BIG BROTHER WATCH

Big Brother Watch Briefing on the Crime and Policing Bill for Second Reading in the House of Lords

October 2025

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 technological 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.

Contact

Matthew Feeney

Advocacy Manager

Direct line: 020 8075 8479

Email: matthew.feeney@bigbrotherwatch.org.uk

Big Brother Watch briefing on the Crime and Policing Bill for Second Reading in the House of Lords

Big Brother Watch is concerned that several clauses within the Crime and Policing Bill pose a direct threat to privacy and freedom of expression, particularly the right to protest.

Clause 118 of the Crime and Policing Bill would prohibit "wearing or otherwise using an item that conceals their identity" at protests. These powers put the public's ability to protest safely and freely at grave risk, especially given increased police deployment of both live and retrospective facial recognition.

Clause 138 of the Crime and Policing Bill could be used for the creation of a vast police facial recognition database of driving licence photos. This is a huge, disproportionate expansion of police surveillance powers that would place the majority of Britons in a digital police line-up without their consent.

We urge Peers to raise concerns about these powers during the Second Reading of the Bill.

Clause 118:

Clauses 118-120 of the Bill create an offence of "concealing identity at protests". An officer can designate an area where a protest, procession or assembly is taking place and where they reasonably believe the protest is likely to involve the commission of offences. This power represents a disproportionate interference with the right to freedom of expression.

Police officers already have powers under Section 60AA of the Criminal Justice and Public Order Act 1994 "to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity."[1]

Given these existing targeted powers available to police officers, we believe these powers are unnecessary and significantly threaten our right to protest safely and freely.

It is vital to democracy, freedom of expression and freedom of association that individuals are able to preserve their anonymity at protests. In the era of facial recognition (both by law enforcement and private actors), video streaming, and doxxing prohibiting face coverings at protests will have a chilling effect on people's willingness to engage in protest, particularly in vulnerable and minority communities. There are many categories of law-abiding individuals who may wish to conceal their identities at a protest: those protesting against hostile foreign states who fear retribution for themselves or their families, those who might be criticising their own religious or cultural communities, survivors of sexual violence or harassment, and those who do not wish to be subject to facial recognition surveillance.

1 Criminal Justice and Public Order Act 1994, Section 60AA(2)(a)

Many people may also wish to wear face masks to protect their, and others', health. While the Bill does create the defence of covering one's face for "a purpose relating to the health of the person or others", this is only once an individual has already been charged with an offence. The Bill's memorandum on human rights acknowledges this "reverse legal burden" but maintains that it is justified.[2] People with health conditions may not feel willing or able to risk being charged with an offence under this Bill, and may instead avoid attending protests.

Anonymity is an important enabler of freedom of assembly and association, as assemblies traditionally have allowed participants a certain level of protection against police forces and other authorities singling out or identifying specific individuals. The UN High Commissioner for Human Rights stated that facial recognition has compounded this loss of anonymity that is critical to freedom of assembly and association:

> "*The rise of facial recognition technology has led to a paradigm shift in comparison with practices of audiovisual recordings, as it dramatically increases the capacity to identify all or many participants in an assembly in an automated fashion.*
>
> *(...)*
>
> "*The negative effects of the use of facial recognition technology on the right of peaceful assembly can be far-reaching (...) Many people feel discouraged from demonstrating in public places and freely expressing their views when they fear that they could be identified and suffer negative consequences.*"[3]

Five UN special rapporteurs (on the rights to freedom of peaceful assembly and of association, on the promotion and protection of human rights in the context of climate change, on the situation of human rights defenders, on the right to privacy and on the promotion and protection of human rights and fundamental freedoms while countering terrorism) have written to the Government to raise "grave concerns" about these powers, stating that they are "incompatible" with the right to freedom of peaceful assembly, the right to freedom of expression, the right to freedom of religion and the right to privacy.[4]

Police forces have already used live facial recognition in the UK to target protesters who are not wanted in relation to any criminal offences,[5] and have also used the technology to deter peaceful protesters from attending events.[6] Metropolitan Police Commissioner Mark

---

2 Crime and Policing Bill: European Convention on Human Rights Memorandum- Home Office, Ministry of Justice, Ministry of Defence, p. 49: https://publications.parliament.uk/pa/bills/cbill/59-01/0187/ECHRMemo.pdf

3 Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, UN Human Right Council, 24 June 2020, A/HRC/44/24, https://www.ohchr.org/en/documents/thematic-reports/ahrc4424-impact-new-technologies-promotion-and-protection-human-rights

4 OL GBR 7/2025, 3 July 2025: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29987

5 Facial recognition: What led Ed Bridges to take on South Wales Police? - BBC News, 11 August 2020: https://www.bbc.co.uk/news/uk-wales-53742099

6 F1 British Grand Prix: Facial recognition at Silverstone being used – BBC News, 6 July 2023: https://www.bbc.co.uk/news/uk-england-northamptonshire-66120010

Rowley recently told the London Policing Board he wouldn't rule out using live facial recognition at protests.[7]

While we do not believe police should deploy live facial recognition at protests at all, a prohibition on face coverings at protests represents a step towards the entrenchment of biometric surveillance at protests.

Clause 138:

Clause 138 replaces Clause 71 of the Criminal Justice and Court Services Act, allowing the Secretary of State to create regulations which grant police digital access to DVLA records for "purposes relating to policing or law enforcement". Currently, police forces can only directly access and search DVLA data in relation to road traffic offences,[8] and must phone the DVLA in relation to any other offences.[9]

We are deeply concerned that Clause 138 could be used by this or future governments to create regulations which will grant police forces the ability to search the DVLA database using facial recognition. We believe the powers should be amended by creating a safeguard to prevent such data being used to conduct facial recognition searches.

Clause 138 contains the same powers that the previous Government proposed in Clause 27 of the Criminal Justice Bill, which fell after former Prime Minister Rishi Sunak announced the 2024 general election. While Clause 138 of the Crime and Policing Bill does not specifically mention facial recognition, when MPs debated these powers as part of the Criminal Justice Bill, then-Policing Minister Chris Philp MP stated: "There is a power in Clause [27] to allow police and law enforcement, including the NCA, to access driving licence records to do a facial recognition search, which, anomalously, is currently quite difficult."[10] At another Committee session, the then-Minister stated Clause 27 "would make the DVLA driving licence database searchable by the police, in the same way that other databases are, including for facial recognition purposes".[11] In a recent submission to the Home Affairs Committee, the National Police Chiefs' Council stated that police chiefs were seeking access to the DVLA database for facial recognition searches. We remain concerned that the regulations made under Clause 138 could be used for this purpose, as the previous Government set out.[12]

Using facial recognition technology on the DVLA database would **represent a huge expansion of police surveillance powers, granting them access to the biometric data of**

7 Met chief reveals why facial recognition was not used at Tommy Robinson protest – Jacob Phillips, the Standard, 17 September 2025: https://www.standard.co.uk/news/london/met-police-tommy-robinson-unite-the-kingdom-rally-b1248045.html
8 The Motor Vehicles (Access to Driver Licensing Records) Regulations 2001 set out under what circumstances police forces can access DVLA records
9 Explanatory Notes, Criminal Justice Bill, 14 November 2023: https://publications.parliament.uk/pa/bills/cbill/58-04/0010/en/230010en.pdf
10 Criminal Justice Bill (First sitting), HC Deb (12 December 2023), col 14
11 Criminal Justice Bill (Second sitting), HC Deb (12 December 2023), col 48
12 Written evidence submitted by the National Police Chief's Council Public Order – Home Affairs Committee, 16 January 2025: https://committees.parliament.uk/writtenevidence/132486/html/

tens of millions of citizens. Members of the public did not apply for driving licences only for them to be included in a vast biometric police database. This would be a deeply disproportionate interference with the right to privacy. Given the well-documented issues with the accuracy of facial recognition technologies, there is also a risk of innocent people being wrongly flagged as criminals. **This technology is less accurate for women and people of colour, meaning they will be disproportionately impacted by misidentifications.**

A Home Office spokesperson has stated that the Bill "will have no impact on facial recognition"[13] and during Committee Stage, the Policing Minister said "police forces do not conduct facial matching against images contained on the DVLA database, and the clause will not change that".[14] We welcome this intention. However, **the current drafting of Clause 138 does not adequately protect against the possibility of facial recognition searches being conducted against the DVLA database**. The clause allows regulations to be made at a later date, setting out how "driver licencing information" will be made accessible to law enforcement. While regulations must set out "the kind of information that may be made available" and "the purposes for which the information may be used", the Clause itself provides no parameters for which data can be accessed and for what purpose. **A safeguard is required to ensure regulations made under Clause 138 cannot provide for facial recognition searches.**

Regulations made under Clause 138 are subject to the negative procedure, meaning parliamentarians will have extremely limited opportunity to scrutinise the significant powers the Secretary of State grants to police forces and other law enforcement bodies.

The Scottish Biometrics Commissioner expressed serious concerns about these plans when they appeared in the Criminal Justice Bill:

> "*The police in the UK [...] already have the technological means to view a person's driving licence image when dealing with a road traffic matter [...] In a specific enquiry, they can also request access to a UK passport image.* ***However, none of this can be done in the form of a routine bulk wash of the images of innocent citizens against images derived from the scene of a minor crime. Doing so in my view would place citizens in a permanent police 'digital lineup' and would be a disproportionate breach of privacy."***[15]

Facial recognition technology is a deeply intrusive surveillance tool which poses a serious threat to the civil liberties and human rights of UK citizens. If used to enable the creation of a DVLA facial recognition database, Clause 138 represents a disproportionate expansion of

13 Driving licence data could be used for police facial recognition – fSebastian Klovig Skelton, Computer Weekly, 13 March 2025: https://www.computerweekly.com/news/366620582/Driving-licence-data-could-be-used-for-police-facial-recognition

14 Crime and Policing Bill (Eleventh sitting), 29 April 2025, col 442: https://hansard.parliament.uk/commons/2025-04-29/debates/ead2de71-bf76-47e6-8b51-3844e8eb5eee/CrimeAndPolicingBill(EleventhSitting)

15 Is Scotland 'sleepwalking' towards its place within a UK surveillance state in 2024? - Dr Brian Plastow, Scottish Biometrics Commissioner, 8 January 2024: https://www.biometricscommissioner.scot/news/is-scotland-sleepwalking-towards-its-place-within-a-uk-surveillance-state-in-2024/

police powers to track and identify citizens across time and locations for low-level policing needs. It is vital that a safeguard is introduced in law to prevent this from happening.