



## **Joint briefing on Clauses 95 and 86 of the Crime and Policing Bill for Committee Stage in the House of Commons**

As privacy and justice civil society organisations, we are deeply concerned that Clause 95 of the Crime and Policing Bill will allow for the creation of a vast police facial recognition database of driving licences. This is a huge, disproportionate expansion of police surveillance powers that will place the majority of Britons in a digital police line-up without their consent.

The DVLA holds the data of over 55 million driving licences. If passed, Clause 95 could enable these facial images to be subverted into one of the biggest biometric database ever created in the UK for police access.

We are also concerned by powers contained within Clause 86, which prohibit “wearing or otherwise using an item that conceals their identity” at protests. These powers put the public’s ability to protest safely and freely at grave risk, especially given increased police deployment of both live and retrospective facial recognition.

**We urge Committee members to make the following two amendments to the Crime and Policing Bill.**

### **Amendment 1:**

Clause 95, page 107, line 37, at end insert—

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

### **Effect:**

This amendment would ensure that Clause 95 contains a specific safeguard that would prevent facial recognition searches from being conducted against DVLA photos.

### **Briefing:**

Clause 95 replaces Clause 71 of the Criminal Justice and Court Services Act, allowing the Secretary of State to create regulations which grant police digital access to DVLA records for “purposes relating to policing or law enforcement”. Currently, police forces can only directly access and search DVLA data in relation to road traffic offences,<sup>1</sup> and must contact the DVLA directly in relation to any other offences.<sup>2</sup>

We are deeply concerned that Clause 95 could create regulations which will grant police forces the ability to search the DVLA database using facial recognition.

Clause 95 contains the same powers that the previous Government proposed in Clause 27 of the Criminal Justice Bill, which fell after former Prime Minister Rishi Sunak announced the 2024 general election. While Clause 95 of the Crime and Policing Bill does not specifically mention facial recognition, when MPs debated these powers as part of the Criminal Justice Bill, then-Policing Minister Chris Philp MP stated: “There is a power in Clause [27] to allow police and law enforcement, including the NCA, to access driving licence records to do a facial recognition search, which, anomalously, is currently quite difficult.”<sup>3</sup> At another Committee session, the then-Minister

1 The Motor Vehicles (Access to Driver Licensing Records) Regulations 2001 set out under what circumstances police forces can access DVLA records  
2 Explanatory Notes, Crime and Policing Bill, 25 February 2025, pg. 34: <https://publications.parliament.uk/pa/bills/cbill/59-01/0187/en/240187en.pdf>  
3 Criminal Justice Bill Committee (First sitting), HC Deb (12 December 2023), col 14

stated Clause 27 “would make the DVLA driving licence database searchable by the police, in the same way that other databases are, including for facial recognition purposes”.<sup>4</sup>

Using facial recognition technology on the DVLA database would **represent a huge expansion of police surveillance powers, granting them access to the biometric data of tens of millions of citizens.** Members of the public did not apply for driving licences only for them to be subverted in a vast biometric police database. This would be a deeply disproportionate interference with the right to privacy. Given the well-documented issues with the accuracy of facial recognition technologies, there is also a risk of innocent people being wrongly flagged as criminals. **This technology is less accurate for women and people of colour, meaning they will be disproportionately impacted by misidentifications.**

A Home Office spokesperson has stated that the Bill “will have no impact on facial recognition.”<sup>5</sup> We welcome this intention. However, current drafting of Clause 95 does not adequately protect against this. In a recent submission to the Home Affairs Committee, the National Police Chiefs’ Council stated that police chiefs were seeking access to the DVLA database for facial recognition searches and we remain concerned that the regulations made under Clause 95 could be used for this purpose, as the previous Government set out.<sup>6</sup>

Regulations made under Clause 95 are subject to the negative procedure, meaning parliamentarians will have extremely limited opportunity to scrutinise the significant powers the Secretary of State grants to police forces and other law enforcement bodies.

The Scottish Biometrics Commissioner expressed serious concerns about these plans when they appeared in the Criminal Justice Bill:

*“The police in the UK [...] already have the technological means to view a person’s driving licence image when dealing with a road traffic matter [...] In a specific enquiry, they can also request access to a UK passport image. However, none of this can be done in the form of a routine bulk wash of the images of innocent citizens against images derived from the scene of a minor crime. Doing so in my view would place citizens in a permanent police ‘digital lineup’ and would be a disproportionate breach of privacy.”<sup>7</sup>*

Facial recognition technology is a deeply intrusive surveillance tool which poses a serious threat to the civil liberties and human rights of UK citizens. If used to enable the creation of a DVLA facial recognition database, Clause 95 represents a disproportionate expansion of police powers to track and identify citizens across time and locations for low-level policing needs.

### **Amendment 2:**

MPs should give notice of their intention to oppose the question that Clause 86 stand part.

### **Effect:**

Clause 86 of the Bill creates an offence of “concealing identity at protests”. A constable can designate an area where a protest, procession or assembly is taking place and where they reasonably believe the protest is likely to involve the commission of offences. These powers represent a disproportionate interference with the right to freedom of expression and assembly.

### **Briefing:**

Police officers already have targeted powers under Section 60AA of the Criminal Justice and Public Order Act 1994 “to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity.”<sup>8</sup>

4 Criminal Justice Bill (Second sitting), HC Deb (12 December 2023), col 48

5 Driving licence data could be used for police facial recognition – Sebastian Klovig Skelton, Computer Weekly, 13 March 2025: <https://www.computerweekly.com/news/366620582/Driving-licence-data-could-be-used-for-police-facial-recognition>

6 Written evidence submitted by the National Police Chief’s Council Public Order – Home Affairs Committee, 16 January 2025: <https://committees.parliament.uk/writtenevidence/132486/html/>

7 Is Scotland ‘sleepwalking’ towards its place within a UK surveillance state in 2024? – Dr Brian Plastow, Scottish Biometrics Commissioner, 8 January 2024: <https://www.biometricscommissioner.scot/news/is-scotland-sleepwalking-towards-its-place-within-a-uk-surveillance-state-in-2024/>

8 Criminal Justice and Public Order Act 1994, Section 60AA(2)(a)

**Given these existing targeted powers available to police officers, we believe these powers are unnecessary and significantly threaten our right to protest safely and freely.**

It is vital to democracy, freedom of expression and freedom of association that individuals are able to preserve their anonymity at protests. In the era of facial recognition (both by law enforcement and private actors), video streaming, and doxxing prohibiting face coverings at protests will have a chilling effect on people's willingness to engage in protest, particularly in vulnerable and minority communities. There are many categories of law-abiding individuals who may wish to conceal their identities at a protest: those protesting against hostile foreign states who fear retribution for themselves or their families, those who might be criticising their own religious or cultural communities, survivors of sexual violence or harassment, and those who do not wish to be subject to facial recognition surveillance.

**Many people may also wish to wear face masks to protect their, and others', health.** While the Bill does create the defence of covering one's face for "a purpose relating to the health of the person or others", this is only once an individual has already been charged with an offence. The Bill's memorandum on human rights acknowledges this "reverse legal burden" but maintains it is justified.<sup>9</sup> People with health conditions may not feel willing or able to risk being charged with an offence under this Bill, and may instead avoid attending protests.

**Anonymity is an important enabler of freedom of assembly and association, as assemblies traditionally have allowed participants a certain level of protection against police forces and other authorities singling out or identifying specific individuals.** The UN High Commissioner for Human Rights stated that facial recognition has compounded this loss of anonymity that is critical to freedom of assembly and association:

*"The rise of facial recognition technology has led to a paradigm shift in comparison with practices of audiovisual recordings, as it dramatically increases the capacity to identify all or many participants in an assembly in an automated fashion.*

(...)

*"The negative effects of the use of facial recognition technology on the right of peaceful assembly can be far-reaching (...) Many people feel discouraged from demonstrating in public places and freely expressing their views when they fear that they could be identified and suffer negative consequences."*<sup>10</sup>

Police forces have already used live facial recognition in the UK to target protesters who are not wanted in relation to any criminal offences.<sup>11</sup> They have also used the technology to deter peaceful protesters from attending events.<sup>12</sup> **While we do not believe police should deploy live facial recognition at protests at all, a prohibition on face coverings at protests represents a step towards the entrenchment of biometric surveillance at protests.**

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9 Crime and Policing Bill: European Convention on Human Rights Memorandum- Home Office, Ministry of Justice, Ministry of Defence, p. 49: <https://publications.parliament.uk/pa/bills/cbill/59-01/0187/ECHRMemo.pdf>

10 Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, UN Human Right Council, 24 June 2020, A/HRC/44/24, <https://www.ohchr.org/en/documents/thematic-reports/ahrc4424-impact-new-technologies-promotion-and-protection-human-rights>

11 Facial recognition: What led Ed Bridges to take on South Wales Police? - BBC News, 11 August 2020: <https://www.bbc.co.uk/news/uk-wales-53742099>

12 F1 British Grand Prix: Facial recognition at Silverstone being used - BBC News, 6 July 2023: <https://www.bbc.co.uk/news/uk-england-northamptonshire-66120010>