

# **BIG BROTHER WATCH**

**Briefing on Clauses  
133-134, 139, and  
154 of the Crime and  
Policing Bill for  
Report Stage in the  
House of Lords**

**February 2026**

## **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.

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## **Big Brother Watch briefing on the Crime and Policing Bill for Report Stage in the House of Lords**

Big Brother Watch is concerned that several Clauses of the Crime and Policing Bill pose a direct threat to privacy and freedom of expression, particularly the right to protest. Freedom of expression and freedom of assembly are enshrined by Articles 10 and 11 of the Human Rights Act and may only be restrained under the most severe circumstances. Big Brother Watch is deeply worried that the following Clauses in the Crime and Policing Bill would represent a draconian shift in the government's ability to arbitrarily and often pre-emptively restrict protests:

**Clauses 133 and 134** would prohibit demonstrators from “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 technology.

**Clause 139** would give the police powers to impose pre-emptive restrictions in the “vicinity” of places of worship based on whether the police believe worshippers “may” be “intimidated” by them. These vaguely defined powers would create large no-protest protest zones, as well as insulating religious institutions from legitimate scrutiny in the public square.

**Clause 154** would allow for driver's licence photos in DVLA databases to be used for the purposes of facial recognition, despite drivers never having consented to this. This represents a highly invasive infringement on the privacy of millions of people, including peaceful protestors.

## **Concealing Identities at Protests** (Clauses 133 and 134)

**We urge Peers to support Lord Strasburger’s amendment to the identity concealment Clauses of the Bill.**

[Amendment in the name of Lord Strasburger:](#)

Clause 133, page 176, leave out lines 10 to 14 and insert:

“(2) It is a defence for a person charged with an offence under this section to show that they had a reasonable excuse for wearing or otherwise using the item at the material time.”

**Effect:** This amendment would provide a defence of reasonable excuse to the offence of concealing identity at protests, thereby putting the burden on police officers to justify why they believed wearing a face covering at a protest made the suspect arrestable.

**We also urge peers to table the following amendment:**

Clause 134, page 176, line 33 after “offences” insert:

“involving violence or public disorder”

**Effect:** This amendment would specify the kind of offences anticipation of which forms part of the test for designating a locality within which concealing identity would become an offence. This prevents the police from imposing restrictions on the wearing of face coverings where the wearer is engaging in peaceful protest.

**Briefing:**

**These amendments strike a careful balance between allowing the police to prevent public disorder, while protecting the many law-abiding people who have legitimate reasons for wanting to exercise their freedoms of expression and assembly anonymously.**

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.”<sup>1</sup> 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

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<sup>1</sup> Criminal Justice and Public Order Act 1994, Section 60AA(2)(a).

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 people who have legitimate reasons for wanting 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.

The amendments would still allow the police to arrest a protestor where they believe he is doing so in order to cause violence or public disorder. However, by providing a defence of reasonable excuse for concealing identity at a protest, this Amendment would ensure that the police exercise their ability to make an arrest for concealing identity at a protest with extra caution.

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.”<sup>2</sup>

Police forces have already used live facial recognition in the UK to target protesters who are not wanted in relation to any criminal offences.<sup>3</sup> They have also used the technology to deter peaceful protesters from attending

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<sup>2</sup> 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-newtechnologies-promotion-and-protection-human-rights>.

<sup>3</sup> 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>.

events.<sup>4</sup> 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.

### **Places of Worship** (Clause 139)

**We call on Peers to table a stand part amendment which would remove Clause 139 from the Bill.**

**Effect:** This would prevent the police from pre-emptively imposing conditions on speech by creating arbitrarily sized no-protest zones around areas of worship.

#### **Briefing:**

Clause 139 would amend the Public Order Act 1986 to allow the police to impose restrictions on protests “in the vicinity of a place of worship” where they believe the protest may “intimidate” worshippers. Besides adding to an already extensive arsenal of legislation which the police can use to restrict peaceful protests,<sup>5</sup> the vague phrasing of this Clause significantly lowers the threshold for the police to do so around places of worship. Though designed to protect the freedom of worshippers to practise their religion, this Clause does nothing to this end. Instead, it gives the police draconian measures to restrict free speech in public spaces, including where the topic of a protest is not related to religion or religious institutions.

**Big Brother Watch is deeply concerned that the absence of a clear definition of “vicinity” would create widespread uncertainty about the size of the “no-protest” zone created by this Clause.** In one instance, officers might require demonstrators gathered outside a place of worship to stand only a few metres away from the entrance. In another, “vicinity” could be interpreted to encompass an entire street, surrounding blocks, or even several neighbourhoods. Even if this Clause were to be amended to include a clear special definition, **the sheer number of places of worship in a country as old, religiously diverse and densely populated as Britain would mean that significant portions of the country would be turned into “no-protest zones”**. This is particularly the case in densely populated areas like Central London, where protests are already more likely to take place. Besides making this Clause ripe for abuse, the lack of a clear definition of “vicinity” would also make it virtually impossible for protestors organising

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<sup>4</sup> 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>.

<sup>5</sup> Including for instance Sections 12, 13 and 14 of the Public Order Act 1986.

demonstrations to do so in the certainty that their protest will be allowed to go ahead, thereby significantly chilling freedom of expression.

Freedom of speech is an empowering tool by which even the most powerless can publicly hold powerful people to account. This applies to religious leaders as much as secular ones. **By allowing the police to impose conditions around places of worship, Clause 139 risks insulating religious institutions from scrutiny while effectively silencing the voices of thousands of people: from victims of sexual abuse by religious leaders to the recently unconverted wanting to criticise the practises of their former religious institutions.** Under Clause 139, if the police believe that a protest “may intimidate” worshippers, for instance because they have been told so by religious leaders, they would be within their rights to restrict it. **Big Brother Watch is deeply worried that this would effectively allow religious leaders to ask the police to enforce blasphemy laws in the “vicinity” of a place of worship.** Such restrictions of public space based on the subjective experience of members of a particular religion is wholly incompatible with the freedoms of religion, speech and assembly protected by Articles 9, 10 and 11 of the HRA.

**Not all protests taking place in the “vicinity” of places of worship are necessarily aimed at them.** Particularly in a large city, a single street might host private businesses, media organisations, government institutions, and schools alongside various places of worship. In such cases, it is simply unavoidable that a protest outside one of these buildings would be noticed by everyone on the street. **Big Brother Watch is therefore concerned that Clause 139 would give the police powers to arbitrarily restrict protests on specific issues, particularly where these are highly contested or sensitive.** The extraordinarily low legal threshold for protest restrictions set by Clause 139 would allow worshippers and religious leaders to ask the police to pre-emptively restrict protests on topics they consider offensive or intimidating, **even where they were not the intended audience.** Many topics ranging from women’s rights to geopolitical conflicts can be highly sensitive when viewed through a religious lens, and demonstrations around these topics would therefore face an increased risk of censorship.

Freedom of speech is not absolute, and the police already have extensive powers to arrest people for (racially or religiously aggravated) hate speech. But by allowing them to impose conditions on peaceful protests pre-emptively, based only on whether they expect a planned protest “may intimidate” worshippers in the “vicinity” of a place of worship, **Clause 139 gives the police the power to censor speech before it has even been expressed. This creates a deeply Orwellian situation where the police, not campaigners themselves, have the power to decide the meaning of a protest.**

Religion constitutes a central part of the world-view of millions of Britons, but **laws that prioritise subjective religious sensitivities at the expense of freedom of expression through peaceful protest have no place in a liberal democracy.** By allowing the police to create vaguely defined and arbitrarily “no-protest zones” around areas of worship, Clause 139 fundamentally threatens the very foundations of free speech in Britain.

**We urge the members of the House of Lords to oppose the Question that Clause 139 stand part of the Bill.**

### **Use of DVLA Photographs for Facial Recognition** (Clause 154)

We urge members of the House of Lords to support Amendment 380 in the name of Lord Marks of Henley-on-Thames restricting police access to DVLA data for facial recognition:

Clause 154, page 201, line 24, at end insert—

“(7A) Authorised persons listed in section 71A may not use the information referenced in subsection (1) for the purposes of biometric searches using facial recognition technology.”

**Effect:** This amendment would ensure that Clause 154 contains a specific safeguard that would prevent facial recognition searches from being conducted against DVLA photos.

### **Briefing:**

We are deeply concerned that Clause 154 could be used create regulations which will grant police forces the ability to search the DVLA database using facial recognition. Currently, police forces can only directly access and search DVLA data in relation to road traffic offences,<sup>6</sup> and must phone the DVLA in relation to any other offences.<sup>7</sup> Lord Strasburger’s amendment would not prevent police forces from accessing DVLA data for law enforcement purposes, but would create a safeguard to prevent such data being used to conduct facial recognition searches.

Clause 154 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 154 of the Crime and Policing Bill does not specifically mention

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<sup>6</sup> The Motor Vehicles (Access to Driver Licensing Records) Regulations 2001 set out under what circumstances police forces can access DVLA records.

<sup>7</sup> Explanatory Notes, Criminal Justice Bill, 14 November 2023:  
<https://publications.parliament.uk/pa/bills/cbill/58-04/0010/en/230010en.pdf>

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.”<sup>8</sup> At another Committee session, the then-Minister stated that 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”.<sup>9</sup> 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 120 could be used for this purpose, as the previous Government set out.<sup>10</sup>

**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 tens of millions of citizens.** Members of the public did not apply for driving licences only for them to be subverted 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”<sup>11</sup> 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”.<sup>12</sup> We welcome this intention. **However, the current drafting of Clause 154 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,

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<sup>8</sup> Criminal Justice Bill (First sitting), HC Deb (12 December 2023), col 14.

<sup>9</sup> Criminal Justice Bill (Second sitting), HC Deb (12 December 2023), col 48.

<sup>10</sup> 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/>.

<sup>11</sup> 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>.

<sup>12</sup> 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\(EleventhSitting\)](https://hansard.parliament.uk/commons/2025-04-29/debates/ead2de71-bf76-47e6-8b51-3844e8eb5eee/CrimeAndPolicingBill(EleventhSitting)).

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. **The amendment will not prevent law enforcement from accessing DVLA data where necessary, but creates a safeguards to ensure regulations made under Clause 154 cannot provide for facial recognition searches.**

Regulations made under Clause 154 are subject to the negative procedure, meaning that 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 line-up” and would be a disproportionate breach of privacy.”<sup>13</sup>

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 154 represents a disproportionate expansion of 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.

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<sup>13</sup> <https://www.biometricscommissioner.scot/news/is-scotland-sleepwalking-towards-its-place-within-a-uk-surveillance-state-in-2024/>.