



One Year On:

The Coalition and Civil Liberties



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◆ INTRODUCTION

A year ago today, the Coalition Government was formed. On page 11 of the Coalition Agreement, the Conservatives and Liberal Democrats made the following commitment to the British people:

“We will be strong in defence of freedom. The Government believes that the British state has become too authoritarian, and that over the past decade it has abused and eroded fundamental human freedoms and historic civil liberties. We need to restore the rights of individuals in the face of encroaching state power, in keeping with Britain’s tradition of freedom and fairness.”

So – how have they done?

When it comes to advancing the cause of civil liberties in the United Kingdom, the Coalition has some real achievements to speak off. In particular, ministers should be congratulated for taking steps to scrap ID cards and remove the profiles of the one million innocent people held on the national DNA database. They should also be praised for doing away with the ContactPoint database of children’s details and reforming the criminal record check regime.

The Coalition’s record is, however, imperfect. Police stop and search powers remain in place, Control Orders remain virtually unreformed and there has been no opt-out from the European Arrest Warrant. When it comes to E-Borders, the Summary Care Record and Intercept Modernisation Programme, they have continued to implement the previous government’s policies – warts and all.

This paper outlines the progress to date and suggestions for where further improvements can be made.

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◆ 28 DAY DETENTION

The Terrorism Act of 2006 awarded the Police the ability to hold a suspect for up to 28 days without charge. The 28 day limit introduced in the Act represented a reduction from the 90 days originally proposed following sustained public opposition. Such was the initial concern at the scheme that individuals such as the Archbishop Desmond Tutu wistfully observed that "ninety days for a South African is an awful deja-vu because we had in South Africa in the bad old days a 90-day detention law"¹.

The campaign to prevent the extension of the 28 day limit to 90 days undoubtedly represented a significant victory for the British civil liberties movement, galvanizing into action many members of the public who had previously never given the issue particular thought. Among Members of Parliament from across the political divide, memories remain of the veracity of the letter-writing campaigns from their constituents opposing the scheme as well as the organised rallies of Parliament which drew thousands to Westminster.

In their 2010 manifesto, the Liberal Democrats pledged to reduce the 28 day limit to 14 days. This promise has been kept.

At midnight on 24th January 2011, the Home Secretary allowed the power to detain suspects for up to 28 days to expire, reverting back to the previous two-week limit.

Despite the government's decision to allow these powers to lapse, 28 day detention is not without its active cheerleaders in Parliament. Some, such as former Metropolitan Police Commander Lord Stevens of Kirkwhelpington and counter-terrorism coordinator Andy Hayman have argued in favour of re-imposing the 28 day limit in "exceptional" circumstances.

To date, the Home Secretary has given no public indication that she intends to heed Lord Stevens' call and re-adopt the 28 day limit.

◆ IDENTITY CARDS

Prior to the 2010 general election, both the Conservatives and Liberal Democrats made clear and unequivocal promises to abolish the identity card scheme. In September 2008, the Shadow Home Secretary Dominic Grieve pledged that the Conservatives would "abandon the ID cards project"² while his Liberal Democrat counter-part Chris Huhne branded the cards a "grotesque intrusion on the liberty of the British people"³. In light of these expressed positions, the Coalition agreement was similarly forceful, stating: "we will scrap the ID card scheme, the National Identity register".

On 26th May 2010, less than two weeks after the formation of the Coalition Government, the newly-appointed Home Secretary Theresa May brought the Identity Documents Bill to the floor of the House of Commons. Upon receiving Royal Assent on 21st December, the bill caused all ID cards to

¹ <http://www.guardian.co.uk/guantanamo/story/0,,1712066,00.html>

² http://www.conservatives.com/News/News_stories/2008/09/Scrap_the_ID_card_project.aspx

³ http://www.chrishuhne.org.uk/news/504/id_cards_are_a_grotesque_intrusion.html



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expire within one month, removed the statutory requirement for ID cards to be issued, cancelled the National Identity Register and provided a timetable for its destruction and closed the Office of the Identity Commissioner.

At midnight on 22nd January, ID cards ceased to be a valid means by which to prove your identity or to travel inside the European Union. A week later, the Home Office Minister with responsibility for ID cards, Damian Green, personally fed the hard-drives containing the National Identity Register into an industrial shredder.

When it comes to British citizens and EU nationals, the government has fulsomely kept its promise to abolish ID cards.

The Coalition has not, however, been so proactive in the reversal of this requirement for foreign nationals, opting to retain biometric identity cards for non-EU citizens. The National Biometric Identity Service, who signed a seven-year service agreement with IBM in July 2009⁴, continues to operate as it did under the previous administration.

The Coalition Government has defended its position on the continuation of stringent ID controls on non-EU nationals by blaming the realities of European Union law, in particular the snappily-named *Council Regulation (EC) No 380/2008 laying down a uniform format for residence permits for third-country nationals*⁵ which demands that, under the auspices of the EU's "harmonised immigration policy":

"The uniform format for residence permits should contain all the necessary... For the purposes of this Regulation, Member States shall take biometric identifiers comprising the facial image and two fingerprints from third-country nationals."

Furthermore, the regulation demands that:

"The residence permit including biometrics will be produced as a stand-alone document"

Such a provision has been transposed directly into British law through the 2007 Borders Act:

"(6) Regulations under subsection (1)(b) may, in particular, require the production or other use of a biometric immigration document that is combined with another document; and section 16 of the Identity Cards Act 2006 (c. 15) (prohibition of requirement to produce ID card) is subject to this subsection"

In short, EU law has ended the decades-old system in which the legality of a foreign national's entry to and residency in the UK was indicated by a 'vignette' sticker in their passport to a wholly more draconian system of finger-printing, DNA swabbing and ID-card carrying.

⁴ <http://it.tmcnet.com/topics/it/articles/59729-ibm-signs-7-year-national-biometric-identity-service.htm>

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:115:0001:0007:EN:PDF>



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While the Coalition can validly claim to have taken concrete steps towards abolishing ID cards for British citizens and those living in the remaining twenty six European Union member states, the ID cards scheme continues to remain in force for all other foreign nationals.

◆ THE NATIONAL DNA DATABASE

The Coalition agreement contained a clear promise by the Conservative and Liberal Democrat Coalition to reform the rules governing the national DNA database, promising to adopt the “Scottish model” for the storage of this information.

The “Scottish model”, as mentioned in the document, was a reference to the regulations adopted by the Scottish Parliament under their delegated responsibilities for justice policy in which anyone arrested for a crime has their DNA taken as a matter of course yet has it removed from both domestic and UK-wide databases if they are acquitted of committing a crime or charges are withdrawn for whatever other reason. Those who are found guilty of a crime have their information stored on the system for a period of three years, with those who have committed violent or sexual offences remaining on the database in perpetuity.

In the remainder of the United Kingdom, DNA data had been routinely detained for six years – a practice which was criticised in a 2008 ruling by the European Court of Human Rights.

On May 25th 2010, the Coalition’s inaugural Queen’s Speech outlined an intention of “introducing new legislation to restrict the scope of the DNA database and to give added protection to innocent people whose samples have been stored”⁶ under the auspices of the Freedom Bill.

The Protection of Freedoms Bill was published on 11th February 2011, containing within it measures designed to bring about the deletion of DNA profiles held on the more than one million innocent people who had been arrested for a crime yet never charged. The bill will still allow, however, for the storage of DNA profiles of those accused of serious violent and sexual crimes for a three year period, extendable by a further three years by a court order. The Police will be permitted to detain the DNA samples of those suspected to be a risk to national security.

While the Coalition’s efforts in this respect are undoubtedly a significant step in the right direction, DNA samples relating to those who have not been convicted of crimes are likely to remain on file until police forces are legally mandated to do so.

In response to a question from Conservative MP Philip Davies requesting the timeframe in which the profiles would be deleted, the Home Office Minister James Brokenshire stated that the government’s “aim is to remove the vast majority of non-convicted people from the NDNAD (National DNA Database) as soon as is practicable, following enactment of the relevant provisions”. In other words, no timetable yet exists.

⁶ <http://www.number10.gov.uk/queens-speech/2010/05/queens-speech-freedom-great-repeal-bill-50647>



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◆ STOP AND SEARCH

Over the past decade, the Police's use of random stop and search powers has increased significantly – largely because of the introduction of the Section 44 of the Terrorist Act 2000.

The Police, Powers and Procedures England and Wales 2008/09 statistical bulletin released by the Home Office in April 2010 suggested that the Police carried out 66% more stops and searches under Section 44 in 2008/2009 than in the twelve months before. In total, 210,013 stops and searches under the controversial anti-terrorism legislation in 2008/2009⁷. The figures were later supplemented by statistics released in October 2010 which suggested that, of the 101,248 people stopped under Section 44 in the 2009/10, not a single person had been arrested for a terrorism-related offence⁸.

In January 2010, the European Court of Justice ruled that the United Kingdom's stop and search powers were illegal on the basis that they were "neither sufficiently circumscribed, nor subject to adequate legal safeguards against abuse"⁹.

Upon taking office, the Coalition Government did not seek to challenge the court's ruling. Indeed, in June 2010 the Home Secretary Theresa May announced that Section 44 powers would be amended so that Police would only be able to use them in the cases where they "reasonably suspect" an individual may be involved in terrorist activity.

In the government's Protection of Freedoms Bill introduced in February 2011, the government laid out plans to remove what Home Office Minister Baroness Neville-Jones described as the "discredited, ineffective and unfair 'no suspicion' stop and search powers"¹⁰ contained in the Terrorism Act 2000.

While, as with many of the other actions of the Coalition in respect of civil liberties, the removal of these powers is undoubtedly a step in the right direction, further action is required.

◆ CONTROL ORDERS

Control Orders were first introduced in the United Kingdom under the auspices of "protecting members of the public from a risk of terrorism" in the Prevention of Terrorism Act 2005.

Control Orders give the Home Secretary the power to impose more stringent conditions on the movements and daily lives of individuals than those the Burmese military have placed on Aung San Suu Kyi. Those subjected to Control Orders can not only be placed under effective house arrest but banned from associating with family members, owning mobile phones or attending their place of

⁷ <http://www.bigbrotherwatch.org.uk/home/2010/04/the-scale-of-stop-and-search.html>

⁸ <http://www.bbc.co.uk/news/uk-11642649>

⁹ <http://www.guardian.co.uk/world/2010/jan/12/stop-and-search-ruled-illegal>

¹⁰ <http://www.homeoffice.gov.uk/publications/about-us/parliamentary-business/written-ministerial-statement/terrorism-remedial-order/>



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work - all without charge, without effective recourse to appeal and without knowledge of their accuser.

Control Orders have similarly proved themselves to be hugely ineffective. Of the 45 orders imposed up to the end of 2010, seven of the individuals have absconded and the remainder have been discontinued following legal challenges from those individuals who have had the orders imposed upon them.

Prior to the general election, Chris Huhne, who spoke for the Liberal Democrats on Home Affairs issues, described the orders as a “violation of fundamental rights” and “one of the worst examples of the [Labour] Government’s determination to use any excuse to sacrifice hard-won and traditional safeguards for our freedoms”¹¹. His support for their abolition was beyond question. While not as forceful as the Liberal Democrats, the Conservatives also voiced scepticism about the policy’s continuation. Responding in September 2009 to news that the courts had removed restrictions placed on one terror suspect and ordered for a review of the policy’s future, Grayling stated that a review ought to have already taken place before the measure was “unravelling in the courts”¹².

Under the Coalition Government, Control Orders have been replaced with “Terrorism Prevention and Investigation Measures” (TPIMs).

TPIMs, while differing little from their predecessor, do contain elements which represent a step in the right direction with regards to civil liberties. While under the previous regime the Home Secretary had only to have “reasonable grounds to suspect” a person may be involved in terrorism, now in order to impose a TPIM they will need to have “reasonable grounds to believe” they actually are involved. In addition, while TPIMs will not seek to place controls on whom an individual may or may not associate with or block them from owning a mobile phone, the Home Secretary will still retain the power to arbitrarily impose “overnight residence requirements” on the suspect – otherwise known as curfews. TPIMs will expire after two years, while Control Orders had no statutory time limitation on their use.

Despite the incremental improvements achieved through the adoption of the TPIMs system, it remains a standing affront to the rule of law that, without charge, anyone’s liberty is curtailed or their freedom of movement limited to the point at which they are, essentially, under indeterminate house arrest.

◆ RIPA (The Investigation of Regulatory Powers Act)

Over the past two years, Big Brother Watch has been active in calling for reform of the Investigation of Regulatory Powers Act, a piece of legislation which gives council officers 1,242 separate powers to demand entry into the homes of private citizens. While councils are often quick to insist they require these powers of automatic entry in order to tackle cases such as benefit fraud and illegal trading, RIPA goes considerable further. Among the more than 1,200 reasons for which council officers can enter your home include checking to ensure unregulated hypnosis is not taking place in

¹¹ <http://www.chrishuhne.org.uk/about/speeches/2010/control-orders>

¹² <http://news.bbc.co.uk/1/hi/uk/8258644.stm>



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the home, unlicensed dancing bears do not reside at the property, the illegal storage of bovine semen is not taking place and that a fridge with the wrong energy rating is not installed at the property.

RIPA has also allowed for local councils to undertake covert surveillance operations against residents living in their area, such as a case in Dorset where a council tracked the movements of a family in order to establish that their children did indeed live in the appropriate school catchment area¹³.

Research conducted by Big Brother Watch revealed that, during the period from April 2008 to March 2010, a total of 372 local councils in England, Scotland and Wales authorised 8,575 Directed Surveillance and Covert Human Intelligence Source authorisations under RIPA. Dividing the total number of authorisations (8,575) by the number of days (730), this is the equivalent of councils authorising over 11 covert surveillance operations a day over a two year period¹⁴.

In the Coalition agreement, the government pledged to "ban the use of powers in the Regulation of Investigatory Powers Act (RIPA) by councils, unless they are signed off by a magistrate and required for stopping serious crime."¹⁵

They have kept this promise.

In the Freedom Bill unveiled in February 2011, the Coalition outlined their intention to remove the automatic powers of entry provided to council officials to enter the homes of members of the public. As the Coalition document stated, the passage of the Freedom Bill means that councils will now be forced to obtain an order from a magistrate's court in order to exercise these powers – a significant step forward.

◆ THE INTERCEPT MODERNISATION PROGRAMME

Prior to the 2010 general election, both the Conservatives and Liberal Democrats promised a comprehensive review of the Intercept Modernisation Programme. Little more than four months after the formation of the Coalition, it was rumoured in the press that Home Office Ministers had been "persuaded of the case to give the police and security officials enhanced rights to access the public's communications".

The IMP, if fully implemented, will allow the security services and the police to spy on the activities of everyone using a phone or the internet. Every communications provider would be obliged to store details of each communication sent in the United Kingdom for at least a year and obliged in due course to surrender them up to the authorities. The authorities would be able to track every phone call, email, text message and website visit made by the public on the pretext of tackling crime and fighting terrorism.

¹³ <http://news.bbc.co.uk/1/hi/england/dorset/7341179.stm>

¹⁴ <http://www.bigbrotherwatch.org.uk/home/2010/05/the-grim-ripa-local-councils-authorising-11-covert-surveillance-operations-a-day.html>

¹⁵ <http://www.telegraph.co.uk/news/politics/7756352/Councils-using-anti-terror-laws-to-spy-on-dog-walkers.html>



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Dr Julian Huppert, the Liberal Democrat Member of Parliament for Cambridge questioned the Prime Minister in the House of Commons on 27th October 2010, asking him to reassure MPs that the Coalition “*had no plans to revive Labour’s intercept modernisation programme, whether in name or in function... and to confirm that he remains committed to the pledge in the Coalition agreement to reverse the substantial erosion of civil liberties*”. Responding to his comments, the Prime Minister stated the government was “*not considering a central government database to store all communications information*”.

Further examination of the government’s plans does appear to confirm they have abandoned the previous administration’s plans for a comprehensive database of the *content* of all communications sent in the UK. The coalition’s proposals will, however, see a limited amount of information logged – for example, in the case of an e-mail, the time it was sent, the identity of the sender and recipient and the subject of the message.

To date, the Coalition has not done enough to reassure the public that the Intercept Modernisation Programme truly has been shelved. The government, for all intents and purposes, has continued Labour’s efforts to strengthen the ability of central government to monitor personal communications.

◆ THE SUMMARY CARE RECORD

The massive NHS database of all our medical records was controversial enough that Labour suspended it before the election. It is unnecessary and intrusive, as well as wildly expensive.

The Conservatives, in the 2010 general election manifesto, said: “A Conservative government would “dismantle” central NHS IT infrastructure, halt and renegotiate NPfIT local service provider contracts and introduce interoperable local systems.”¹⁶ Norman Lamb, then Liberal Democrat health spokesman, said: “The Government needs to end its obsession with massive central databases. The NHS IT scheme has been a disastrous waste of money and the national programme should be abandoned.”¹⁷

Nevertheless, some three weeks into government by those two parties, a u-turn was performed and it was confirmed that the SCR would go ahead.

The SCR is an unnecessary and intrusive piece of bureaucracy, as well as being wildly expensive. Doctors (most of whom say they wouldn’t go onto the database themselves, or allow their families onto it) have managed without it until now.

The National Health Service frequently tops the Information Commissioner’s Office list of data breaches in UK organisations: 3,000 breaches were found in 2010 alone. The expansion of the SCR will give over half a million people access to our medical records.

¹⁶ <http://www.kable.co.uk/conservative-nhs-national-programme-review-obrien-10aug09>

¹⁷ <http://www.telegraph.co.uk/health/healthnews/7408379/Patients-medical-records-go-online-without-consent.html>



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Research conducted by Big Brother Watch¹⁸ has shown how vulnerable the NHS is to breaches of privacy – the Coalition’s decision to press ahead with the SCR will make things much worse. Andrew Lansley must think again.

◆ FINGER-PRINTING IN SCHOOLS

As part of the Coalition agreement in May 2010, the Conservatives and Liberal Democrats set out a number of aims with regards to civil liberties. As part of rolling back what they considered to be the encroachment of state power into people’s lives, they promised to outlaw the finger-printing of children at schools without parental permission. This was welcomed by child protection groups who had campaigned against this intrusive and disproportionate measure.

Around a third of schools are thought to use this technology, for things as mundane and simple as borrowing library books and paying for lunch in the canteen. It has been revealed in recent years that schools have been taking finger-prints and other biometric data from children without first seeking permission from the parents, due to a loophole in the Data Protection Act which allows this to occur.

Biometric vendors are keen to push the benefits of these systems to schools, however their primary concern is corporate profit rather than any substantive usefulness for teachers or pupils, and their claims about efficiencies and security are nearly always unfounded. When budgets are being squeezed, the last thing Local Education Authorities should be doing is spending huge amounts of money on inefficient, intrusive biometric systems.

One of the gravest concerns about biometrics in schools is the potential for children as young as 4 being desensitised to giving up their biometric data. Whether intentional or not, these children will think nothing of having their DNA, fingerprints or retina scans taken as adults after they have already become accustomed to it.

However, one year into the Coalition, the Protection of Freedoms Act 2011 has still not been finalised, so it is impossible to know if more schools have installed biometric technology in the last 12 months. This technology is entirely disproportionate for use in schools and we hope the implementation of the Act will start to rollback this perturbing development.

◆ FREEDOM OF INFORMATION

The Freedom of Information Act is viewed by many who campaign for civil liberties and greater transparency in government as amongst the greatest achievements of the last Labour government. Its own author, however, now looks upon it with disdain. Writing in his memoirs, ‘A Journey’, Tony Blair describes himself as a “naive, foolish, irresponsible nincompoop”¹⁹ who “quakes at the imbecility” of having introduced Freedom of Information legislation in the first place.

¹⁸ <http://www.telegraph.co.uk/health/healthnews/7408379/Patients-medical-records-go-online-without-consent.html>

¹⁹ http://www.bbc.co.uk/blogs/opensecrets/2010/09/why_tony_blair_thinks_he_was_a.html



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The former Prime Minister's view is not, however, shared by the Coalition Government who have been keen to champion it.

In a speech to the Institute of Government in early January, the Deputy Prime Minister Nick Clegg proposed alterations to existing Freedom of Information laws designed to widen their scope to include more public bodies and decrease the period of time for which government departments can keep records secret.

In a speech delivered at the Institute of Government on 7th January 2011, Clegg outlined his belief that the Freedom of Information Act introduced under the Blair government was "a good start", yet "exceptions remain far too common and the available information is too often placed behind tedious bureaucratic hurdles"²⁰.

In seeking to tackle these aforementioned "exceptions", the Deputy Prime Minister promised to expand the scope of the legislation to cover the examination board UCAS, the Association of Chief Police Officers, the Financial Ombudsman Service and scores of other public authorities. Similarly, he pledged to adopt the provisions of the Dacre Review into the regulations which allowed central government to keep sensitive information secret for thirty years, decreasing this limit by a decade²¹. While the Coalition Government's position on the Freedom of Information Act is warmly welcomed, it is clear that ministerial commitment to its use is not yet reflected in Town Halls. In April 2010, the Information Commissioner Christopher Graham issued warnings to a series of central government departments such as Nick Clegg's own Cabinet Office and the Ministry of Defence²² for their failure to respond to requests inside the statutory limit. Graham was similarly critical of large local government authorities such as Westminster, Hammersmith and Fulham for their "transparency delays"²³.

Rather than simply expand the Freedom of Information Act's influence, the Coalition Government must do more to ensure its existing provisions are scrupulously observed – including, if necessary, strengthening the Information Commission's scope to punish the worst offenders for their intransigence towards their statutory, legal obligations.

◆ CONTACTPOINT

The ContactPoint database was introduced in 2004 to hold information on all children under 18 in England. It cost a staggering £224m to set up and £41m a year to run, although the Information Commissioner claimed the total cost could have been up to £1billion²⁴. It received a wide range of heavy criticism due to concerns about privacy, security and child protection. On 12th May 2010 the

²⁰ <http://www.dpm.cabinetoffice.gov.uk/news/civil-liberties-speech>

²¹ http://www.libdems.org.uk/latest_news_detail.aspx?pPK=7781a555-f93b-4818-b08f-f6382841dc89&title=Nick_Clegg:_Restoring_British_liberties

²² http://www.bbc.co.uk/blogs/opensecrets/2011/04/commissioner_attacks_cabinet_office_foi_delays.html

²³ <http://www.fulhamchronicle.co.uk/fulham-and-hammersmith-news/2011/04/18/self-styled-transparent-council-warned-over-foi-response-failures-82029-28540692/>

²⁴ <http://www.guardian.co.uk/society/2005/feb/09/childrensservices.politics>



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Coalition announced they would be scrapping the database as part of radical reforms intended to “reverse the substantial erosion of civil liberties under the Labour Government and roll back state intrusion.”²⁵ The database was switched off on 6th August last year.

This has been one of the greatest victories for civil liberties and privacy of the past year, and Big Brother Watch commend the Coalition Government for following through with their promise to discontinue this intrusive measure, which allowed 330,000 users access to detailed and sensitive information on 11 million children. It was impossible to secure such a system, as proven by evidence presented in 2006 to the Leeds NHS Trust which showed that the 14,000 staff logged 70,000 incidents of inappropriate access in just one month²⁶. This access could have potentially been from dangerous people searching for vulnerable children, proving just how volatile and unsafe this database was.

The previous government had a diabolical reputation for information databases and IT projects, and ContactPoint was a prime example of the waste which they were known for. It was effectively a reaction to public concern over the death of Victoria Climbié²⁷, who died as a result of abuse which went unnoticed by various agencies. The protection of children is a vitally important role, but an unsecure network of information accessible by hundreds of thousands of people which is both costly and open to misuse is not the correct manner.

◆ CCTV (Closed-Circuit Television) and ANPR (Automatic Number Plate Recognition Cameras)

While the Protection of Freedoms Bill will make some much necessary changes in terms of civil liberties, the expansion and proliferation of CCTV cameras continues unabated. Recent developments have been particularly disconcerting. A new generation of Automatic Number Plate Recognition (ANPR) cameras are being installed around the country with virtually no public discussion or debate on their use. Royston, a small town in Hertfordshire with a population smaller than 15,000, has recently installed a network of ANPR cameras which cover every road coming in and out of the area²⁸.

Despite numerous reports suggesting CCTV does not in fact reduce crime, their use is spreading into ever more aspects of life. As well as ANPR, CCTV cars can now be seen in towns and cities around Britain²⁹. These are used to monitor parking infringements, while simultaneously being exempted

²⁵ http://news.bbc.co.uk/1/hi/uk_politics/election_2010/8677933.stm

²⁶ <http://www.guardian.co.uk/society/2007/jun/22/childrenservices.comment>

²⁷ http://news.bbc.co.uk/1/hi/in_depth/uk/2002/victoria_climbié_inquiry/default.stm

²⁸ <http://www.cambridge-news.co.uk/Royston/Hidden-cameras-on-all-routes-in.htm>

²⁹ <http://www.bbc.co.uk/news/10558498>



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from following the very regulations they are supposed to enforce³⁰. They record everything in their vicinity, and as the footage is viewed later, give virtually no possibility of mounting an appeal after the fine is delivered two weeks later.

Recently, schools have begun to use CCTV in their toilets, despite the obvious dangers inherent in this. As with fingerprinting, schools are loath to discuss their installation with parents, aware of the negative connotations of such a program. Parents have therefore been reduced to protesting to get the cameras removed³¹. Schools did not need CCTV cameras for hundreds of years, so the justification for using them now without concrete evidence of any benefits is scandalous. The potential for the recordings falling into the wrong hands is far too great to warrant this usage.

In the Coalition agreement, the only mention of CCTV was a vague suggestion of implementing “further regulation”, however this now seems laughable with the quantity and variety of cameras currently viewing us every day.

The Coalition must stop engaging in platitudes about the surveillance of the populace and ensure that these “further regulations” are effective. The Protection of Freedoms Bill also includes provisions for a new role of Surveillance Camera Commissioner to monitor the operation of the code, who will report to Parliament annually. Upon their appointment, they must ensure we have more public debate concerning how much surveillance we wish to be put under by the state.

◆ **The CRB (Criminal Records Bureau) and ISA (Independent Safeguarding Authority)**

The Criminal Records Bureau (CRB) is an Executive Agency of the Home Office, designed to hold information on criminal records so that organisations in public, private and voluntary sectors could request individual records. These would then be used to identify employment candidates who could be unsuitable for certain work, primarily jobs involving children or vulnerable adults³².

It was launched in March 2002 after being established under Part V of the Police Act 1997. It came into existence as a result of public concerns about the safety of vulnerable children and young people. It has had a tempestuous history, coming under a lot of pressure during the previous government. In February 2004, the National Audit Office criticised the CRB for “huge” delays. Then, in May 2006, the Home Office revealed that about 2,700 people were mislabelled as criminals during checks. Perhaps even more shockingly, in 2009 the CRB's Enhanced Disclosure was criticised for including details of any minor contact an individual has had with the police, even where no formal action was taken against them. These incidents led to a review into the Vetting & Barring Scheme (VBS).

³⁰ http://www.thisislocalondon.co.uk/news/8957746.Council_CCTV_car_snapped_on_double_yellows/

³¹ <http://www.dailymail.co.uk/news/article-517250/School-removes-CCTV-cameras-childrens-toilets-furious-protest-parents.html>

³² http://www.direct.gov.uk/en/Employment/Startinganewjob/DG_195809



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The Independent Safeguarding Authority (ISA) is a public body set up by the Labour Government to oversee the VBS, which required all those working with vulnerable individuals to undergo an enhanced vetting procedure before being allowed to perform any relevant duties.

The CRB was intended to join with the ISA to administer the newly created Vetting & Barring Scheme in 2009. Home Secretary Theresa May opted to suspend this in June 2010 pending a review which came out in February 2011. This recommended merging the CRB and the ISA into a new non-departmental public body which would be responsible for barring individuals and completing criminal record checks. Under provisions in the Protection of Freedoms Bill, the new scheme will not require registration, and no details will be stored on a database³³.

Other suggestions of the review included a large reduction of the number of positions requiring checks to just those working most closely and regularly with children and vulnerable adults; the portability of criminal records checks between jobs to cut down on needless bureaucracy; an end to a requirement for those working or volunteering with vulnerable groups to register with the VBS; and stopping employers who knowingly request criminal records checks on individuals who are not entitled to them.

The ISA are currently awaiting further details and will be working with the Home Office, the Department for Education, the Department of Health and the CRB to help implement the new arrangements.

The Coalition Government has confirmed that until all the appropriate legislation has been introduced and the new arrangements are established, the existing responsibilities of employers and the ISA will remain³⁴.

We approve of the attempts of Theresa May to return an element of common sense and proportionality into criminal records checks. To consider people to be guilty until proven innocent is to damage a long held tradition of presumed innocence in the United Kingdom.

◆ THE EUROPEAN ARREST WARRANT and EUROPEAN INVESTIGATION ORDER

The European Arrest Warrant (EAW) and accompanying European Investigation Order (EIO) let ill-trained police from any European Union country (including those whose criminal justice systems have been widely discredited) arrest British people for 'crimes' that aren't even offences in the UK or the United States.

To date, the government has taken no steps to exempt the United Kingdom from the reach of either the EAW or EIO.

³³ <http://www.homeoffice.gov.uk/publications/crime/vbs-report?view=Binary>

³⁴ <http://www.isa.homeoffice.gov.uk/>



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Britain has an opt-out. It must be used.

◆ E-BORDERS AND THE PASSENGER RECORDS SYSTEM

In April, the Home Office confirmed that the Government supports the creation of an EU-wide database of travel records to include provisions to retain data of all flights for up to six years. The scheme would only apply to flights in and out of Europe and would see personal details anonymised after 30 days.

By taking such a position, the United Kingdom Government has set itself on a collision with the German Government and the European Parliament, both of which are actively opposed to the extension of this type of data sharing on an EU level on civil liberties grounds.

Quite apart from any concerns civil liberties campaigners may have about this latest scheme, the Government already holds too excessive an amount of information about our travel habits as a result of the “e-borders” scheme.

“E-borders” demands – under the provisions of the Immigration and Police (Passenger, Crew and Service Information) Order 2008 - the following pieces of information are, among others, recorded for each journey:

- The identity of the individual who has made the travel booking.
- The names of any other passengers who are included on the same booking.
- The means by which the ticket was booked, including the number of any credit or debit cards used.
- A note that the ticket booked is one-way (if applicable).
- The class of transport in which the passenger is travelling.
- The card number of any frequent traveller scheme used by the individual.
- Any personalised meal requests i.e. for dietary or religious reasons.

In total, the system logs 42 different pieces of information about each traveller (59 if they are lucky enough to be under the age of eighteen).

Each of the 42 pieces of data obtained relating to each passenger are logged on a central database in Manchester which can be accessed by a myriad of government bodies including the police, Home Office and UK Border Authority. While the exact number of individuals with access to the data archived under the e-borders scheme has yet to be determined, one only need to look at past examples of data loss by government departments to see the foolhardiness of storing such a diverse range of personal information about individuals on a centralised government database.

Nobody would argue that it is not wise for the immigration authorities to conduct a due diligence exercise in order to guarantee both the safety of passengers and the integrity of Britain’s borders. The Passenger Name Records and e-borders systems, however, cross the fine line between ensuring safety and unnecessarily intruding on privacy.



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In seeking to ensure the safety of individual flights it is of course logical for the names and birth dates of passengers to be cross-referenced against those of not just suspected terrorists but also those with past histories of having caused disruption on aircrafts. But, beyond this, due diligence as to the safety of the baggage checked in by passengers and the effects they have about their person can easily be conducted via the existing scanning procedures. The collection of any additional information is an invasive and unnecessary distraction from the core objective of ensuring the safety of passengers.

The Home Secretary should think again before pushing for the introduction of a policy as intrusive and illiberal as the PNR system.



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◆ ABOUT BIG BROTHER WATCH

Big Brother Watch is a campaign from the founders of the TaxPayers' Alliance, fighting intrusions on privacy and protecting liberties.

Big Brother Watch produces regular investigative research papers on the erosion of civil liberties in the UK.

Whether it be by placing microchips in rubbish bins or snooping on your family using covert surveillance, we will name and shame the local authorities most prone to authoritarian abuse.

We champion individual cases. We want to use the legal system to help the man in the street fight injustice and regain his personal freedom; we are building up a legal fund to back such cases.

We will help you use the Freedom of Information Act to demand to see data held about yourself by the authorities, to extend our right to government information and to unearth the reality of the Big Brother state.

We want Big Brother Watch to become the central hub for the latest news and debates on personal freedom and civil liberty — a forum for information and discussion on something that directly affects British citizens in their everyday lives.

Big Brother Watch also aims to expose the extent to which the web has become the first line in state surveillance. The floodgates for the co-opting of internet activity into the state's control have opened, as companies are leant on to release online personal data. Safeguards are needed before it's too late.

We hope Big Brother Watch will become the gadfly of the ruling class, a champion for civil liberties and personal freedom — and a force to help a future government roll back a decade of state interference in our lives.

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