, despite this being claimed to be a "choice", so their spending is monitored and at further risk of being controlled in the future. This is especially galling given the long and hard fight to get individual budgets to support disabled people to live independently in their own homes.

Ongoing austerity economics are antithetical to protecting our rights and lives. But in coordinated moves the government has also removed most of the right to protest through a series of restrictive new laws, and by defunding legal aid they removed access to justice. Where disabled people once chained themselves to

buses in a campaign to make buses accessible, now such action and even simply possessing the lock on equipment can be illegal.

It appears the state thinks (and has convinced a lot of the population too) that should you ask for support because you are disabled, your entire life should not only be opened up for examination but that scrutiny becomes an ongoing authority that possesses your privacy. You no longer are allowed to live in the same world as other citizens, you are demoted to a netherworld, a shadow penal dimension where you may walk or wheel the same streets but you are subject to prying eyes both human and electronic. Every encounter and transaction is opened up to judgement, with the public encouraged to become state auxiliaries against us. In the demonisation of us as “scroungers”, people have retreated from the public sphere, a civil nonperson, from relationships and from their previous lives.

The effect of this panopticon has been to figuratively do what used to be physically done to us - to institutionalise and segregate us away from the general population, lest the non-disabled be offended that we want rights not charity, and justice not pity. And that the reason we are disabled is because non-disabled people oppress us both consciously and unconsciously. The ultimate aim of any authoritarian state is to have individuals self-police, for people to second guess how they are perceived



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and alter their behaviour. This is the oppression being forced upon us. The private space all humans need to feel safe in is shrinking, and for disabled people it has shrunk much faster and under a febrile atmosphere of a witch hunt against “scroungers”.



## A Decade of the Gig Economy – the Best and Worst of Times

**James Farrar**

*Worker Info Exchange*

*“It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of light, it was the season of darkness, it was the spring of hope, it was the winter of despair.”*

– Charles Dickens



**N**othing captures the dawn of the age of the gig economy in the 21<sup>st</sup> century better than Charles Dickens’s famous opening lines of his 19th century novel, *A Tale of Two Cities*.

The closing years of the first decade of this century saw tremendous advances in the proliferation of consumer technology amongst the people. Never mind Bill Gates’s earlier promise of a computer on every desk, the rise of mobile tech delivered the promise of a computer in every hand. The turning point was the launch of the iPhone and its iOS operating system in 2007. This was quickly followed up by the launch of the Android operating system in 2008

which paved the way for a range of competitors to Apple. The app economy quickly followed with the launch of Google Play and Apple's App store also in 2008.

But 2008 was also the year of the world's worst financial markets collapse since 1929. The causes of the crash were complex but predatory lending to the poor and the mis-selling of mortgage-backed securities on the secondary market allowed the concealment and transfer of risk to unsuspecting investors. Deceit, misclassification and dishonesty provided the rotten kernel of destruction.

Governments of the G7 rushed to pump massive amounts of public money into ailing banks to maintain liquidity and keep the global economy afloat. The combination of the financial collapse at a time of a booming tech sector underscored that Dickensian duality. It was indeed both the very best and the very worst of times.

By 2010, the financial crisis in Britain had given way to a new era of austerity as the government sought to reduce the public deficit ballooned by the preceding financial crisis. Around this time the world also began to see the rise in political populism uniquely driven by the combination of financial distress and social media technology.<sup>1 2</sup>

The precipitous fall in interest rates in the UK, Europe

and the US led to a flood of new money migrating to the venture capital markets and to the Silicon Valley in particular.<sup>3 4 5</sup> App entrepreneurs of the early gig economy found themselves showered in cash. At the same time, the rise in austerity squeezed household incomes and the idea of a gig employment, a side hustle to supplement flagging earnings, became attractive to the swelling precariat.<sup>6</sup> But the gig economy wasn't only fashioned by the financial crisis and the politics of austerity, it was also defined by the post truth era of populism.

### **Misclassification – the kernel of deceit at the heart of the gig economy business model**

From the start, gig economy bosses sought to misclassify workers, subject to intense algorithmic control, as self-employed entrepreneurs in their own right. “Work in your spare time” was the manifestly contradictory rallying cry of gig economy bosses to the precariat workforce. “Be your own boss” they promised. But a flurry of legal action in the US and Europe slowly challenged the contractual level deceptions. The Central London Tribunal damned the Uber business model, saying that the notion that it is made up of a “mosaic of 30,000 small businesses linked by a common ‘platform’ is to our minds faintly ridiculous”.<sup>7</sup>

“From the start, gig economy bosses sought to misclassify workers, subject to intense algorithmic control, as self-employed entrepreneurs in their own right. “Work in your spare time” was the manifestly contradictory rallying cry of gig economy bosses to the precariat workforce.”

As Uber in particular came under scrutiny in the UK by transport regulators and by employment law challenges in the courts, the company led the way in the intensification of worker surveillance and algorithmic control. As platforms mature and growth slows, investors are demanding a return. And so now platform bosses are tightening the screws to reduce costs and maximise profits - but since they neither employ staff nor deploy physical assets, the only levers left to pull are of the algorithmic kind.

### **Facial recognition and location checks – tightening the screw of surveillance at work**

One day before Transport for London (TfL) announced in November 2019 that it would not renew Uber's license to operate because the regulator judged the company not fit to hold a public license, Uber offered to immediately roll out facial recognition systems and real time location checking of their drivers. Since a 2015 regulatory review, TfL had been in favour of the introduction of biometric checks for private hire drivers and so became an enthusiastic supporter of this belated initiative by Uber. By the time Uber's appeal of TfL's licensing decision was heard at Westminster Magistrates Court in the summer of 2020, Uber had fully rolled out this surveillance technology and it played no small part in the court deciding to grant Uber a probationary license. In this

way, TfL has managed to introduce a de facto regulatory standard of industry facial recognition systems without submitting to the normal process of public consultation and scrutiny.

The results of Uber's 2020 facial recognition implementation, however, were almost immediately disastrous.<sup>8</sup> Many drivers were falsely accused of account sharing which led to their dismissal by Uber and revocation of their license by TfL. Even Microsoft, the provider of the facial recognition technology used by Uber, has long conceded that their systems are not accurate and particularly not for people of colour.<sup>9</sup> Many of the licensing cases were successfully appealed and Uber failed to defend claims of unlawful automated decisions to dismiss as a result of the use of these systems made under Article 22 of the GDPR.<sup>10</sup>

### **Workers fight back in the courts but the law is an ass**

In 2021, the UK Supreme Court definitively ruled against Uber to confirm Uber drivers as workers entitled to the protection of the minimum wage. Unfortunately, the same rights have not yet been won for Uber Eats riders nor for the Deliveroo riders whose case is still pending before the Supreme Court. Not only do platforms use misclassification of workers to avoid employment law obligations but also to avoid their public liability

obligations to their passengers and for VAT.

Also in 2021, our legal challenges against Uber and Ola Cabs got underway in Amsterdam. We argued that drivers had been denied full access to their personal data at work and for algorithmic transparency. In the case of four dismissed Uber drivers accused of unspecified “fraudulent activity”, we argued they had been robo-fired by the platform by means of unlawful automated management decision making.

Earlier this year, the Netherlands Court of Appeal ruled on these cases and decided that three of the four workers had been robo-fired by means of unlawful automated management decision making.<sup>11</sup> While Uber argued that the decisions to dismiss the workers was reviewed by a team at a service centre in Poland, the workers were given no opportunity to answer the allegations made against them and the human review of the automated decision was “no more than a symbolic gesture”.<sup>12</sup> The truth, of course, is that platform companies not only want to automate the external services they provide but also the internal management of a hollowed-out company.

The courts in Amsterdam also ruled that Uber must reveal its dynamic pricing algorithm to workers so they may know how work is allocated and how pay is determined. In recent years, gig platforms have

invested heavily in artificial intelligence and machine learning to automated real time decision making for dispatch and pay. There are huge risks that personal data of workers and consumers can be abused to drive profiling to determine personalised pay and pricing whether directly, indirectly or by inference. Last year, a Harvard Business School academic paper called for strict regulation of dynamic pricing systems due to the risk of algorithmically driven tacit collusion.<sup>13</sup>

## **Modern slavery and state surveillance**

In recent years, food delivery couriers in particular have seen their working conditions deteriorate markedly. Unlike private hire drivers, there is no regulatory oversight and the exploitation is ever more brutal as a result. Platforms have exploited a loophole in the law to allow rider account holders to allow other workers to carry out work on their behalf. The so-called substitution clause has seen the renting out of accounts on the black market to ever more vulnerable workers. In our recent report on unfair automated decision making by Just Eat, we reported on the case of one worker who was paid by Just Eat into a bank account where it had also paid the wages for 49 other Just Eat workers. The sharing of a single bank account by multiple workers is considered a red flag for modern slavery risk. A recent Sunday Times investigation also tells the story of the



brutal exploitation of undocumented workers who have resorted to renting access to gig platform accounts.<sup>14</sup> Finally, we have identified that the pooling of such a rich data set of travel movement and the delivery habits of so many in our population has proven to be irresistible for state security services. At Uber's licensing appeal at the Westminster Magistrates Court it was revealed that Uber had employed a 15 year CIA veteran in London. In one year alone, Uber answered over 2,000 data access requests without warrant from the Metropolitan Police.<sup>15</sup> It was also revealed that the Chair of the National Police Chief's Council had lobbied the London Transport Commissioner to secure Uber's license precisely because Uber had become such a valuable intelligence asset to the state.

Although the UK Supreme Court win on employment rights and our win in Amsterdam are undoubtedly landmark victories, like any litigation instance, they have their limitations in terms of their wider application and of course, they also illuminate the weakness in the law itself. In both employment and data protection law, gig economy platforms continue to flout the law with impunity. There is almost no state enforcement and precarious workers are no match to the deep pockets of highly litigious and determined platform lawyers.

In the UK, the impending Data Protection and Digital Information Bill seeks to weaken the rights of data access and the protections against unfair automated

decision making currently protected under the UK GDPR. These are the very rights the workers so successfully invoked in Amsterdam. In 2015, before entering Downing Street for the first time as Prime Minister, Theresa May promised a new employment law bill to correct some of the 'burning injustices' she identified. The Taylor Review of the gig economy came and went yet there are still no new protections for gig workers. In Europe at least, the proposed Platform Work Directive does attempt to tackle the worst excesses of employment misclassification and algorithmic abuse at work although even this does not go far enough.<sup>16</sup>

A decade or more has passed since the arrival of gig economy platforms in Britain and some of the worst excesses have been curbed. However, deceit, misclassification and dishonesty remain as the rotten kernel of the heart of the gig economy. As the use of surveillance tech intensifies in the search for profit on maturing platforms, we must accept that the worst of times may yet be ahead of us rather than the best. That is, of course, unless we are vigilant, organised and determined to protect ourselves from such intrusions.

## Young, Black and Under Suspicion - the Met's Gangs Matrix

Téah-Saffiya Kennedy & Katrina Ffrench

*UNJUST-UK*



**E**stablished in 2012 as a response to the civil unrest that unfolded in 2011 after the Metropolitan Police (The Met) killing of Mark Duggan, an unarmed Black man from Tottenham, London, the Gangs Violence Matrix (the

Matrix) was developed by Trident -

the specialist unit set up in 1998 to tackle

“Black-on-Black” crime in the UK.<sup>1</sup> The

unit focuses exclusively on policing

Black communities, and with its

rebranding as the Gangs unit, it is

evident that enforcement activity is

almost exclusively targeted at Black

gangs whilst overlooking others.<sup>2</sup>

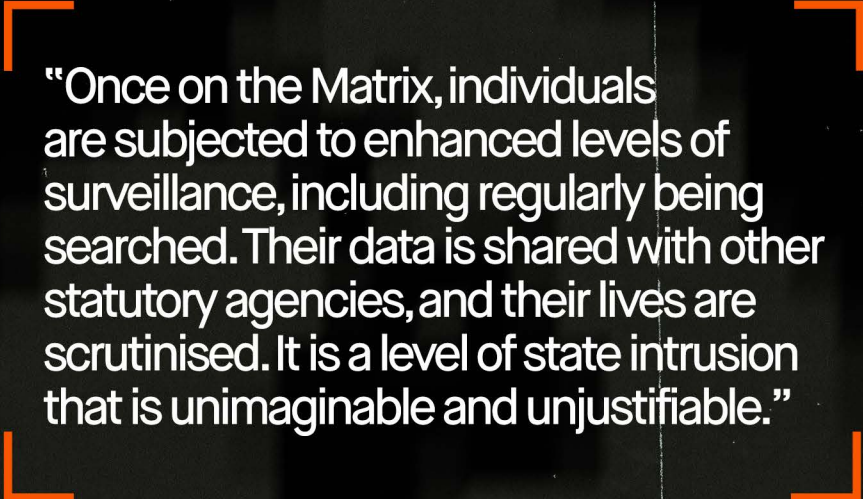


The Matrix is an intelligence database used by The Met to store information on, identify and manage individuals that they believe to be involved in gang-related crime.<sup>3</sup>

The Matrix uses a classification system, governed by a set of algorithms which utilise data inputted by Police officers to assign each person an automated ranking of either red, amber, or green. Since its implementation,

organisations have scrutinised the system for its undeniable racial disparity: a report by Amnesty International in October 2017 found that of the 3,806 people on the Matrix at the time, 78% were Black, despite only 27% of those responsible for youth violence being Black.<sup>4</sup> Individuals have reportedly been placed on the Matrix for reasons such as being present at the time a crime has been committed, being associated with a peer group who may be affiliated with someone on the Matrix and being the victim of a violent crime. Once on the Matrix, individuals are subjected to enhanced levels of surveillance, including regularly being searched. Their data is shared with other statutory agencies, and their lives are scrutinised. It is a level of state intrusion that is unimaginable and unjustifiable. Many people on the Matrix were not informed that they were "officially" being targeted and therefore were unable to challenge their police attributed status as a gang nominal.

There is ambiguity in what constitutes sufficient reasoning for an individual to be put on the Matrix; The Met cultivates the illusion that the Matrix is used to monitor the most violent, dangerous gangs and their members, despite containing only 6% of the alleged most dangerous individuals in London.<sup>5</sup> The deliberate breach of privacy laws occurring when police have shared the information of individuals on the Matrix with other institutions, and the breaching of human rights laws when subjecting a disproportionate number of



“Once on the Matrix, individuals are subjected to enhanced levels of surveillance, including regularly being searched. Their data is shared with other statutory agencies, and their lives are scrutinised. It is a level of state intrusion that is unimaginable and unjustifiable.”

Black children and young people to immense levels of surveillance - some individuals reporting being stop and searched three times a day - consequently led to the Met Police conceding that the Matrix is unlawful and agreeing to overhaul it after a landmark legal case, brought by Awate Suleiman and UNJUST C.I.C (UNJUST UK).<sup>6 7</sup>

### **What is a Gang?**

There is a lack of consistency in defining a gang, as the legal definition of a gang differs from the definition used by the Trident unit. According to The Policing and Crime Act 2009 (updated by the Serious Crime Act 2015), gang-related violence is: "Violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that: a) consists of at least three people; and b) has one or more characteristics that enable its members to be identified by others as a group."<sup>8</sup> The Trident Gang Command definition, in the Centre for Social Justice Report (2009), *Dying to Belong: An In-depth Review of Street Gangs in Britain* of a gang is: "A relatively durable, predominantly street-based group of young people who (a) see themselves (and are seen by others) as a discernible group, (b) engage in a range of criminal activity and violence, (c) identify with or lay claim over territory, (d) have some form of identifying structural feature, and (e) are in conflict with

other, similar, gangs.”<sup>9</sup> However, Amnesty International’s report found that “Most of the professionals [...] agreed that in practice defining a gang member was difficult.” In reality a large amount of vagueness is observed in practice when police are identifying gangs, with various agencies often over-estimating the number of gangs operating in an area.<sup>10</sup> This looseness defining a gang enables the continuation of a racialised gang narrative. Historically, the utilisation of the moral panic Stuart Hall spoke of has been weaponised as an effective political strategy, gaining popularity from the white British public.<sup>11</sup> Prime Ministers David Cameron, Theresa May and Boris Johnson have all employed this tactic. After the riots of 2011, Cameron first spoke of “urban gangs” (“urban” being a term often used to categorise black street style) in reference to the individuals that took part in the riots despite the unrest being unrelated to gang crime.<sup>12</sup> Johnson also made similar unsubstantiated allegations about gang involvement in the events of August 2011; and May made wild allegations and inflated numbers of sexual offences estimated to have been committed by gangs. The incorrect notion of gangs being Black in nature; elements of Black cultures being misrepresented as identifying elements of so-called “gang culture”; and the weaponisation of racism and classism against working-class Black youths in creating moral panic, leads to the dangerous ability for the unclear definition of a gang as used by the police to be abused and extended to innocent, vulnerable,

marginalised, young members of the Black community.

## **The Impact of Being Matrixed**

Being subjected to a heightened level of policing was a standard part of being Matrixed, with people reporting being stopped and searched thousands of times. In StopWatch's 2018 "Being Matrixed" research, one individual recounted: "It was just a normal thing like putting on your clothes. You knew you were getting stopped and searched. There was all times... I remember one time [laughs] I got stopped three times a day. [...] It became so normal, it felt like I knew what was going on. Everyone around me was getting stopped and searched daily. There was no one around me that wasn't in a sense. So, I just thought, yeah, it's just a thing where they're just stopping young Black kids."<sup>13</sup> Subjecting children to continuous bullying and harassment from adult, armed professionals that are meant to be protecting them, is dehumanising and induces psychological trauma that has long-term effects. The conduct of officers and intense enforcement activity undermines any prospect of positive relationships between police and Black communities.

The terms "bullying" and "harassment" are appropriate when spotlighting how these police interactions play out. Many of the respondents in StopWatch's report



recalled being deliberately frightened by police. One respondent, who had been given a condition prohibiting him from leaving home without an adult over 18, stated: “They took me to the police station and throughout the whole journey they were going, ‘You’re going to prison.’ I was really scared. I was so scared, because I literally believed them. They were like, ‘This is going to happen, that’s going to happen.’ They kept me in the police station overnight so they could take me to court the next morning. I got taken to the court the next morning. The judge was laughing. She was like, ‘How can you take him? He’s supposed to be in school. You could have just taken him to school’”.<sup>14</sup> Consequently, the judge removed this condition, but this one interaction demonstrates the draconian measures that young people have been subjected to.

## **Criminalisation**

“What is becoming clearer is that Trident Gun and Crime Command had created a pipeline for black youths that leads them directly into the criminal justice system.”<sup>15</sup>

In a rare statement regarding the Matrix, The Met clarified the requirement for “multiple intelligence indicating gang membership and the violence criteria is either based on intelligence, criminal offending or violence convictions.” Whereas, in truth, most

individuals have found themselves on the Matrix without any tangible evidence against them. With the “gang nominal” status imprinted onto those on the Matrix, the stigmatising effects of being represented as a gang member exacerbate the state’s perception of the risk an individual poses to the public.<sup>16</sup> As a result, the state has neglected to see the dangers of the unacceptable approach adopted by The Met to “aggressively pursue” individuals they are unable to convict due to a lack of evidence.

Incapacitation strategies (also referred to as disruption tactics) are an example of exorbitant measures the police have taken to target people on the Matrix. Public offence orders, anti-social behaviour orders, hard stops, super gang injunctions, stop and searches, evictions and having children removed from homes are standard techniques used by Trident and their partner organisations (such as local authorities) against individuals on the Matrix.<sup>17</sup> Here we see the Met sharing information with local authorities; however, this also extends to education providers, employers and family members. The information provided is often flimsy, with young working-class Black people having no known involvement with gang activity being characterised as public threats as a result of the information produced by the Met. In the 2018 “War on Gangs” report by Stafford Scott, this criminalisation was evident in a sinister presentation by the Head of Youth & Family Support

(who oversees many of the local authorities whose staff members have daily contact with the families of targeted groups and are meant to be support networks for the most disadvantaged families). The presentation focused on the Gangs Risk Matrix - monitoring children and young people who are profiled as being the future cohorts of the Gangs Matrix. A most unsettling quote from the presentation states: "Don't assume that if police haven't charged a young person with supply of drugs that this means that they weren't dealing. The standard of proof for prosecution is high and is not a reliable indicator of a young person's actual behaviour or motivation."<sup>18</sup> Here the staff are being told to approach young Black children with caution (a form of racial profiling), and thus are encouraged to further hinder individuals and families, rather than help them, creating the next generation of policed youth.

The impact of being on the Matrix extends far and wide, the Achilles Heel policing disrupting and targeting the families. Amnesty International reported that police have conducted raids of family homes, held families including children at gunpoint, sent letters to family members advising them to remove young people from their homes, and threatened legal action against parents.<sup>19</sup> Furthermore, racial disparities are evident in school exclusions - Black Caribbean children are three times more likely to be permanently excluded than their white peers. Recommendations such as those made by the London Gang Member Referral Guidance

who stated local authorities should “ensure all relevant organisations are informed of a (gang nominal’s) move to another borough: e.g. school and voluntary organisation,” are rendered alarming.<sup>20</sup> Young people on the Matrix having their status shared with schools and colleges leaves them vulnerable to the criminalising impacts of labelling being utilised against them in education.

### **The importance of the judicial review**

In January 2021, the Metropolitan Police Service agreed to settle the legal case brought by Awate Suleiman and UNJUST. This was monumental as campaigners had been advocating for years about the unlawfulness of the Matrix despite being told by statutory bodies it was operating legitimately. It was UNJUST’s first legal challenge and achieving a settlement although a small progressive step felt amazing. However, the case would not have been brought if not for the courage of Awate, a musician who experienced over-policing and feared he was on the Matrix for years, which resulted in him suffering from social anxiety, and declining musical opportunities, and kept him from leaving his house.<sup>21</sup> The Met conceded that the operation of the Gangs Matrix was “unlawful,” breaching Article 8 of the Human Rights Act – the right to a private and family life. However, although Black people are overrepresented

as gang nominals, The Met refused to concede the discrimination claim which is unsurprising as they still deny being institutionally racist despite overwhelming evidence.

### **What does the settlement mean?**

Thousands of children and young people have been removed from the database and The Met has agreed to inform them of their Matrix status but only if a request is made.<sup>22</sup> People who suspect they may be on the database are encouraged to submit a Subject Access Request to find out. Unsurprisingly, since the settlement, The Met and The Mayor's Office for Policing and Crime (MOPAC) have failed to publicly share information about the case and how people can seek justice for their human rights breach.

### **Next steps:**

The Met has finally acknowledged that "whole-sale change" to the Matrix is required and is dismantling the database entirely. UNJUST has partnered with The 4Front Project and Tottenham Rights with the intention of raising awareness about the Matrix settlement, and the harmful consequences of being Matrixed on individuals and communities; mobilising our collective strength

to challenge the legitimacy and effectiveness of the database; discussing strategies for achieving change, including legal, grassroots, and policy approaches; and connecting like-minded individuals, activists, and organisations working towards justice and equity. In addition to empowering members of the community, we are also exploring how lawyers can contest racialised gang narratives earlier in criminal trials to avoid the label being applied in court. Finally, conscious of emerging policing databases, we will undertake desk research, complete FOI requests, and arrange advocacy meetings with elected officials and public bodies to discuss whether databases comply with human rights legislation.

## A Web of Surveillance: the UK's Hybrid Order Regime

**Emmanuelle Andrews & Jun Pang**

*Liberty*



In recent years, the state has clamped down on our right to privacy, our right to freedom of expression, and our right to protest. No measure better illustrates this than the hybrid order, a dystopian mix of civil and criminal laws and procedures which give the state extensive control over the lives of people subject to one – from requiring a person to notify the police when they move, to GPS tagging their every movement, to proscribing where they can go and which family or friends they may see, to setting a curfew – and more.

### **What are hybrid orders?**

First introduced in 1998 under New Labour to tackle “anti-social behaviour” via since-abolished anti-social behaviour orders (ASBOs), hybrid orders now exist across an array of social issues. Their impact on marginalised people is particularly acute, from young

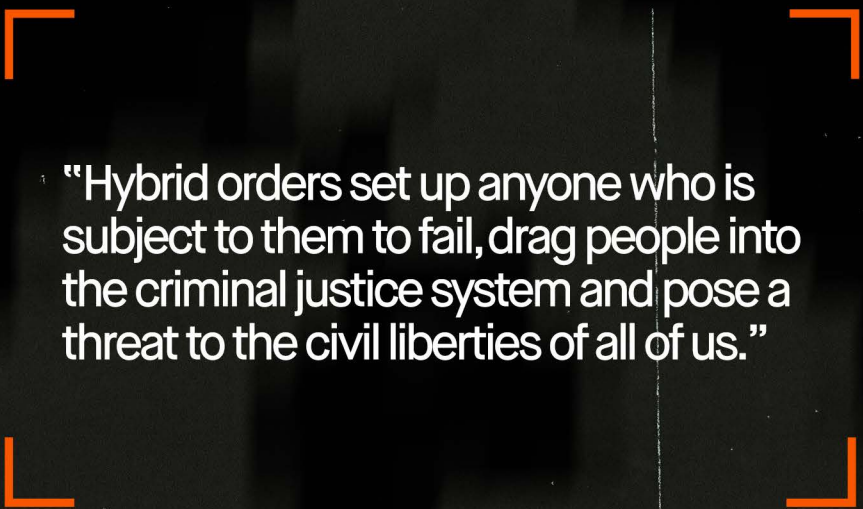
Black men and boys, to homeless people, to sex workers.

The conditions for making a hybrid order only need to be proven to the balance of probabilities, a lower standard of proof than in criminal law. In this way they are “ostensibly civil in character but carry criminal sanctions in the event of breach”.<sup>1</sup> In practice, this is the worst of both worlds: not only is a lower evidence bar needed to assign someone a hybrid order, but the person subject to one can be imprisoned for doing something that is not, in and of itself, a criminal act.

The police and the Home Secretary have a great deal of power to determine the nature or severity of the constraints imposed on those given an order, and conditions in some hybrid order schemes have included banning interacting with one other person in public in a manner “likely to cause any person to feel intimidated” or simply wearing clothing with a hood.<sup>2</sup> As a result, people can be in breach of a hybrid order without committing any criminal acts. In this way, hybrid orders are a tool to curb alleged undesirable behaviour beyond the reach of the criminal law alone.

Hybrid orders set up anyone who is subject to them to fail, drag people into the criminal justice system and pose a threat to the civil liberties of all of us. In this piece, we examine two kinds of hybrid orders: Serious Violence Reduction Orders (SVROS), and Serious





“Hybrid orders set up anyone who is subject to them to fail, drag people into the criminal justice system and pose a threat to the civil liberties of all of us.”

Disruption Prevention Orders (SDPOs).

## **SVROs and Individualised State Surveillance**

Serious Violence Reduction Orders were introduced in the Police, Crime, Sentencing and Courts Act 2022 with the aim of reducing serious violence. This is an aim we support, but as *Holding Our Own* – our recent work on non-policing solutions to what gets called “serious youth violence” – demonstrates, solutions must be approached with human rights and social justice at their heart.<sup>3</sup> Further, evidence of the efficacy of SVROs is weak and, as the Government’s own Equality Impact Assessment into SVROs identifies, the measures will disproportionately target Black communities, even though the Home Office expects the majority of SVROs to be given to white people.<sup>4</sup>

A court can make an SVRO against somebody over the age of 18, who has been convicted of any offence in which a bladed article or an offensive weapon was in their possession, used by them, or was in the possession of someone accompanying them. SVROs can be applied to someone even if they have not been involved in serious violence, and even if they have not carried or used a knife themselves. This risks criminalising people for the actions of others, including potential survivors and victims of crime, and young women experiencing

criminal exploitation and coercive control.<sup>5</sup> They also stray into the absurd: a person caught speeding on the way to a picnic could be convicted of a driving offence and given an SVRO because of the cheese knife they had in their picnic basket.

SVROs grant an unprecedented power that police can wield against named individuals: anyone subject to one can be stopped and searched at any time, regardless of suspicion. These hybrid orders follow a person wherever they go, trapping them in a web of surveillance. Stop and search is already a deeply flawed policy: its racist impact on Black communities is well documented, as is its overall ineffectiveness.<sup>6 7</sup> But combined with a hybrid order, even the minimal safeguards that accompany usual stop and search practices are ditched.

These orders also invite the increased use of facial recognition technology and body-worn video equipped with facial recognition technology to identify someone subject to an order – a technology that has been proven to misidentify people of colour and that, when used as a police tool, will contribute to racial disproportionality in the criminal justice system.<sup>8</sup>

Furthermore, the responsibility of monitoring and reporting on a person's compliance with an SVRO will likely fall on people in the local community, whether it be peers, or supportive adults such as health workers

and teachers (who are key to reducing serious violence), thus eroding these important relationships. This undermines the central aim of the imposition of an order in the first place.

### **SDPOs: Striking at the Heart of Protest**

At the time of writing, Serious Disruption Prevention Orders, also known as “protest banning orders”, are yet to come into force but were introduced by the Public Order Act 2023 and build on the existing legal framework governing the policing of protests. Thanks to the campaigning by Liberty and other organisations against the Bill that introduced them, SDPOs cannot be given to people who have not been convicted of an offence.

Nevertheless, the range of offences that can trigger the imposition of an SDPO on a protestor is incredibly broad. For example, a reason a court may impose an SDPO on you is if you have been convicted of a “protest-related offence” on at least two occasions in the last five years. This is an expansive and problematic category, especially given that more and more forms of protest continue to be criminalised.

Restrictions imposed via an SDPO may not even be directed at preventing so-called criminal activity, but

on preventing individuals from facilitating non-criminal protest-related activities from afar – including online. This could encompass the sharing of particular chants or songs, placard or flag designs, or even information about where protests can lawfully and legally be held.

As the public inquiry into the Spy Cops scandal demonstrates, the UK has a shameful history when it comes to the monitoring and surveillance of protest movements. SDPOs are only the latest attempt by the Government to curtail political movements' potential and risk criminalising anyone who takes to the streets for a cause they believe in. They will have a chilling effect on anyone trying to make their voices heard, from racial justice campaigners to grieving families looking for answers and justice.

## **Conclusion**

The orders we have described barely scratch the surface of the wider hybrid order regime, yet they speak to the growing use of surveillance tools to curb and pre-empt a vast array of non-criminal conduct. Despite being given to named individuals, the impact of a hybrid order is far-reaching. A person's wider community becomes prey to intrusive surveillance, and those same communities are expected to carry out the monitoring and surveillance themselves.

As this Government and Opposition parties battle it out to be the Party of "law and order," we must fight back against a race to the bottom to destroy our rights to privacy, freedom of expression and protest.

We cannot criminalise and surveil our way out of social issues, and the weakening of human rights is a price that the most marginalised amongst us will pay first, but so too will all of us.

## Monitoring Dissent From Spycops to “aggravated activists”

**Kevin Blowe**

*Netpol*



Intelligence gathering is central to the way policing in Britain operates and although protesting is not a crime, demonstrations and rallies are invariably treated as potential crime scenes rather than as essential parts of popular democratic participation. This has involved the gathering of vast amounts of data on protest movements, much of it open source and particularly obtained from social media, to sift for the so-called “hardcore” activists from amongst the “ordinary” campaigners.

Subjectively dividing citizens who protest into different categories of alleged risk that the police have defined themselves has historically been made by political policing units who have always been the most antagonistic towards groups challenging state or corporate interests. In the past, this has led to thousands of campaigners, journalists and even MPs and peers labelled as “extremists”.

The ongoing Undercover Policing Inquiry, which is examining secret intelligence gathering operations

“Subjectively dividing citizens who protest into different categories of alleged risk that the police have defined themselves has historically been made by political policing units who have always been the most antagonistic towards groups challenging state or corporate interests.”



by the Metropolitan Police targeting around 1,000 campaigning and left wing groups since 1968, published an interim report in June 2023 saying that one of these units, the Special Demonstration Squad, should be disbanded 50 years ago.<sup>1</sup> The Inquiry found the unit's activity was a waste of time and its intrusiveness would have caused outrage if revealed. Amidst the evidence released by the Inquiry are reports showing the Metropolitan Police explicitly targeted police accountability groups in the 1980s, including one that was a Netpol founding member.

As we first highlighted in March 2021, the labelling by the police of campaigners as "aggravated activists" is the replacement for "domestic extremists", a wholly discredited categorisation that was eventually abandoned in 2020 after a sustained campaign of opposition by Netpol.

A year ago, in July 2022, Netpol published "Lost in the Matrix", showing how the police make highly subjective judgements to plot different "activities in furtherance of ideology" (campaigns) against their supposed "ideological framework of intended outcomes" (political aims).<sup>2</sup>

The Matrix – more precisely, the "threshold and terminology matrix" – was buried inside a report on "Extreme Right-Wing Terrorism" from the Intelligence

and Security Committee of Parliament but it sets out how the activities of all political movements are classified. Categories include “lawful activism” or either low-level or high level “aggravated activism”, with political aims labelled substantial, moderate or low risk.

The broad definition of “aggravated activism” adopted by the National Police Chiefs Council (NPCC) is “activity that seeks to bring about political or social change but does so in a way that involves unlawful behaviour or criminality, has a negative impact upon community tensions, or causes an adverse economic impact to businesses”.

Low-level aggravated activism is supposedly “activism which involves unlawful behaviour or criminality. This criminality is local or cross regional and potentially impacts on local community tensions.”

High-level aggravated activism is described as: “activity using tactics to bring about social or political change involving criminality that has a significant impact on UK communities, or where the ideology driving the activity would result in harm to a significant proportion of the population”.

The usual distinction between activities that are protected by Articles 10 and 11 rights to freedom of expression and assembly – whether they are non-

violent or violent – is brushed aside in favour of their degree of “impact on communities” resulting from direct action or civil disobedience tactics. Certain “ideological frameworks”, notably anarchism, are specifically considered “substantial” and therefore more likely to lead groups advocating them to receive a high-level aggravated activism label.

Groups labelled as pursuing low-level aggravated activism are the responsibility of a national unit, the strategic intelligence and briefing team of the NPCC’s National Police Coordination Centre (NPoCC-SIB), set up in 2020. The higher level of “threat” is handled by Counter Terrorism Policing, a network of regional police intelligence units coordinated by the Metropolitan Police.<sup>3</sup>

This classification of the “risk” of criminality that different campaigners allegedly pose is important because decisions about how groups are categorised inevitably dictates the kind of policing operation they will face, as well as the level of surveillance they can expect to have used against them in the future.

However, the application of these labels is incredibly opaque. Even though the existence of the aggravated activism label is now public knowledge, the police have refused to say how many “aggravated activists” there are, insisting this is not a category on its National

Common Intelligence Application (NCIA) database. Previously, it had been possible to find out the number of alleged “domestic extremists” using Freedom of Information requests.

As a result, Netpol has instead worked with dozens of individual campaigners over the last 12 months, including many key organisers and those who have been arrested during environmental protests by Insulate Britain and Just Stop Oil, to obtain their personal NCIA data from the Metropolitan Police using subject access requests.

Almost all have been told there is “no information the (Metropolitan Police) Commissioner is required to share” with them, even though many have recent arrests and outstanding court cases. Only one individual, described as an “active protester”, has recently managed to obtain anything and alongside arrest records are details of participation in protests where no arrests were made and of posts shared on Twitter. Some of this data went back more than a decade.

This lack of transparency is alarming because there is every indication that surveillance is growing. In 2021, HM Inspectorate of Constabulary, Fire & Rescue Services (HMICFRS) published a report on how effectively the police deal with protests, which complained about “a lack of national co-ordination of how the police gather

intelligence on protest-related aggravated activists” and called for a more robust approach to intelligence gathering on protests from the NPCC, including “an appropriate longer-term arrangement for managing the risks presented by aggravated activists”.<sup>4</sup>

Since then, there has been a further escalation in the use of direct action and civil disobedience tactics and two new pieces of anti-protest legislation: the Police, Crime, Sentencing and Courts Act (PCSC) 2022 and the Public Order Act 2023.

The PCSC Act has provided the government with the ability to give examples of activities that “may result in serious disruption to the life of the community”. These specifically define disruption as “a hindrance that is more than minor (our emphasis) to the carrying out of day-to-day activities (including in particular the making of a journey)”.

This definition leaves absolutely no middle ground between minor hindrances and significant disruption – the kind that will trigger the aggravated activism label – and it applies not only to sweeping new offences in the Public Order Act 2023 but also to the provision (not yet implemented) for new Serious Disruption Prevention Orders – civil orders effectively banning individuals from attending, organising, or promoting disruptive protests.

This is an idea that first emerged from an NPCC “protest

round table” meeting of senior officers in June 2019, where the Metropolitan Police proposed the creation of “protest banning orders (similar to football banning orders) where evidence of persistent disobedience and disruption is provided”.<sup>5</sup>

According to a 2021 HMICFRS report, this proposal was not without its critics, with one senior police officer saying this would “unnecessarily curtail people’s democratic right to protest” and another calling it “a massive civil liberty infringement”.<sup>6</sup> Even the Home Office discounted it as unworkable because it was “unlikely that a court would issue a high penalty to someone who is peacefully protesting”.<sup>7</sup> However, one senior police participant in the event “reflected that the police would need to improve their public order intelligence capabilities to allow the proposal to work in practice”.

This is the essential cause for concern with Serious Disruption Prevention Orders. To build a case for bringing an order against one of the small numbers of non-violent protesters the police say they have identified, officers will seek to gather huge amounts of intelligence, drawing in data on hundreds of people in the movements they are part of, on the people they know and on the places they work – even if their friends and compatriots have personally never committed any kind of unlawful activity.

It potentially means officers turning up unexpectedly at people's homes, questioning them for hours on end when returning home from abroad and even targeting their families. All this has a "chilling effect" on whether campaigners involved in movements targeted for this kind of surveillance feel they can continue to exercise their rights to demonstrate, even if they do not experience it themselves.

Once banning orders are introduced, their enforcement is likely to depend on – and most likely will justify – an increased use of surveillance technology at protests. This includes both the use of drones and especially the expansion of live facial recognition. The HMICFRS said in 2021 that "on balance, we believe that this technology has a role to play in many facets of policing, including tackling those protesters who persistently behave unlawfully. We expect to see more forces begin to use facial recognition as the technology develops".<sup>8</sup>

Netpol continues to cooperate with Big Brother Watch, which has led the campaigning on live facial recognition, by publishing its briefing for protesters and independent legal observers and by helping to ensure this is incorporated into the training of those who monitor the policing of demonstrations.

## Blacklisting Accountability - How the State Monitors Journalists

**Jenna Corderoy**

*openDemocracy*



**A** journalist's job is to hold those in power to account and expose injustice. But threats and intimidation can undermine the vital role they play in society.

These can take many forms and be carried out by different types of actors to silence journalists. In the UK, it can come in the form of aggressive litigation, known as "SLAPPs" (Strategic Lawsuits Against Public Participation) where powerful, wealthy people threaten to financially ruin journalists in the courts. It can come in the form of police arresting journalists while covering environmental protests, or even legislative threats.<sup>1 2</sup>

It can also come in the form of abuse, whether online or offline, that can impact journalistic output, or make journalists consider leaving the profession altogether.<sup>3</sup> Worldwide, journalists are detained and imprisoned, and dozens are killed each year.<sup>4 5 6</sup>

Then there is the flagging, monitoring and surveillance of journalists - another serious and ongoing threat to the freedom of the press. Since 2018, when Big



Brother Watch published its last report on The State of Surveillance, we have learned that Pegasus spyware was allegedly deployed by foreign governments against journalists and activists.<sup>7</sup>

In July this year, we also learned that police in Northern Ireland monitored the phone activity of a wrongfully arrested journalist in 2013.<sup>8</sup>

These actions take place in the shadows, and can take years to come to light.

At openDemocracy, we specialise in reporting on transparency in public life, and we use the Freedom of Information (FOI) Act to obtain information for our reporting. It is a vital tool for our investigative work, and other journalists would say the same. Under the Act, anyone can submit a request for information like emails and datasets from public authorities.

But unfortunately, it is common for such requests to be ignored and blocked, especially by central government departments. It can often take a long time of challenging refusals in order to get information that reveals shadowy practices.

And for a long time, it was common for journalists' requests to be flagged to a controversial unit within the Cabinet Office called the Clearing House, with their

names and requests circulated across Whitehall in daily lists.

openDemocracy revealed the existence of the Clearing House in 2020, prompting fears that journalists were being “blacklisted” by the government. “Sensitive” requests were referred to the unit, which would then sign off on FOI responses, effectively centralising control over what information is released to the public. The unit was sharply criticised and described as “a grave threat to our values and transparency in our democracy”.<sup>9</sup>

It was also criticised over not abiding by the “applicant blind” principle – a longstanding principle that it should not matter who makes the request – and questions were raised over whether the Cabinet Office was complying with data protection law.<sup>10</sup>

A Times journalist was flagged to the Clearing House as “ever active” by a department in correspondence with the unit, and his requests deemed as having “no discernible purpose”.<sup>11 12</sup> Other government departments have been caught looking up the identities of journalists.<sup>13</sup>

In 2021, Politico revealed how the Department of International Trade was triaging FOI requests based in part on the identity of the applicant, flagging the media organisations that they write for.<sup>14</sup> The media outlet

“openDemocracy revealed the existence of the Clearing House in 2020, prompting fears that journalists were being “blacklisted” by the government. “Sensitive” requests were referred to the unit, which would then sign off on FOI responses, effectively centralising control over what information is released to the public.”

also revealed that the Clearing House was working to block the release of documents to journalists against the advice of the Department of International Trade's information officers.<sup>15</sup>

But the Cabinet Office is not the only one to have used such a clearing system. In 2021, openDemocracy found out that requests from journalists and campaigners to the Metropolitan Police Service were flagged and branded as "high-profile", requiring sign off before a response was issued.<sup>16</sup> This system was also criticised, with one politician stating: "Targeting journalists and campaigning organisations for special treatment puts at risk our ability of securing the truth and holding public bodies to account."<sup>17</sup>

In 2022, the government announced that it would radically reform the Cabinet Office Clearing House. But what its successor will look and operate like remains to be seen.

It has taken many years for this monitoring system to be properly exposed. We submitted a request for information about the Clearing House in 2018, and we had to go to an information tribunal to try to get more detail. That tribunal hearing took place in 2021, with the judge criticising the Cabinet Office for a "profound lack of transparency about the operation".<sup>18</sup> The government spent £40,000 of taxpayers' money on the case trying

to stop the disclosure of information.<sup>19</sup>

The ruling then sparked a parliamentary inquiry, and it was not until the summer of 2022 that the Cabinet Office recognised that there was something wrong with the Clearing House system.<sup>20</sup>

Soon after our reporting on the Clearing House, Big Brother Watch discovered more of these secretive government units - and that journalists were being swept up in them. In 2023, Big Brother Watch revealed in its "Ministry of Truth" report that journalists and politicians were flagged by so-called counter misinformation units within Whitehall when they criticised the government's pandemic policy.<sup>21</sup>

openDemocracy's investigative journalism even caught the attention of one unit - the Rapid Response Unit (RRU) - which was supposedly focused on tackling "misinformation and disinformation". A day after openDemocracy published its first investigation into the Clearing House and the government's handling of FOI requests, the RRU circulated an "analysis" document about it. This highlighted journalists and organisations that had tweeted or retweeted the story.<sup>22</sup>

Like openDemocracy's work on the Clearing House, Big Brother Watch's exposure of the government's units was eked out through FOI requests and Subject Access

Requests over a long period, taking up much time, energy and resources. Many of Big Brother Watch's FOI requests were turned down by the government, and ministers have refused to answer basic questions from MPs.<sup>23</sup>

What is astounding is that the government thinks it is legitimate to monitor journalists like this, and to fight tooth and nail to avoid any scrutiny. When we first published our Clearing House and FOI investigations, a minister branded our work as "ridiculous and tendentious".<sup>24</sup>

The pursuit of transparency will have to continue.

Journalism is not an easy job, and the flagging, monitoring and surveillance of journalists makes it a lot harder. If a journalist cannot operate freely - free from surveillance - then their watchdog role is compromised, leaving the public uninformed and allowing the powerful to act without any accountability.

## Under His Eye: Surveillance, Sexism and 'Safety'

**Madeleine Stone**

*Big Brother Watch*



**F**or considerable swathes of history women have required chaperones when leaving their homes in order to remain safe and publicly respectable. A woman's choice to walk alone in a city has been characterised as a transgressive act – by entering the male-dominated space of the urban centre, she was seen to be challenging her respectability and inviting harassment. Women were to be “the angel in the house”, as described by the hugely popular Victorian-era poem. In parts of the world women are still fighting for their right to leave their homes without a chaperone. As women have pushed back against sexist notions of their “place”, they have increasingly demanded access to the public sphere. An essential part of women asserting their rights as equal and independent citizens has been the right to travel alone, without the watchful gaze of a husband or male family member.

The notion that women need watching over in public should be long dead. But in recent years the idea has had a startling comeback in the UK. Now, though, the chaperone is digital.



“The notion that women need watching over in public should be long dead. But in recent years the idea has had a startling comeback in the UK. Now, though, the chaperone is digital.”



A public conversation leading to tangible action about the sexual harassment, abuse, assaults and violence which women are regularly subjected to is long overdue. The tragic murder of Sarah Everard by a police officer as she was walking home from a friend's house sparked national outcry over women's safety in public places. The fears that many women carry when walking alone, especially at night, are finally being discussed openly.

The response from police forces and security companies missed the mark. Cressida Dick, then Commissioner of the Metropolitan Police, suggested women "wave down a bus" if approached by a lone male officer,<sup>1</sup> while the Government proposed sending plainclothes officers to patrol bars and clubs.<sup>2</sup> The roll-out of intrusive and inaccurate facial recognition technology has even been justified on the grounds of combating violence against women and girls. Increasingly, businesses are starting to brand their surveillance tech, be it apps, cameras, or biometric monitoring, as essential for "keeping women safe". Women's rights campaigners have not been marching with placards calling for more CCTV, for apps that track our movements, for drones to follow us home – but that is what is being offered.

In Nottingham, a university trialled a drone system that is capable of tracking the phone signal of a woman walking alone at night, with a UAV appearing in minutes if asked, shining a bright light and filming her to deter any attackers.<sup>3</sup> The company hopes to launch its

£35,000 drones nationwide. In Lincoln, a £400,000 project to improve street safety includes, along with the predictable investment in CCTV, an app that can be used that allows CCTV operators to track women through the town on their walk home.<sup>4</sup>

It is not just women's movements that are being tracked in the name of safety. It is their bodies too. A smartwatch app that monitors a woman's heart rate and body motion is being touted as a solution to attacks on women running at night. The app automatically sends an alert if it registers unusual bodily activity while a woman is alone.<sup>5</sup>

Corporate giant Siemens have been marketing "smart iCCTV technology" for trains, which claims to be "capable of spotting risky situations early on" and can register whether or not a woman sitting alone feels threatened by a man via her body language.<sup>6</sup> The premise alone is hugely misjudged – if AI doesn't register alarm or disgust on her face, could a woman be accused of welcoming a man's advances? The technology itself is seriously flawed. Siemens claims that their cameras can distinguish between "happy drunks" who pose no threat to the public and those who might go on to harass people. But our emotions and intentions are not written on our face, like a code to be deciphered by an omniscient machine. The Information Commissioner's Office has already warned that technology which purports to detect emotions and intentions does not,

and may never, work.<sup>7</sup>

Women's Aid, the leading charity working to end sexual and domestic violence, has responded to the recent flurry of tech solutions with skepticism: "[technological] interventions are temporary sticking plasters, which ignore the real cause of male violence against women. Women feel unsafe on our streets, not because of a lack of street lighting or safety apps, but because of the culture of sexism and misogyny".<sup>8</sup>

Pinning the safety of women on questionable technology is not a solution.

The film critic Laura Mulvey famously coined the phrase "the male gaze" to describe how in films, magazines, and adverts, women are viewed through the male characters' perspective. Men are the active "watchers", while women are reduced to objects that exist solely to be observed, rather than sentient individuals with their own will and motivation. This drive to justify mass surveillance in the name of protecting women is part of the same tired trope that spans from Victorian literature to modern day advertising: women are meant to be watched.

Nicole Kalms, Director of the XYX Lab at Monash University, which studies the relationship between urban space and gender, has found that in reality

surveillance “makes (a woman) feel hyper-vigilant, it makes her modify her behaviour, she might choose to quickly leave that area. [...] The symbolic impact of the CCTV camera is really shaping women’s behaviour in cities.”<sup>9</sup> Critically, blanket surveillance does not stop crime. The UK has invested massively in CCTV in recent decades, with more CCTV cameras per person in London than in Beijing.<sup>10</sup> These cameras watch over of almost every inch of public space, but the evidence that they actually prevent crime is scant. A study from French police found that CCTV had an impact on just 1% of criminal cases, and a Home Office review of its Safer Streets program recently found that CCTV made minimal impact on crime levels.

CCTV is even less likely to impact crimes like sexual harassment, which often happen in the full view of a busy train carriage or bar, with people awkwardly averting their gaze. The problem is not a lack of footage or data points. The problem is a culture that emboldens men to dehumanise women. Surveillance cannot change the intimidation, verbal harassment, and drunken rowdiness among groups of men that constrain women’s movement. Surveillance cannot change the culture of misogyny that leads to women feeling unsafe and unwelcome in some public spaces.

Rape prosecution rates are at record lows,<sup>11</sup> with women’s groups saying that rape has effectively

been decriminalised.<sup>12</sup> Just 1% of instances of rape lead to a conviction,<sup>13</sup> while the Criminal Justice Joint Inspectorate reported that victims were being “continually and systematically failed” by the Crown Prosecution Service and police forces.<sup>14</sup> In a staggering number of cases, it is their own officers that are perpetrating sexual violence against women.<sup>15</sup> The problem is predatory men. Why should women submit to the total surveillance of their bodies and movements to atone for the failure of the criminal justice system to arrest, charge and prosecute the perpetrators of violence against women, and where is the evidence that it would even work?

Expensive AI-powered surveillance systems drain resources away from interventions that are more likely to make an impact on male violence against women. Taking a technology-focused approach to what is ultimately a social problem drowns out the bigger questions about sexism, criminal justice and how cities are designed. Instead of meaningfully engaging with why women can feel vulnerable when alone in public places, the tech-solutionist approach simply modernises the idea that our movements must be watched by imposing digital chaperones. An early analysis of CCTV’s impact on women’s safety in urban centres, by criminology expert Shelia Brown, was scathing:

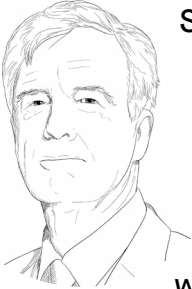
*"If it moves, zap it with technology: exciting for the electronic gadget addict, but what does it do, exactly? Women's safety is rarely integrated, in policy terms, within broader analyses of the gendering of public space and the development of a holistic town centre management strategy. The usual solutions are ad hoc projects- if we are lucky; a women's safe transport scheme, more lights in the car park, perhaps a Zero Tolerance poster campaign (if there is any money left after spending hundreds of thousands of pounds on the cameras)."*

We should reject the repackaging of surveillance technology as feminist or empowering. We must continue to push misogyny and harassment off the streets – and keep women free to move through public spaces without fear and without pervasive surveillance.

## Spies In Our Pockets: Social Media Monitoring & The Battle for Encryption

**The Rt Hon David Davis MP**

*Conservative Party*



Social media has had a revolutionary impact on society. We are now more interconnected than ever before, able to form and maintain relationships, buy and sell goods and organise social and political movements all within the space of a handful of apps.

But the positive power of social media is matched by the potential danger it poses. And here I am speaking not about deepfakes or trolling, as much as those are a problem. The biggest danger is that social media ends up being used as a tool for unprecedented surveillance and censorship.

Sadly, in the past few years we have seen a remarkable and alarming rise in the level of surveillance on social media.

It has become clear that social media firms are prepared to make large, regular and nakedly political interventions in the political debate that takes place on their platforms. Readers will recall the decision to ban Donald



“It has become clear that social media firms are prepared to make large, regular and nakedly political interventions in the political debate that takes place on their platforms.”



Trump from Twitter and Facebook in the aftermath of the 2020 Presidential Election.<sup>1</sup> They will remember the censorship of so-called disinformation about Covid. And they will be well aware of the continued policing of opinion on the transgender issue.

More recently, though, something even more disturbing has come to light, thanks in no small part to the work of Big Brother Watch: our own Government has played a role in this kind of censorship, and has been spying on its citizens in the process.

It is one thing for a private company to apply arbitrary and unfair rules on its platform. It is quite another for an elected Government to participate in this behaviour – and to try to cover it up.

We now know that Government units snooped on journalists, commentators and even MPs like me during the pandemic, recording anything that might be deemed disinformation. We know that it employed third parties to trawl through people's tweets and flag anything that didn't fit with the established narrative. And we know that the Government referred content it didn't like to the social-media firms, suggesting they remove it.

Take one example. When I tweeted that vaccine passports were an attempt to solve the non-existent problem of low vaccine take-up, my comments were

recorded in a “vaccine hesitancy report” by the Rapid Response Unit at the Cabinet Office.<sup>2</sup> This is despite the fact my tweet said nothing that questioned the efficacy of the vaccine or undermined the rollout.

Social media surveillance can sometimes be justified when it is absolutely necessary to prevent or tackle serious crimes like terrorism, and when it is essential for national security. Now I may be a rebel, but I am not a danger to national security. There is no excuse for the Government to be spying on me, or on anyone else simply engaging in debate.

This surveillance is usually defended on the basis that it keeps us safe. But it is far from clear how limiting debate and discussion protects us. Indeed, many of the policies pursued by the Government during the pandemic subsequently proved to be misguided and unscientific. This clearly undermines the Government’s claim to be a good judge of what we should be exposed to and what should be kept from us.

In fact, Covid is a classic case of a scientific issue where the established “truth” proved to be far less clear-cut than it seemed. The lab-leak theory – the idea that Covid originated in a laboratory – is one clear example. At the start of the pandemic, those who espoused this view were censored on social media and derided as conspiracy theorists. Now, it is considered a perfectly

reasonable opinion.

I am pleased to say that one of these Government surveillance units has now been shut down. But who knows what the remaining teams are focussing on, now that the pandemic has passed out of view? Perhaps they have broadened their outlook and now are diligently recording every tweet they can find that criticises the Government in any way? If so, there may be a fair few more entries under the name "David Davis".

The implications of all this for both free speech and privacy are clear. It is not the role of Government to be snooping on its citizens and shrinking the margins of legitimate political debate. That is how autocracies act, because they know that the truth is a powerful weapon in the hands of the people.

Sadly, despite the backlash against this behaviour, it seems the Government has not learned its lesson. It has recently broadened its powers to spy on the public through the Online Safety Act. The Act empowers the Government to order social media companies to decrypt messages sent between users.<sup>3</sup>

In response, WhatsApp, Signal and various other encrypted messaging services have said they would rather close down their operations in the UK than be forced to undermine the encryption protecting their

users' messages. That is the scale of the problem posed here: apps used by millions of people may have to go entirely offline in this country due to the misguided, incoherent and ultimately authoritarian policy of the Government.

It is not mere inconvenience that is in question here. Without encrypted messaging services, our right to privacy will be significantly weaker. And for those who think only criminals need be worried, think about whistleblowers, investigative journalists, even undercover police officers – they all rely on the ability to communicate in an encrypted form.

And anyway, what right does the Government have to read the private communications of any individual? Given the behaviour of Government surveillance units during the pandemic, branding entirely reasonable opinions as potential disinformation, we can hardly trust authorities to use this enormous new power responsibly.

Of course, things could have been worse. The Government previously wanted to introduce rules against so-called legal but harmful content online, expecting social media firms to take action on posts that are perfectly within the law. This represented a serious infringement on the right to free expression, greatly expanding the power of the Government to control discussion on political topics. What is more, the definition of "legal but harmful" was to

be decided by the Secretary of State, subject to minimal Parliamentary scrutiny.

You have to ask yourself why Ministers sought to grant themselves this power and why they were keen to do so in this unaccountable way. What did they intend to do with this ability; what kind of content did they want to see purged from the internet? I doubt that it was simply things like content promoting suicide or self-harm, which most of us can agree should be banned. Inevitably, it would have extended into much more contentious areas.

Thanks to our campaigning the Government has abandoned this odious aspect of the Bill. But the fact it was proposed in the first place indicates how little Ministers understand the importance of free debate.<sup>4</sup>

Of course, this is far from novel. This year marks the tenth anniversary of the Edward Snowden revelations which threw light on a vast network of global surveillance undertaken by Western Governments including our own. His treatment is an example of a tale as old as time: as Governments seek more and more power to snoop on their citizens, they also look for ways to conceal the fact it is happening.

This power-grabbing on the one hand, combined with secrecy on the other, is also reflected in continued

imprisonment and potential deportation of Julian Assange. Assange has been held in HMP Belmarsh, a Category A prison, for over four years now, locked up alongside a litany of serious criminals, murderers and terrorists. Belmarsh has previously been dubbed the “British version of Guantanamo Bay” - and that is where the UK has chosen to keep someone who exposed Government wrongdoing.<sup>5</sup> That should serve as a reminder of the authoritarian power even of Western democratic Governments.

In the years ahead we will, no doubt, face new attempts to broaden surveillance and new attempts to keep it under wraps. And we have to worry about not just our own Government but those of foreign states, both our allies and opponents. The scandal of the use of Chinese CCTV cameras in the UK is one such danger that we appear to have sleepwalked into.<sup>6</sup> More than ever, we will have to be on our guard against these threats to freedom.

We are in an age now when our personal data is treated as incredibly valuable by those who seek to exploit it, yet is handled carelessly by the those whom we entrust to protect it. And that puts us all at risk.



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