

**Police surveillance and intimidation of political activists is hitting new heights. Olly Zanetti dodges the long lenses to expose Big Brother's latest attack on the right to protest.**

# You are being watched

Caught on camera: a police surveillance officer captures Greek and British protesters on film at a London demonstration against police repression, December 2008.

*'If you're gonna take my picture, be careful with my nose. Get a good angle with your camera, and get my finest pose...'*

**Standing on a makeshift stage at the Climate Camp** entrance, two women sing to the cameras that have been trained on them and other campaigners since the event began. Like Climate Camps across the world, 2008's action in Kent, England, took place in the centre of the media's glare. But it wasn't a news crew these activists were singing to. Rather, the serenade was addressed to police photographers from the Forward Intelligence Team: 'the FIT', as they have come to be known.

The FIT's interest extends from demonstrations to the back-room planning meetings of local activist groups. They are at the forefront of a new wave of intimidatory and disproportionate policing and surveillance practices aimed largely, it seems, at cataloguing and riling nonviolent protesters. Set up by Metropolitan Police Inspector Barry Norman and Sergeant Andy Brittan, the FIT gained notoriety in 1995. The pair attended Reclaim the Streets actions, filmed demonstrators, and attempted to engage them in dialogue, borrowing tactics from the monitoring of football hooliganism in the early 1990s.

Armed with upmarket cameras and camcorders, officers overtly record everything and everyone in their sights. They have even been known to quote their surveillance findings back at activists. 'We know what you're up to,' seems to be the FIT message – the act of data gathering remade as a method of control.

Indeed, the results of FIT surveillance, and so-called intelligence-led policing, hit the headlines recently when, in the early hours of 14 April, 114 activists were pre-emptively arrested for allegedly conspiring to commit criminal damage and aggravated trespass in



a demonstration at Ratcliffe-on-Soar coal-fired power station. This pre-emptive policing raises serious civil liberties concerns, as Shami Chakrabarti, director of Liberty, notes. 'In the light of the policing of the G20 protests, people up and down the country will want to be confident that there was evidence of a real conspiracy to commit criminal damage by those arrested and that this was not just an attempt by the police to disrupt perfectly legitimate protest.'

So why sing at them? 'It's the only way to deal with it,' says Amelia Gregory, one of the Climate Camp songsters. 'We were there on the gate to welcome people into the camp, people who were being intimidated [by the police], who'd possibly never had this experience before. We had to make them feel comfortable, to make light of it.'

### Nowhere to hide

Civil liberties and the right to privacy have become big issues in Britain. We live in a time of unprecedented surveillance by state powers, and of particular interest to them are those who challenge the status quo. Although gathering data on dissent is nothing new, today's technological advances and sheer audacity have moved evidence-gathering techniques up a notch.

In 2005 the *Financial Times* reported that mobile phones could be used as roving bugs, with software remotely activating microphones and transmitting data.<sup>1</sup> Since then, removing batteries and SIM cards from phones before sensitive meetings has become standard practice among activists. And, if recent experience from New Zealand/Aotearoa is anything to go by, even those you hold closest might not be trustworthy. Helping her boyfriend Rob Gilchrist fix his computer, Rochelle Rees, an animal rights campaigner from Christchurch, discovered emails which showed he was a police informant – part of a 10-year surveillance operation which went as high as the Government's Special Investigations Unit.

There is nothing undercover about the FIT's methods, however. 'Overt filming is a tactic used to combat crime and gather intelligence and evidence,' reads a 2008 Metropolitan Police Authority briefing paper.<sup>2</sup> 'Cameras should be deployed overtly with the staff operating them clearly identifiable as police officers or police staff. The intention of overt filming is to provide reassurance and to reduce the fear of crime as well as to assist in its prevention and detection.'

In May 2008, the FIT hit the headlines when it was revealed that a police force in Essex had decided to use overt filming against alleged trouble-makers in the area. Code-named Operation Leopard, officers 'harassed', in the approving words of Home Secretary Jacqui Smith, young people on estates in the county. 'I want police and local agencies to focus on them by giving them a taste of their own medicine,' she explained, while justifying an extension of the tactic to elsewhere in the country. 'Daily visits, repeated warnings and relentless filming of offenders [will occur] to create an environment where there is nowhere to hide.' The targets of Operation Leopard were those known by the police for their persistent misbehaviour. As the tactic was rolled out, however, it became less directed, with young people stopped, searched and photographed seemingly at random.

'I was absolutely horrified the first time I was FIT-ed,' explains Marina Pepper from the campaign groups Climate Rush and G20 Meltdown. 'I was at Climate Camp. It was dark, I was pushed up against the wall and they took my photograph. I was just going about my business. It was completely designed to intimidate.' As well as targeting individuals, FIT officers target specific events. Before an Earth First meeting at a social club in Brighton, officers snapped everyone entering the building with a long lens camera. As commentators, including the area's MP David Lepper have suggested, this was designed to discourage people from attending, and intimidate those who did.

The FIT's techniques occupy a subtle niche in UK law. There is no right to privacy in a public space, so the police – and public – are entitled to record at will. In 2008, this was tested by judicial review.<sup>3</sup> Leaving a shareholders' meeting of the academic publisher and then-arms-fair-organizer Reed Elsevier, Andrew Wood, press officer for the group Campaign Against Arms Trade, was photographed. He applied for the review on the grounds that this photography was in contravention of his human rights. Articles of the European Convention which govern the right to privacy and the right to freedom of political expression were cited.

The review found no contravention had occurred. Referring to the case of photographs taken of model Naomi Campbell leaving a drug therapy centre, in which it was stated that '[t]he famous and even the not-so-famous who go out in public must accept that they may be photographed without their consent', the judge ruled there had been no undue interference with Wood's right to privacy. Likewise, under articles governing freedom of political expression, the judge decided that the recording of images in no way inhibited the claimant's political activity.

### The Handschu guidelines

This police tactic is not unique to Britain. However, under an extraordinary agreement, activists in New York – where it was also used – have won the right to maintain their privacy. Under what are called the Handschu guidelines, tight controls are placed on the type of evidence gathering police may undertake on individuals and the groups with which they affiliate. Following extensive and intrusive data gathering by the New York City Police Department (NYPD) intelligence team in the 1950s and 1960s, a class action lawsuit was brought in 1971 against the police in which political activist and lawyer Barbara Ellen Handschu was the main plaintiff.

The guidelines, which were finalized in 1985, placed strict controls on the methods and type of covert surveillance that police were permitted to undertake, and required a detailed paper trail to be created should surveillance occur. 'Most broadly, and probably most importantly,' explains Arthur Eisenberg, legal director of the New York Civil Liberties Union (NYCLU), 'the settlement prohibited police from engaging in surveillance resulting in the creation of a police file,

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A masked female activist at an animal rights march in Hertfordshire exercises her right to protest.



MARC VALLEE

unless there was evidence that a crime had been committed or was about to be committed.' This rule effectively outlawed widespread police photography.

After functioning with reasonable success through the 1980s and 1990s, the conservative Mayor Bloomberg, citing terrorism concerns, arranged with Judge Haight, overseer in the original Handschu case, to modify much of the agreement. In 2004 new regulations were issued by the NYPD, which allowed 'the use of photographic or video equipment by operational personnel to accurately record police operations or other public activity if a permissible operational objective exists'. The scope was massive, given that an 'operational objective' was defined as any time when, at a public event, 'accurate documentation is deemed potentially beneficial or useful'.

While in spirit the Handschu agreement protects little not covered by the Constitution's First Amendment (which upholds freedom of speech, freedom of assembly and the right 'to petition the Government for a redress of grievances'), in practice Eisenberg believes it proved significant. 'Going back a number of years, decisions have been made by the Supreme Court which severely weaken First Amendment rights in this context. [They] have made it unenforceable because of what the court has called a "lack of standing", as no individual has been able to show that they are harmed by such intelligence collection. Handschu affords protection beyond that which the First protects.'



The NYCLU were not going to allow Handschu to be watered down without a fight. So, in April 2007, the police department, Eisenberg and Judge Haight were back in court to discuss the matter. Though the police department argued that the agreement should remain in its attenuated form, the debate was in fact academic, because two weeks earlier, police officials had surreptitiously scrapped it.

It was not until September 2008 that Eisenberg and his colleagues were made aware of this. For 18 months, they had been working on legal proceedings to overturn a ruling the police had already revoked.

'It's quite remarkable,' said Eisenberg. 'I don't know whether it was a case of the right hand not telling the left what it was doing, or whether there was some more malevolent goal. There may well have been.' It has been speculated that this was a case of the police cutting their losses. *The New York Times* had run an investigative piece into the NYPD's surveillance tactics. That the tactics were then dropped perhaps indicated the Department's fear of further bad press. Though surveillance officers are still seen on the sidelines of New York demonstrations, they are prohibited from raising their cameras unless they have reason to believe a crime may be about to be committed.

### Watching the detectives

The UK legal system has been unwilling to order similar restraint from police intelligence units, yet the FIT has not gone unresisted. In April 2007, Val Swain was attending a widely advertised activist meeting. Shortly before it began, around 10 FIT officers arrived. Their photographer took pictures of everyone entering the building, both campaigners and, because the meeting was held in the University of London Union, students unconnected with the discussion.

The week before, Swain had been at another meeting at which FIT officers had been similarly deployed. 'I decided that I could not continue being active politically under these conditions. I would either have to stop going to meetings, or I would have to do something about it.' She chose the latter. When the officers refused to stop filming, she held up a banner she had already prepared, on which she had written 'protect our privacy', to obstruct the FIT cameras.

The officers pushed her away, then 'violently arrested' her for allegedly obstructing a police officer in his duty. In court Swain argued that the police were breaching privacy rights, and did not have authority to use force to get their pictures. However, she says, 'the judge decided to dodge the whole issue'. Because the photographer was freelance and not a serving police officer, he decided that the charges could not stand, therefore refusing to enter into the wider debate.

That direct action marked the beginning of the group FIT Watch. As well as using banners, potential FIT Watchers are advised to play officers at their own game, following them, listening in to their conversations, and taking their photographs. Information gleaned is made publicly available online. As Emily Apple from FIT Watch notes, psychologically it was not an easy movement to start. 'We felt any reaction to the police





detracted from the subject we were protesting about. But as it progressed, what we did on the street was pretty much ineffective because of the way they were policing. So tackling the FIT seemed necessary.'

Since Swain's case, several others have been brought against FIT watchers. While most have been acquitted, five were recently convicted of obstructing the police. They have lodged an appeal, but new evidence has come to light and the appeal has been put on hold.

### Is there a database?

That new evidence relates to the earlier judicial review brought by Andrew Wood. During proceedings, the

Metropolitan Police's legal team explicitly noted that there was no invasion of privacy through overt photography because it 'was not an exercise in compiling any national database'.

Yet in a FIT Watch trial, PC Dan Collins admitted that a database was being

assembled. An investigation by *The Guardian* newspaper in March 2009 recorded a similar admission by a senior officer, providing further proof.<sup>4</sup> Photographs and video footage are being retained electronically, *The Guardian* suggested. It also suggested that names are being associated with photographs, and a database is being prepared which contains details of many thousands of protesters, irrespective of whether they have broken the law.

Additional evidence of the existence of such a database came from photojournalist Marc Vallée. When FIT officers attend demonstrations, they are issued with cards, called 'spotter's cards', on which the faces of activists they wish to track are printed. 'I was working at a protest against the attack on Gaza. I saw an officer with a camera speaking to another officer, who I know works with the FIT. They were going through a notebook which had a number of pictures in it, spotter's cards. And I got a shot of it. Enlarging the picture, you can see the mug shots with people's names underneath each one. Not codes or aliases, but full names. They were clearly looking for

Playing the police at their own game: protesters at an anti-G8 demonstration last year.

MARC VALLÉE

particular individuals.'

On the existence of the database, campaigners are frank. 'It wasn't a surprise, I think it was fairly common knowledge amongst activists,' said Amelia Gregory. Common sense dictates that these photographs are being taken by the police to be used for something. Anecdotal evidence backs this up. When Marina Pepper arrived at an action, she was quizzed by a FIT officer on a matter from her personal life she had told few friends about, but had mentioned once on the front-line of a protest. 'I asked him how he knew that. "I just guessed," he told me.' In spite of this overwhelming evidence, a police press release insisted that 'the Met Police Public Order Branch does not hold a database of protesters'.

### Journalists targeted

As Vallée's experience has shown, the FIT's interest is not limited to activists. Though a press-card-carrying member of the media, he has been subjected to significant harassment. After recording images of a particularly brutal arrest at the 2008 Climate Camp, he and colleagues went to a nearby restaurant to file footage using their wi-fi connection.

'There were six of us, all of whom held press cards,' Vallée explains. 'We had laptops open, cameras all around, and were uploading images. Then a colleague said: "look behind you, out the window." And there was an evidence-gathering crew filming us doing our job. That was very concerning. There was no legitimate reason for them to be doing that. If the state, through the police, are building up a list of which media organizations and journalists have covered particular events, they may in future attempt to get hold of the material we've collected. It's speculation, but it's the only reason I or the National Union of Journalists [NUJ] can think of.'

In May 2008 Jeremy Dear, General Secretary of the NUJ, wrote to the Home Secretary: 'The routine and deliberate targeting of photographers and other journalists by the FIT undermines media freedom and can serve to intimidate photographers trying to carry out their lawful work. The rights of photographers to work free from threat, harassment and intimidation must be upheld.' These concerns were echoed in a recent report by the parliamentary Joint Committee on Human Rights.

With calls for change coming not just from activists, but from establishment figures too, the era of panoptical surveillance and 'harassment' policing should have had its day. Whether Britain, or indeed any other country where similar tactics are deployed, will follow New York's lead is another matter. What is clear is the need for a strict message from the top. Police files are for criminals, while legitimate protest is just that. Legitimate.

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See: [www.tinyurl.com/guardianFIT](http://www.tinyurl.com/guardianFIT); [www.tinyurl.com/HandschuNYCLU](http://www.tinyurl.com/HandschuNYCLU); [www.fitwatch.blogspot.com](http://www.fitwatch.blogspot.com)

1 Mark Odell, 'Use of mobile helped police keep tabs on suspect and brother', *Financial Times* 2 August 2005. 2 <http://tinyurl.com/ddfm2u>

3 [www.bailii.org/ew/cases/EWHC/Admin/2008/1105.html](http://www.bailii.org/ew/cases/EWHC/Admin/2008/1105.html)

4 <http://tinyurl.com/dbzjfm> and <http://tinyurl.com/dmfb9>

