

## Protection of Freedoms Bill Public Bill Committee

Written Evidence Submitted by No CCTV  
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### Summary

- 1 The Protection of Freedoms Bill does not address core issues of lost personal freedoms or the wider impact that surveillance cameras have on society. The Bill should have been an opportunity for a detailed and informed debate on such issues and how they will affect people's lives – but so far no such debate has emerged. The Bill contains no new thinking – the voluntary code model of camera regulation has been the favoured approach since the 1990s. The Bill purports to protect freedoms and upon closer scrutiny the freedom most protected is the freedom of the state to surveil its citizens. The coalition government have missed an opportunity to begin to restore lost freedoms to the people of this country.

### Full Submission

- 2 This submission is focussed on Chapter 1, Part 2 of the Bill - the 'Regulation of CCTV and other surveillance camera technology' and briefly the amendments to the Regulation of Investigatory Powers Act 2000 in Part 2, Chapter 2 'Authorisations requiring judicial approval'.
- 3 The spread of surveillance cameras across the country has taken place since the 1990s with little or no meaningful debate. Successive studies, many prepared for the Home Office, have shown that:
  - CCTV cameras do not deliver significant returns in terms of crime prevention or detection
  - the public have a limited and inaccurate knowledge of the functions and capabilities of CCTV
- 4 The public's lack of knowledge has been exploited by many decision makers and CCTV has been offered as the solution to a plethora of problems allowing decision makers to “appear to be doing something”. Security expert Bruce Schneier summed up this model of decision making in his essay 'The Difference Between Feeling and Reality in Security'<sup>1</sup>, Schneier wrote:

“there are two ways to make people feel more secure. The first is to make people actually more secure and hope they notice. The second is to make people feel more secure without making them actually more secure, and hope they don't notice.”
- 5 CCTV has become the epitome of the latter. Ken Pease in his 1999 study of street lighting<sup>2</sup> wrote:

“for those exercising stewardship of public money, good evidence about effects should be necessary before money is spent, although one is tempted to ask where rigorous standards went in the headlong rush to CCTV deployment.”
- 6 The Protection of Freedoms Bill was surely an opportunity to ensure that a meaningful and informed debate took place on the use of surveillance cameras, and that evidence based decision making replaced the emotive knee-jerk introduction of CCTV cameras that currently pervades.

<sup>1</sup> <http://www.schneier.com/essay-213.html>

<sup>2</sup> [http://www.popcenter.org/library/crimeprevention/volume\\_10/03-PeaseLighting.pdf](http://www.popcenter.org/library/crimeprevention/volume_10/03-PeaseLighting.pdf)

- 7 The Impact Assessment<sup>3</sup> for the Bill states that it was introduced: "to progress the Government's ambition to reduce the burden of the state on its citizens and to restore the balance between the Government's duty to keep communities safe and protecting individual civil liberties".
- 8 In reality the Bill in relation to surveillance cameras has predominantly focussed on the misplaced faith in cameras in delivering community safety and it is hard to see how civil liberties are addressed at all. The Bill merely seeks to further regulate cameras via the introduction of another voluntary code of practice for surveillance cameras to be added to the Information Commissioner's voluntary code, local authorities' voluntary codes and various surveillance industry voluntary codes.
- 9 Regulation of CCTV via voluntary codes has been viewed as the favoured approach since the 1990s. In parliamentary debates of the time and in the 1994 Home Office report 'CCTV Closed Circuit Television: Looking out for you'<sup>4</sup> much emphasis was placed on such codes. The 1994 report stated with regard to local authority codes:  
"In order that CCTV systems are used efficiently, that public confidence is maintained, due attention is paid to issues of privacy and that integrity of systems is preserved, it is crucial that a code of practice is developed."
- 10 Little new thinking appears to have emerged in the interim and very little attention, if any, has been given to the wider implications of creating a Surveillance State. Most parliamentarians still appear to believe that the debate can be summed up as a simple choice of "cameras or crime". Leaving aside for a moment the ineffectiveness of CCTV as a crime prevention and detection tool, there are constitutional, philosophical and sociological issues that must be explored.
- 11 Regulation does not address the core issues of removal of personal freedom, anonymity and other rights. All regulation does is to endorse acceptance of CCTV by formalising its "proper use", leaving no room for the rejection of such technology. We share the view expressed by Desmond Browne QC, former Chairman of the Bar Council, that in a country with a strong common law tradition it is the common law principles which govern protection of our privacy that we should all be working to uphold<sup>5</sup>.
- 12 To understand the impact that cameras have on society we can look back to the work of people like the Social Anthropologist Jane Jacobs who wrote 'The Death and Life of Great American Cities'<sup>6</sup> in 1961. Jacobs wrote in relation to the way that towns and cities were being designed in America in the 60s, but her writings have resonance with regard to the over use of surveillance cameras today. Jacobs wrote:  
"The first thing to understand is that the public peace - the sidewalk and street peace - of cities is not kept primarily by the police, necessary as police are. It is kept by an intricate almost unconscious, network of voluntary controls and standards among the people themselves, and enforced by the people themselves."
- 13 This idea of a community of people interacting and having a sense of natural vigilance is what cameras destroy. Now people abdicate their responsibility to a machine or a faceless watcher that views the world via monitors rather than actually engaging with real people. When people stop interacting in the way that Jacobs describes, that in itself causes the very problems that the cameras are supposedly there to fix.

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<sup>3</sup> <http://www.homeoffice.gov.uk/publications/about-us/legislation/freedom-bill/pof-bill-ia>

<sup>4</sup> 'CCTV: Looking Out For You', Home Office, November 1994

<sup>5</sup> <http://www.barcouncil.org.uk/news/press/759.html>

<sup>6</sup> 'The Death and Life of Great American Cities', Jane Jacobs, Random House, 1961

- 14 Our way of life in this country for hundreds of years has had at its core certain principles of Common Law and Equity such as the principle that you are free to do anything that isn't unlawful and the fundamental legal principle of 'innocent until proven guilty' .
- 15 Rejection of the principles that have underpinned this country in favour of the qualified rights model enshrined in the European Convention on Human Rights has led to an erosion of civil liberties - as new technology that erodes freedoms is allowed to flourish exempted from the supposed protections by virtue of a claimed but rarely proven value in the "prevention or detection of crime". Civil Liberties are meant to protect the citizen from the excesses of the state - but when the state is constantly exempted from measures that are meant to protect citizens then citizens are dangerously exposed.
- 16 Advances in surveillance technology are creating an electronic Panopticon<sup>7</sup> in which citizens will come to feel that their every move is being recorded and analysed. The effect of this will be to create a society of behavioural uniformity. The law abiding citizen clearly stands to lose the most. As New York Times columnist William Safire put it: "To be watched at all times, especially when doing nothing seriously wrong, is to be afflicted with a creepy feeling. That is what is felt by a convict in an always-lighted cell. It is the pervasive, inescapable feeling of being unfree."<sup>8</sup>
- 17 We note that the Bill contains provisions to amend the Regulation of Investigatory Powers Act (RIPA), requiring judicial approval for directed surveillance and covert human intelligence sources. We believe that whilst this might slow down the authorisation procedure and discourage the more ludicrous headline grabbing uses of surveillance by local authorities it will do little else. Many of the problems surrounding RIPA stem from the fact that the general public was shocked to learn of the police-like powers that had already been granted to local authorities, which the publicity around RIPA merely highlighted. It is this quasi-police role of non-police bodies that should have been addressed.
- 18 The Bill does not address the Automatic Number Plate Recognition (ANPR) camera network that has been constructed across the country by the Association of Chief Police Officers (ACPO). The ANPR network was built despite there being no public debate, no parliamentary debate, no primary legislation and no secondary legislation. This network of cameras represents one of the most radical changes to policing, freedom of movement and anonymity ever seen in this country.
- 19 In 2009 Geoffrey Cox, the MP for Torridge and West Devon was quoted in a Plymouth Herald article about the ANPR network. He is quoted as saying: "It is a Big Brother state which assumes and suspects that everyone, at any time, might commit an offence and so gathers evidence against you in advance. [...] It is an unsettling symptom of something that has grown up without peoples' recognition, understanding and assent."<sup>9</sup>
- 20 The police use of ANPR as a mass surveillance tool is equivalent to an automated checkpoint system that is reminiscent of road blocks instituted by totalitarian regimes to check citizens' papers at a series of internal borders.
- 21 The Bill merely inserts ANPR cameras along with CCTV into the definition of surveillance cameras in Clause 29(6), such that it will be subject to the proposed voluntary code of practice. This amounts to no more than a confirmation of the current situation.

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<sup>7</sup> The PANOPTICON ("all-seeing") was proposed as a model prison by Jeremy Bentham (1748-1832)

<sup>8</sup> <http://www.nytimes.com/2002/02/18/opinion/the-great-unwatched.html>

<sup>9</sup> <http://www.thisisplymouth.co.uk/news/Secret-police-cameras-record-64million-number-plates-year/article-1118535-detail/article.html>

- 22 Much of the discussion of surveillance cameras by parliamentarians refers to the widespread public support for CCTV. For instance in the Bill Committee Vernon Coaker MP referred to a memorandum submitted to the Committee by the European Vehicle Security Association (EVSA)<sup>10</sup>, when he said: "The evidence put before us by the ESVA shows that the vast majority of the public are happy with ANPR"<sup>11</sup>. We hope that the Committee have had time to read the underlying surveys upon which the ESVA based this assertion. As you will have seen the surveys suffer from what Jason Ditton of the Scottish Centre for Criminology termed "skewed contextualising"<sup>12</sup> (whereby the question in a survey and the way it is asked influences the answer). In addition the thesis from which the second survey is derived states that: "Findings in the current study indicate that, although the majority of people indicate awareness of ANPR (i.e. 66%), they seem to have inadequate understanding of the aims and consequences of ANPR surveillance to make reasonable judgements about ANPR's effectiveness in tackling crime."<sup>13</sup> What this example highlights is that it is all too easy to be misled by surveys that fail to capture the deeper issues at stake.
- 23 Only an informed public can be vigilant to the dangers of the surveillance state and the introduction of this Bill should have been used an opportunity to inform the public about these issues. Instead much of the discussion has focussed on ensuring "public confidence" so as to facilitate the continued expansion of camera surveillance and this public confidence will then be used to justify such expansion.
- 24 The content of the proposed Code of Practice for Surveillance Cameras, is not laid out in the Bill in any detail. The Law Society pointed out to the Bill Committee on Tuesday 22nd March that: "There is a very limited opportunity for parliamentary scrutiny of those codes, and it seems to us that there ought to be a proper debate about where the balance should be and what those codes should contain."<sup>14</sup> The Bill allows for a surveillance cameras code to be introduced via secondary legislation. The code will pertain to the collection, retention and sharing of personal data, as defined by the Data Protection Act.
- 25 The 2009 Conservative Party report 'Reversing the rise of the surveillance state'<sup>15</sup> states: "Expanding the powers of the surveillance state through secondary legislation vests excessive power with Ministers, and constrains the scope for effective Parliamentary debate and scrutiny. A Conservative government would amend the Data Protection Act 1998 to ensure that any future scheme or proposals extending powers of data collection, sharing or retention must be enacted by primary legislation, to ensure maximum transparency and debate."
- 26 As one of the first pieces of legislation from a government that promised to reverse the rise of the surveillance state, along with a coalition partner supposedly committed to restoring freedoms, the Protection of Freedoms Bill does not bode well.

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<sup>10</sup> <http://www.publications.parliament.uk/pa/cm201011/cmpublic/protection/memo/pf11.htm>

<sup>11</sup> <http://www.publications.parliament.uk/pa/cm201011/cmpublic/protection/110426/am/110426s01.htm#11042623000049>

<sup>12</sup> 'Public Support for Town Centre CCTV Schemes: Myth or Reality', Jason Ditton, 1998

<sup>13</sup> <http://eprints.hud.ac.uk/8760/1/FinalThesis.pdf>

<sup>14</sup> <http://www.publications.parliament.uk/pa/cm201011/cmpublic/protection/110322/pm/110322s01.htm#1103223000028>

<sup>15</sup> [http://www.conservatives.com/News/News\\_stories/2009/09/Reversing\\_the\\_rise\\_of\\_the\\_surveillance\\_state.aspx](http://www.conservatives.com/News/News_stories/2009/09/Reversing_the_rise_of_the_surveillance_state.aspx)