

## Normalizing covert surveillance: The Subterranean World of Policing

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# **Normalising Covert Surveillance: The Subterranean World of Policing**

**Bethan Loftus**

## **Abstract**

In this article, I draw on data derived from an ethnographic field study of covert policing in the United Kingdom to demonstrate that the deployment of covert surveillance has become normalised, both in policing thought and operational practice. In a break with earlier patterns, the methods of covert surveillance are used extensively and are no longer regarded as a tactic of last resort. Covert policing is well anchored within organisational arrangements, empowered by a series of internal rationales mobilised to justify the expansion of covert tactics over and above more traditional, overt forms. The building of intrusive and exceptional policing practices within mundane contexts, I argue, is one of the ways the police have adapted to a broader policing environment characterised by public scepticism and distrust. Policing relies on the invisibility and low profile that comes with covert work, in order to govern contemporary concerns of crime and insecurity without the conflicts which can accompany - and trouble - overt policing practices. As mainstream policing becomes an increasingly extroverted enterprise, introverted forms of policing have come to the fore.

## **Key Words**

Covert policing; surveillance; normalisation; new visibility; security

## **Introduction**

In this article, I develop the argument that the covert mindset and its attendant practices are becoming normalised (Marx 1988; Fijnaut and Marx 1995). The methods of covert policing are deployed extensively, and are no longer held back - or regarded - by the police as a tactic of last resort. Covert investigation is a staple feature of late modern policing, the enlargement of which is buttressed by the creation of an internal bureaucratic infrastructure confirming the legal and cultural acceptance of covert tactics, as well as an external environment which champions surveillance for the governance of security threats. The slide towards, and embracement of, covert methods I suggest is one of the ways the police have innovated within a new environment in which their conduct is highly scrutinised. A defining feature of policing is the potential for the use of state sanctioned violence as a means of social control (Bittner 1970; Fassin 2013). However, this is increasingly untenable - particularly in Western liberal democracies, bound up as they are with broader social changes, which have sharply called police authority into question (Mastrofski *et al* 1995; Tyler 2011; Loader and Mulcahy 2003). In particular, the open use of coercion by visible (uniformed) forms of police towards sections of the public is losing ground as officers now operate in pervasive techno-social circumstances, where their behaviour is routinely captured on film and

disseminated instantaneously via social communication platforms (Brown 2015; Goldsmith 2010). Covert policing, I will show, provides a functional and alternative power resource largely uncoupled from the spectacle of mainstream policing since it avoid the conflicts and reputational threats which increasingly accompany overt policing practices.

The article proceeds as follows; I begin with a discussion of covert policing before going on to describe the ethnographic study. I then develop the argument that covert investigative strategies have become increasingly widespread. The broad anchoring of covert methodologies within police organisations and bureaucracies brings with it important cultural alterations, which both encourage and normalise covert policing. In accounting for these developments, I go on to briefly address core theoretical debates around what can generally be termed the normalisation of the exceptional thesis (Flyghed 1998; Agamben 2005). State activities legitimised by supposed emergency conditions involve remarkable innovations in crime control, infusing – in particular - policing styles and priorities. At the same time, policing operates in a broader environment characterised by public distrust and must continually strive to secure and maintain its re-legitimation. The expansion of covert policing should, therefore, also be understood in relation to changes in the visibility of the police generally and public critiques about the police and their behaviour. The article concludes with some remarks on the implications of covert policing as a normalised and expected fixture within the current crime control landscape.

## **Covert Policing and the Empirical Study**

While there has always been a recognition that the police are the most visible of all criminal justice institutions (Bittner 1970; Fassin 2017), there is a pervasive strand of policing which operates quietly in the background, working in isolation from the overt forms of policing with which the public – and sociologists of the police - are most familiar. Covert policing refers to a situation where the subject of a police investigation is unaware that they are under surveillance, and that the investigation may infringe upon their private life (Sharpe 2002). While covert investigative methods frequently involve the use of undercover officers and civilian informants, it also incorporates various forms of electronic information gathering, such as telephone tapping, email monitoring, as well as video and audio surveillance. Unlike undercover investigation, which can involve deception and provocation on the part of the operative, the latter methods are often depicted as having a passive and remote quality. That is to say, only some covert operations involve deception (Marx 1988). Covert tactics have traditionally been used to obtain evidence against a subject who is suspected of having committed - or is in the course of committing - a crime, but they are also

deployed to gather information that may prove useful to law enforcement organisations at a later date. The organisational hoarding of information about the daily lives of subjects on the chance that the police *may* at some point use such data raises uncomfortable questions about privacy, the presumption of innocence and the very purpose of covert operations (Marx 1988; Schlembach 2018). In the United Kingdom, high-profile scandals - such as the infiltration of environmental activist groups by undercover officers - have drawn public attention to the political dimension of covert policing, and the various ethical and legal challenges associated with such investigations.<sup>1</sup> The deployment of covert policing has not escaped scholarly attention, and is generally explained by the following broad drivers: (i) the - real or imagined - threats of serious organised crime and global terrorism (Innes 2006; Zedner 2007); (ii) the comprehensive shift towards strategic, future-oriented and targeted approaches to policing (Maguire 2001); (iii) the growth of insecurity and its associated risk-consciousness in late modern communities (Beck 1997; Garland 2005); (iv) the greater availability and capacity of surveillance technologies (Monaghan and Walby 2018; Aas *et al* 2009); and (v) ‘enabling’ legislation which leads to more, rather than less, covert surveillance (Bhatt 2006; Bronitt and Michael 2012).

The organising principles of covert surveillance - particularly the need to maintain invisibility - inverts the logics of uniformed police work, posing severe challenges for academic study. Officers working in the covert world are clearly much less amenable to the type of institutional study conducted with overt, mainstream police. Ethnographic studies of uniformed police span decades, and continue to dominate contemporary discussions and understandings (see Fassin 2017). Yet, while covert policing is widespread, very little is known about its culture, practices and social organisation. The research underpinning this article accordingly set out to redress this imbalance by conducting a comprehensive ethnographic field study of covert police investigation.<sup>2</sup> The fieldwork took place in what I shall call Summershire Police Service, a large constabulary located in England. During the project, Summershire Police was undertaking numerous directed and intrusive operations, ranging from the deployment of Covert Human Intelligence Sources (CHIS) such as undercover officers and informants, to static and mobile surveillance, as well as the creative deployment of ‘sting’ operations to lure likely offenders. The study had two key aims: firstly, to

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<sup>1</sup> Notably the case of Mark Kennedy, a former London Metropolitan Police officer who infiltrated numerous social and environmental justice groups before being unmasked by his fellow political activists as an undercover officer. Kennedy’s actions in the field (and others like him), including deceiving women into long-term sexual relationships, has prompted several independent inquiries, notably the Undercover Policing Inquiry (UCPI).

<sup>2</sup> The research on which this article is based was supported by the Economic and Social Research Council (RES-062-23-2212), and I gratefully acknowledge the ongoing work of the co-investigator, Benjamin Goold, and research officer, Shane Macgiollabhui within this project.

examine how legislation aimed at governing police surveillance — notably, the Regulation of Investigatory Powers Act (RIPA) 2000 — had affected the routine and extraordinary surveillance activities of the police and, secondly, to document and examine the inner-world (the culture, practices and dilemmas) of covert policing. The empirical investigation incorporated the following methodology: Firstly, an *analysis of formal legislation and guidelines relating to covert policing*. In order to understand the requirements underpinning the provision of covert policing, an analysis was completed of the key provisions of the RIPA 2000 and internal guidelines pertaining to the authorisation and conduct of covert operation. As Maguire and John (1996) make clear, there has historically been little formal regulation of police surveillance in the UK. In part, this was a consequence of high levels of trust in the police, but also because such activities were a relatively marginalised part of operational policing. However, it was imperative that legislation was provided in this area to coincide with the increasing appeal of surveillance as an evidence and intelligence gathering tool, and the need to comply with European Union law (Loftus *et al* 2015). The RIPA 2000 established a new framework for regulating the powers of all public bodies to carry out surveillance and covert investigations. As a consequence of the legislation, there is now guidance about the conditions under which deceptive methods are justifiable, the kinds of limits that ought to be imposed, and the most effective ways of preventing their abuse by the police.<sup>3</sup> Secondly, the study comprised *prolonged observations of selected covert police operations in the field*. Dedicated periods of observation were carried out with covert officers as they went about their ordinary work. Over an eighteen-month period, I spent time with officers working on surveillance units who perform static and mobile surveillance. For instance, I accompanied the Mobile Surveillance Team (MST) whose role is to track subjects travelling in vehicles and on foot. I also spent time with the Local Surveillance Unit (LSU), whose purpose was to watch the movements of subjects from various Observational Posts (e.g. surveillance vans). For several months, I also followed the work of the Technical Surveillance Team (TST), whose officers are responsible for installing and retrieving surveillance devices in the homes of subjects, as well as other locations. Observations were also carried out with the Ground Intelligence Office (GIO), whose role is to broker intelligence between different units within the Force, instigate covert operations and liaise with covert officers on-the-ground. Alongside observing covert officers *in situ*, the daily work of the Covert Investigation Authorities Bureau (CIAB) and Force Intelligence Branch (FIB) also formed part of the ethnography. Those people under surveillance ranged from teenagers suspected of bicycle theft to dangerous sex offenders, as well as those engaged in serious organised crime. The police drew

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<sup>3</sup> For a discussion of how the RIPA is received and implemented on-the-ground see Loftus *et al* (2015), and also the work of Bacon (2016) who studied drug detectives' navigation of the legislation in relation to CHIS.

on a stunning array of techniques from simply following, watching and listening to those marked for scrutiny, to the installation of sophisticated covert devices placed inside residential premises and vehicles. The targeted surveillance of individuals was also supplemented by processes of mass surveillance, including the use of technologies that mimic mobile phone networks, intercept communications and gather data about users in any given area. Finally, *in-depth interviews with key actors involved in covert policing* were conducted with police managers, various field operatives as well as representatives from (what was then called) the Office of Surveillance Commissioners, Ministry of Justice, and Liberty. It is no exaggeration to state that the fieldwork yielded an unprecedented insight into the hidden world of covert policing. Throughout, various steps were taken to secure the data and ensure the anonymity of individual officers and the personal details of those people under police surveillance. Fieldnotes were written up in a manner that prevents officers and the subjects of surveillance being identified and, in reproducing the fieldnotes here, I have tried to be sympathetic to the desire of the police to protect the methods and craft that are important to covert work.<sup>4</sup>

### **Expansion and Normalisation**

The seminal work by Marx (1988) first drew attention towards the creeping tendency of the expansion of undercover policing. Over thirty years later, I would go further to suggest that covert policing has gathered much pace, finally emerging as an integral part of the police arsenal. Normalisation, in this context, is about bringing the principles and practices of covert policing to a normal condition. It describes an evolution of the deployment of covert methodologies, which are infusing everyday policing. I draw on ideas from the literature on the normalisation of drug use (Parker *et al* 2002) to understand the ascendance of covert policing as relating to the availability of covert tactics, as well as its cultural and institutional accommodation. The enlargement of covert policing is evident in the sheer range of discrete covert tactics now available to and employed by the police. There is little doubt that the ambitions of state policing have today been greatly enhanced by the growth of technologies and capabilities for covert surveillance. The expansion of covert policing is also evident in the growing number of behaviours where its usage is deemed to be suitable and warranted. As demonstrated elsewhere (O’Neill and Loftus 2013), the tactics of covert policing are not always confined to the most serious threats, such as serious organised and violent crime, but are also routinely mounted against what could be regarded as rather petty and

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<sup>4</sup> For a detailed discussion of the methodology employed for this study—and the various challenges encountered – see Mac Giollabhui *et al* (2015).

low-level street crime and criminals – a move indicating that the rudiments of ‘high’ political policing have been broadened to the ‘low’, non-political sphere (Brodeur 1983).

Here, though, I want to set out a different set of evidence to signify that covert investigative strategies have become increasingly widespread in the United Kingdom. Police organisations are required, under the RIPA 2000, to obtain a written authorization for most forms of covert activity. As a result, there exists reasonably reliable records on the amount of surveillance being undertaken. The onus for the publication of authorisation activity currently falls to the Investigatory Powers Commissioners Office (IPCO). According to the most recently available reports, 14,874 authorizations were granted for covert surveillance in the period 2016 to 2017. This number can be broken down according to surveillance type. For instance, authorisations for *property interference* were granted on 2,070 occasions. One scenario here may include the fixing of a tracking device to a vehicle, or when the police covertly enter a subject’s house to install a hidden audio or visual device. According to the data for the same period, *intrusive surveillance* authorisations were granted 321 times. Intrusive surveillance is the covert monitoring of a residential premises or private vehicle, and involves the use of surveillance devices such as hidden cameras or listening devices. There were also 1,152 *urgent authorisations* granted within the same year. A common situation here is that the Chief Constable authorises the surveillance verbally and on-the-spot as an immediate response to events or circumstances, the nature of which is such that it would not be reasonably practical for an authorisation to be sought through the more traditional route. The report also shows that 2,998 authories were granted for operations involving *Covert Human Intelligence Sources*, but it not clear how many of these relate to the deployment of undercover officers or informants. By far, the majority of authorities were for those operations involving *directed surveillance*, a figure standing at 8,333 across the year. Directed surveillance is covert, but not intrusive, and is conducted for the purposes of a specific investigation that is likely to obtain private information about a person. Common operations drawing on this type of surveillance include covert operatives following subjects on foot, in vehicles, or watching their movements from various observational posts (e.g. surveillance vans). The surveillance tends to be carried out in public spaces, and not the private confines of the subjects’ home or vehicle, but invariably includes the covert monitoring of their movements, conversations and other activities.

In its 2014 report, *Off The Record: How The Police Use Surveillance Powers*, Big Brother Watch evaluated that in a two-year period between 2010 and 2012, there were 27,115 authorisations for directed

surveillance.<sup>5</sup> This is equivalent, they suggest, to ‘24 directed surveillance operations being authorised every day - or one every hour’ (ibid.: 3). Moreover, the IPCO Annual Report (2017), warned of the ‘institutional overuse’ of the RIPA 2000 powers, and further confirmed the ‘broad trend’ for the use of covert surveillance by the police. If we make a direct comparison in raw numbers, though, the official picture would seem to suggest a decrease in police surveillance between 2010 and 2017. However, one plausible reason for this rests with the internal culture of authorisation regimes. There is a general acceptance, documented within official reports, that when the RIPA 2000 was introduced, police initially took an overly risk-averse approach towards the new authority regime, thereby encouraging the *over-authorisation* of covert surveillance operations.<sup>6</sup> As the legislation and its authority systems have become firmly anchored within police organisations, the points of decline shown in official statistics perhaps instead reflect the growing confidence of officers to not seek an authority for activities which would have previously been sought by the RIPA 2000. Although the pattern of expansion is not always obvious, it should nevertheless be accepted that the police forces of England and Wales are routinely engaged in some form of covert operation, and that these numbers may well reveal only a smaller, visible part of a larger pattern.<sup>7</sup>

As an ethnographer, however, I am more interested to understand - from a normative perspective - the new acceptance of and engagement with covert surveillance by the police. For while the five broad drivers of covert policing noted in the introduction are well trodden within the literature, less explored are the internally-generated propellers within police organisations which serve to both encourage and normalise the spread of covert methodologies. Covert policing incorporates practices largely hidden from public view, yet is managed in a way that is rather visible to internal management processes. The principal point to make is that covert policing enjoys a stable and dedicated infrastructure across contemporary police organisations. With the introduction of the

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<sup>5</sup> The organisation’s request for information on the number of Covert Human Intelligence Sources (informants and undercover operatives) and intrusive operations was rejected on the grounds that releasing the information would negatively impact on police capability.

<sup>6</sup> See for example, comments made by Nick Gargan, the former Chair of the Covert Investigation and Legislation and Guidance Peer Review Group (House of Lords Select Committee on *Surveillance, Citizens and the State*).

<sup>7</sup> Notorious problems are associated with obtaining accurate and detailed information on the prevalence of covert policing, largely because there is currently no onus on police organisations to proactively publish detailed information about how covert surveillance powers are being deployed - a point which has not escaped criticism. No publicly available data exists on the types of offences/behaviours being investigated, or on what kinds of private data was collected and how many citizens were affected by the operation. There is also no accessible information on whether or not the covert investigation led to a successful prosecution or conviction. The lack of emphasis on prosecution in the planning of covert operations often means there is also potentially very little scrutiny by courts and the wider criminal justice system.



RIPA 2000 came a great deal of internal reorganisation within police organisations, including the creation of CIABs. These act as centralised hubs for managing, gatekeeping and providing advice to officers on all matters relating to covert surveillance. Moreover, the CIABs are underpinned by dedicated intelligence units. These once marginalised and novel features of police organisations (Maguire 1995; Gill 2000) are now the convention (Bacon 2016; Sheptycki 2017). In Summershire Police, there is little doubt that the intelligence environment and new authority regime has reoriented minds, generating a culture of debate and discussion within the police about the best way to carry out covert operations (see also Bacon 2016). Within the internal setting, standardised ‘RIPA forms’, information booklets and bulletins distributed throughout the organisation promote the benefits of using covert methods in any investigation, as well as providing guidance on how to work with the legislation. The prospect and capacity to use covert surveillance is anchored within organisational structures and, as a result, alters routines of work practices. For instance, the creation of a bureaucratic process designed to accommodate the requirements of the RIPA 2000 brings with it new forms of expertise. Police officers and civilian personnel are well rehearsed at operating within the legislative environment, and it is noteworthy that training sessions on the regulatory legislation are offered - as standard - to all police personnel. Within such an environment knowledge and understanding of covert surveillance, and its authorisation regime, spreads and matures. This is not surprising since police organisations, although generally conceived as hierarchical, rational and mechanistic, in reality operate much more horizontally, informally and co-operatively (Sheptycki 2017). To this extent, the establishment of a bureaucratic and educational arrangement embedded within organisational structures goes some way in promoting and normalising the culture and practices of surveillance. The people who make up the covert infrastructure are routinely exposed, in subtle and fragrant ways, to surveillance practices through everyday interactions.

The embracement of covert methodologies was also revealed in the ethnographic fieldwork, where the dedicated surveillance teams I followed on-the-ground were inundated with requests for covert work. The following fieldnote extract, written after a shift with the MST, provides only one instance of this demand:

The operation had closed down for the day, and officers began the long journey back to Home Town. It took almost two hours to get back to the debrief location and, for the whole journey, Dave was on the phone booking up operations for the immediate future. One potential job included placing a known offender under surveillance because intelligence suggested he was a threat to a woman he had recently befriended [*the man had previous convictions for sexual assault*]. Another impending job included mounting a

‘controlled delivery’ operation [*A package of illicit drugs from Nigeria was making its way to an address in Grange Town, and the MST were needed to follow the recipient once the package was received*] around Broad City. There were many similar conversations and, when Dave finished his call, he commented that the MST were ‘drowning’ in jobs which was good given the ongoing budget cuts to uniformed bobbies.

Authorising officers, at the level of Inspector and above, explained that much of the appetite for covert tactics emerged from below. Police officers - whether working overtly in uniformed roles, or as part of specialist teams such as burglary units - were, in the words of one authorising officer, ‘switched on’ to the covert tactic and so regularly applied for covert capabilities. From the observations, it became clear that requests for surveillance were rarely turned down, resulting in what I would term a *pre-emptive confidence* among officers that an application for a surveillance authority will inevitably be successful. The ethnography of drug detectives by Bacon (2016: 204) also found that covert operations were authorised matter-of-factly, but it is noteworthy that in my study I observed many officers planning the finer details of the covert operation before the authority was approved. The following fieldnote extract exemplifies this tendency to forestall an authorisation. It concerns a surveillance operation run by the Serious Crime Unit against a subject who was believed to be involved in the trafficking and distribution of cocaine. A covert audio device had already been planted within the subject’s car, but not his van, which officers subsequently suspected he used for his illegal business. An additional application had been made to install an audio device in the van:

Although the Chief has not signed the authority for the intrusive surveillance, Ed and his team pre-empt how they are going to get the listening bug inside the van. He explains that he has already had the nod from the MST [*to follow the subject and report on his movements*] for tomorrow and has already set up the job with the TST [*to install the kit*]. As soon as the Chief signs the authority, the MST will secure the parameter around the subject and allow the ‘techies’ to get inside the van to fit the kit. At this point, one of the other SOCU officers, Simon, offers up that the subject takes his dogs out in the van every morning, which might provide them with the opportunity needed. Simon then says that he will phone the TST Sergeant to suggest they may need to take a dog with them - ‘a man walking around the woods by himself looks out of place’.

Much planning went into fulfilling the operational objective prior to receiving the formal authorisation to escalate the operation, and it is worth noting that the new phase of surveillance was indeed approved. To be sure, authorising officers are grappling with the renowned ‘cover-your-arse’ mentality permeating increasingly risk-conscious police organisations (Manning 2003), but the ease with which officers plan and assemble operations in advance of formal approval

betrays an inflated level of expectation and confidence to covert policing. Moreover, as covert surveillance moves from the margins of the police organisation to the mainstream, it brings with it important cultural alterations among officers themselves. The prospect and institutional capacity to employ covert methods is welcomed within the occupational consciousnesses as officers seek to practice and master their novel weapons. This much is revealed in the following quote by an LSU officer:

'It's [covert policing] our not-so-secret weapon. Attitudes, policing, have changed. It's not a method that is out of reach. Yes, you've got the, the privacy and the [authorities] bureau, but attitudes have changed, the organisation has changed. At the outset, personally, I always think, I always try my luck with the covert route. [...] Why not? 21<sup>st</sup> century criminals today are savvy, smarter and, as a police force, we had to change the way we were doing things. Why waste time, go the long way round? Covert tactics, are now, is the go-to method. The results are incomparable.

With an ambition to develop a high-definition, intimate portrait of its subject's life through a range of invasive methods, covert policing is a strategy which many would agree is exceptional. Yet, it is not considered controversial by those officers engaged in the targeted surveillance of human subjects. The rather banal status of covert operations revealed itself in the way officers appeared not to reflect on the extent, or consequences, of their intrusive work. Practices of surveillance are embedded into the societal landscape in mundane ways (Aas *et al* 2009), and the ethnography uncovered the existence of a subterranean world of policing which goes by unnoticed and concealed. The next fieldnote extract was written after my first shift with the TST. Roger was a seasoned officer, having worked on the team for over ten years. His comments, reproduced below, were made as we drove to an observational post to install a covert camera:

On the journey, Roger pointed to a range of places/items – houses, street lamps, hedges – where he had installed and embedded covert surveillance devices. As he pointed them out he explained, 'When I first started this post, my mentor and I would be in the van on the way to a job and he'd say to me, 'I've put cameras in there, and there, and there'. At the time, I thought he was exaggerating, but I can honestly say I think like that now. Pretty much everyday I'll pass a place and think, 'I've done a job there, and there, and there'.

Covert surveillance, at the very least, complements overt methods. However, in some circumstances, it has replaced overt policing methods. While attending various planning conferences to discuss the basis for, and feasibility of, a covert operation, I noted that in making

the case for covert policing, many officers would make a case *against* overt, mainstream policing methods. Traditional methods of criminal investigation were considered largely redundant and drawn out for the pursuit of crime, whereas covert methods were viewed as superior in terms of arrests and convictions (see also Maguire and John 2012). One illustration of this relates to an operation assembled to covertly record a street corner, believed to be a site for drug dealing. Rather than introduce a visible police presence in the area, which may have a preventative influence, the installation of covert cameras was advocated by officers as a far smarter tactic. The first step for many officers was to enact the covert route, and they usually requested the most intrusive means possible.

The contemporary character of covert surveillance manifests in a mindset that unreflexively accepts evasive policing tactics as an essential and rational exchange between liberty and security. Internally, the cultural embracement of covert surveillance as the exhilarating side of policing also fits with the image of police officers prevailing over criminals through intelligence and finesse rather than coercion. Covert methods of policing are now a ‘mentality’ (Bayley and Shearing 2001), influencing the way police think about conducting their business. As the police stretch the limits of their permitted use of surveillance, it further reaffirms that covert tactics are both necessary and warranted. Surveillance officers garner much occupational self-esteem from their work, as revealed in the next extract:

In the car, Oliver and I chat about each other’s background. Oliver explained that he completed an apprenticeship in engineering when he was much younger, but joined the police and began working on the TST since the late-1990s. He says that he always enjoyed ‘making things’ and is good with his hands. It is clear that Oliver finds his job very rewarding, overcoming the challenges associated with this secret aspect of policing. He tells me that the best part about his work is the creativity he is afforded to embed covert devices inside everyday objects – for instance, hiding a camera in a teddy bear (*in a suspected child abuse case*) or grandfather clock (*during distraction burglaries*). He is proud that something he has created has been able to ‘ruse the baddies’ and capture evidence that will potentially convict them. (Fieldnotes, TST).

Traditional conceptions and associated imageries of policing as an exciting, crime-fighting endeavour have been undermined by several developments in the wider field of policing. These include, but are not limited to: the comprehensive mainstreaming of community policing philosophies, the imposition of performance indicators, processes of civilianisation, and the general movement towards consumerism in police discourse. Immune from these challenges, covert work represents the last stronghold of ‘real’ policing since it preserves the preferred policing

condition of crime control. Conducting surveillance involves much waiting around and boredom on the part of covert officers, but it nevertheless remains immortalised as the pinnacle of the policing experience.

Covert policing tactics are deployed all the time, but are not necessarily regarded as exceptional by those who use them. To understand this we can, I think, point to broader conditions relating to the state ability to enact novel and coercive measures within supposed temporary emergency conditions but, once introduced, those measures become normalised and permanently employed (Flyghed 1998; see also Hillyard 1987; Agamben 2005; Bonino 2013). Of particular relevance is that the blurring of war terminology into that of crime control has legitimised the ratcheting up of state surveillance and net widening activities (Zedner 2007; Salter 2010). The upshot of this extension of power by governments is an eventual prolonged state of being - what would, in the previous order, be regarded as temporary or even unacceptable becomes unremarkable and mundane, and may become altogether unchallenged. As Hallsworth and Lea (2011) point out, the focus of exceptional measures tend to be those people located at the periphery of society. For them, the 'security state' enforces new technologies of power, surveillance and risk management aimed at both *external* threats (global folk devils, such as would-be terrorists and traffickers) and *internal* threats (the locally rooted young, poor and unemployed engaged in street crimes). Importantly, Hallsworth and Lea (2011) show how the logics of the security state infuses at the outset policing styles and priorities. Innovations in policing are presented as commonsense, and come to take precedence over and above other alternative routes. Thus, more and intrusive surveillance practices - rather than appearing as an assault on civil liberties and a way to further criminalise the marginal - are presented as the best and most reasonable way to subdue the risky populations against whom 'respectable' citizens need protection (ibid.: see also Young 1999). Such debates find much resonance here, both in terms of the extension of covert policing and the demographic focus of such operations.

Yet, while policing stands at the forefront of security state (Hallsworth and Lea 2011), it simultaneously operates within an environment characterised by public distrust and scepticism. Policing, in other words, must continually strive to (re)secure its legitimation. To this end, the expansion and normalisation of covert policing should also be understood, I suggest, in relation to changes in the visibility of the police generally and public critiques about the police. The ascendancy of covert, invisible forms of policing is both significant and paradoxical because it is occurring at a time when mainstream policing has become a hyper-visible occupation.

### **Covert Policing and the ‘New Visibility’**

A burgeoning and influential body of literature demonstrates how policing has transformed from a low-visibility occupation to a high-visibility one, bringing with it a substantial increase in the public exposure to police misconduct (Goldsmith 2010; see also Greer and McLaughlin 2012; Sandhu and Haggerty 2015; Brown 2015). Together, these works show how (mainly uniformed) police officers today work in unrelenting techno-social contexts in which their deviant behaviour can be captured on film – notably through the ubiquitous ownership of smart phones - and shared instantaneously with mass audiences via social media platforms. The trajectory towards the comprehensive implementation of body-worn cameras by the police further solidifies this enhanced visibility (Rowe *et al* 2017). The resultant loss of confidence in the police from graphic depictions of police misconduct poses a considerable reputational threat to the legitimacy of police organisations, but also extends to a sense of unease in the criminal justice system and the state itself (see Bradford and Myhill 2014).

In many ways, the heightened visibility of the police has been building during the last quarter of a century. In the United Kingdom, the exponential exposure of police wrongdoing has been solidified by a series of events, including: high-profile miscarriages of justice (Quirk 2015); spectacular images of violent clashes between the police and disenfranchised sections of the public (Bowling and Phillips 2002); the attention of a less deferent public audience influenced by a cultural discomfort with violence and an increasing willingness to criticise government and socio-political institutions (Brown 2015; Loader and Mulcahy 2003). In other words, we could say that policing has largely found itself in an ‘extended present’ (Nowotny 2015) of ongoing crisis and scandal. There have as a result been demands for greater oversight of policing, notably in custody settings where there has been a significant constriction of controls on post-arrest activities (Skinns 2014). Police misbehaviour, which is made public, invariably become ‘signal events’ around which wider concerns about policing and law and order coalesce (Rowe 2009).

In official discourse, covert policing is heralded as vital because it allows for better intelligence, incontrovertible evidence, protection of the public, and brings serious and organised criminals to justice (Harfield and Harfield 2009; College of Policing 2018). Yet, from the ethnography, the behind the scenes decision-making processes of covert operations reveals that the ‘new visibility’ of the police plays a role also. Consider the following comments made by a CHIS handler, which

initially reveal a consciousness of the heightened police visibility before connecting this to the benefits of alternative (covert) methodologies:

We [police] are under the microscope, more than ever. It comes at us from all directions. If it isn't the media, it's the public - 'I know my rights' card, 'I'll record you' [...] The [covert] tactic allows us to get on with the job.

There is, of course, something of an irony here where officers consigned to surveillance are cognizant of the police position as *subjects* of surveillance. But the wider point to make is that the above comments effectively define the enhanced visibility as a problem to manage, and puts forward covert means as a way to take back control. In other words, as the backstage of policing is pushed to the front of stage, a retreat to concealed forms of policing becomes an appealing solution. During the ethnography, it also became apparent that covert units were in the business of signalling the benefits their work brings in organisational terms – whether through obtaining excellent intelligence or evidence of criminality. Yet, as the next extract demonstrates, the managers of the units also set themselves up as the obvious alternative to overt investigations that are proving difficult to bring to fruition:

Bill [*Inspector*] explained that it was imperative for the MST to 'show boat' themselves, both to the rank and file and senior command team. Promoting their successes ensured a steady stream of resources (cars, personnel, surveillance equipment), enabled them to recruit the best officers into the covert world, and also helped to encourage more officers to apply for the tactic. On this point, Bill emphasised that part of his role was sending out the message to officers (detectives and uniformed) that when their overt investigation is not going to plan - because of 'mollycoddled suspects' and 'smart arse lawyers' - the covert route is open to them.

Walker and Hyland (2014) similarly portend a scenario in which the 'disincentive' of increasingly regimented interview rooms has engendered the prevalence of undercover policing - and the empirical evidence produced here certainly alludes to this. It is worth pausing for a moment to also note a major development in police stop and search, which represents one of the most discernible manifestations of state power. While police conducted 303,228 recorded stop-searches across England and Wales in 2016 to 2017, this was the lowest rate for 15 years and representing an impressive decline from 1.2 million in 2010 to 2011 (Shiner *et al* 2018). Whilst I cannot claim that police are instead choosing to conduct covert surveillance, the point could at least be raised that controversies about police deployment of stop and search powers have resulted in extensive

(‘hot’) media and political attention (Murray and Harkin 2016), leading – perhaps – to more imaginative and flexible tactics.

The extension of covert policing can be viewed as one of the ways in which the police have innovated within, and adapted to, their scrutinised environment. To be sure, covert policing offers a significant tactical advantage to gather intelligence on and evidence about criminal suspects, but it is also valued because it avoids the kinds of headaches and conflicts which increasingly trouble overt policing encounters. This indirect motive for assembling covert operations found support in the ethnography, as the next fieldnote extract demonstrates. It relates to an early planning meeting I attended in which a ‘known’ offender - a black male, believed to be involved in the illicit drugs market - was to be placed under surveillance. There was a recognition that the suspect was difficult for normal, overt police officers due, firstly, to what we can assume is his capital (Bourdieu 1985) – knowledge of the law, solicitor ‘on speed dial’ – and, secondly, because he belonged to a minority ethnic group:

The purpose of the meeting was to thrash out some initial ideas on the feasibility of placing Subject X under surveillance. The OIC [Officer in Charge] was pushing for a covert approach because Subject X was a known offender who had a previous history with the police. The OIC argued that covert methods were vital because Subject X was ‘well rehearsed’ with the law, and also had a ‘solicitor on speed dial’. Covert tactics - specifically an audio device discretely embedded in his car [*the hope was that the audio would capture him talking business to one of his criminal associates*] – would yield a far better result than an interview in police custody. Plus, argued the OIC, Subject X tended to ‘play the race card’ which could throw officers off balance during their dealings with him.

As the incident shows, in contrast with custodial investigation, employing covert methods were considered by officers to impose fewer constraints. On another operation, it emerged that one of the reasons a subject had been placed under surveillance was because he was believed to be ‘EMD’ (emotionally and mentally disturbed), and prone to violence. Taking a covert approach, it was suggested, was a far easier option to gather the intelligence needed to complete his overall profile. At the time of the research, a different police force had been heavily criticised by leaders within the Muslim community, as well as civil rights groups, because it had installed approximately 200 cameras around several housing estates which were heavily populated by Muslim communities as part of an anti-terrorist strategy – some of these cameras were covert, with some discretely embedded into street lamps. Commenting on this, one senior officer from within Summershire claimed that the uproar about the cameras was precisely the reason why the covert tactic was



deployed in the first place – namely, because Muslim populations are a politicised group and the police have to operate under the ‘dark cloud’ of Stephen Lawrence and Jean Charles De Menzes.<sup>8</sup> Thus, in the context of reputational threats which hamper and restrict overt policing practices, covert methods allow the police to garner incredible detail about their targets without what I would term the *conflict-consent-scrutiny burden*. This provides these state agents with a strong position of advantage which enhances the practices of social control and reinforces the asymmetries between the watchers and the watched. The role of covert policing in ‘making crime’ (Ericson 1981) should also not be underestimated. As Marx (1988) notes, one of the ironies of covert policing – particularly the use of stings – is that it can escalate the very behaviour it sets out to deter and control.<sup>9</sup> In the contemporary context, the broad adoption of covert and deceptive techniques cannot only create criminals but do so, for the most part, out of the sight of the public gaze.<sup>10</sup>

By and large, the police are emblematic symbols of the legal system and coercive power of the state (Bittner 1970). When members of the public encounter police officers, they are accordingly provided with one of their most tangible experiences of the state (Van Maanen 1978). The police uniform is a stark reminder of state power, intended to identify the wearer as a member of the police and establish authority when dealing with the public and suspected criminals. In the covert world, of course, any visible reminder of overt policing are deliberately shunned through the development of various techniques to enhance invisibility and/or facilitate deception. Covert officers put much labour into constructing and managing a particular social order, or appearance, for the purposes of carrying out surveillance (see Loftus and Goold 2012). In other words, they

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<sup>8</sup> Stephen Lawrence was a young black student who was murdered in London in 1993. The Macpherson Report (1999) (also known as the Stephen Lawrence Inquiry) famously asserted that the Metropolitan Police’s failure to properly investigate the racist murder was a consequence of institutional racism. Somewhat ironically, given the focus of this article, there has been further critique when it emerged that the grieving family of Stephen had been subject to covert police surveillance. Jean Charles De Menzes was a Brazilian man shot and killed by London Metropolitan Police Officers on the London Underground after being wrongly identified as a potential terrorist. Both events were incredibly high profile, and the police were subject to much criticism and calls for reform.

<sup>9</sup> In the United Kingdom, however, the legislative framework around ‘entrapment’ is both complex and controversial (see Ashworth 1978; Redmayne 2011).

<sup>10</sup> Like other countries (e.g. Netherlands), there is a requirement in the UK for police to disclose during court proceedings ‘all’ of the methods employed during any given investigation. In this way, the duty of disclosure may bring covert operations out of the shadows to external scrutiny. Yet, deficiencies have been noted in relation to the disclosure regime on this front. In particular, there is broad recognition that disclosure must be balanced against the need to protect sensitive information. As Ormerod (2003) notes, the area most likely to muddy the waters here is in cases involving informants and undercover officers. The overriding (police) concern is their duty of care to protect the latter at all costs, as well as the trade craft. I would also emphasise that it is largely unclear how many cases involving covert investigations actually make it to court. Evidence certainly suggests that the staple of contemporary covert operations are increasingly oriented towards intelligence-gathering (Marx 1988; Maquire 2001; Innes and Sheptycki 2004).

have a *core function* to reduce their visibility. Consider the next fieldnote extract taken from my time with Duncan, an LSU officer:

The subject was at a block of garages talking to an unknown male while Duncan discretely camcordered the interaction from the static observational post [*in this case, a bedroom of an adjacent house*]. The subject and the other male then moved around the corner and slid out of view. Putting the camcorder down, Duncan then reached into what he called his ‘fancy dress’ box and emerged with glasses and a wig. He explained that he needed to go out and see if the two men were still talking to one another, or had separated. However, Duncan explained that because he was completely bald, he was visually ‘striking’ and so needed to disguise his appearance.

There are many examples where covert officers confirmed an acute appreciation of their need to de-emphasise their visibility as they moved around society, but the wider point to draw is that as covert tactics expand, policing becomes secretive and introverted thereby adding enormous complexities to the contemporary public–police relationship. For it is a contradiction that the new visibility has decreased officers’ use of violence on the streets (Brown 2015) while increasing police accountability (Goldsmith 2010), at the same time as it facilitates intrusive, covert practices which allow the police to engage in the ‘slow violence’ described by Nixon (2011). It is also caustic that the technological advancements driving the new visibility are, for the most part, the same ones enhancing the practices of covert policing.

Finally, it is possible to unearth evidence of the retreat to covert tactics within other policing arenas. Deployment of covert surveillance during public order policing is fast becoming a deliberate policy, employed to gather intelligence quietly while avoiding adversarial interactions which could escalate violence (O’Sullivan 2017). There is also an appetite for concealment in the mundane encounters that overt, uniformed police have with their adversaries, including indications that officers deliberately conceal their collar numbers, names and other identifying information to evade complaint or rejoinders from aggrieved publics (Loftus 2009). Through the decades, police have also shown form in responding smartly to critique in order to re-secure their legitimation. The emergence of police professionalism agendas, for instance, reveals an organisational awareness and self-consciousness on behalf of police elites to repair the reputational damage set in motion by a series of police-citizen crises (Leo 1992; Reiner 2010). The subsequent anchoring of new ethical codes of police practice within police organisations (Neyroud 2003), are arguably an extension of this enterprise.

## Concluding Remarks

I have in this article attempted to show that covert investigation, largely understood as the antithesis of the British policing tradition, has assumed the status of police operational orthodoxy. Of course, I do not wish to suggest that covert policing has surpassed uniformed, visible policing. Rather, covert surveillance has come to occupy and absorb important spheres of the police organisation and the cultural domain. Covert investigation is a key feature of late modern policing, empowered by the creation of a bureaucratic infrastructure initially designed for exceptional requirements and demands. While finding much cultural and organisational accommodation within the police, covert policing also garners significant patronage by the state. As Hintz and Dencik (2016) note, in the post 9/11 world, governments have dramatically expanded their surveillance activities, prioritising their role as providers of security over and above other roles. Moreover, the broader surveillance society within which police operate further confirms the banality of covert policing. As Goold *et al* (2013) show, symbolic and blatant expressions of surveillance - such as Closed Circuit Television Cameras - are socially and culturally embedded in most societies and accepted, for the most part, as a fact of life.

To draw on Sheptycki (2017: 622), the contemporary police '*métier*' is oriented around a professional concern with the 'mastery of surveillance', among others (see also Manning 2010). The normalisation of covert policing tracks broader developments where coercive crime control practices has become supplemented and replaced by more subtle and stealthy forms. A rather old, but telling, body of literature demonstrates that the relationship between the state and the accused is no longer characterized (only) by open antagonism, but is heavily reliant on clandestine activities and manipulation (Marx 1988; Leo 1992; McMullen 1998). In extending this, I have argued that changes in the visibility of the police have both solidified and accelerated the spread of the covert mindset and its practices. The graphic performance of contemporary police misconduct, exacerbated by new personal technologies and social network platforms, has spurred covert policing as a functional and alternative power resource largely decoupled from the spectacle of mainstream policing. That is to say, as conventional policing becomes an increasingly extroverted enterprise, more introverted forms of policing have come to the fore. Covert policing also preserves and protects the increasingly endangered preference of the police as crime-fighters and reproducers of the social order (Ericson 1982; Sheptycki 2017). By deploying technologies and policies of surveillance on a mundane basis, the state becomes adept at finding and 'knowing' those suspected of street crimes and forms of organised criminal behaviour.

While images of police brutality and physical violence are morally repugnant to late modern sensibilities (Brown 2015), there is little to suggest that covert policing – especially those operations involving face-to-face deception - is viewed with the same distaste. Notwithstanding high-profile scandals of undercover policing, the public response has been notably muted.<sup>11</sup> The laborious and ongoing Undercover Policing Inquiry certainly cannot be considered a moment in police reform of the same magnitude as the Stephen Lawrence Inquiry for example and, in any case, has been undermined by an impenetrable ‘wall of silence’ built by the police (Mills 2017: 3; see also Schlembach 2018).

On a final note, the broad convergence in police organisation and style between British and European forces - as well as those operating further afield - have implications for covert surveillance. As Reiner (2010) notes, similar domestic and international crime problems have resulted in a streamlining of police forces across the globe. To this end, just as the police in the United Kingdom are expanding their covert surveillance practices and mindsets, it is not unreasonable to suppose that so too are those forces in comparative context (see Fijnaut and Marx 1995; Kruisbergen *et al* 2011; Ross 2014). The processes of normalisation analysed here, and the logics underpinning it, should therefore in no way be conceived as out of the ordinary.

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<sup>11</sup> This excludes, of course, a number of the women at the centre of the UCPI, and interest groups, who have been largely vocal about the behaviour of undercover operatives.

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