

Stuck on the Zipline: UK Policy on E-Surveillance and Security Challenges

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Privacy concerns are as old as government: ever since the democratisation of the social contract provided a philosophical justification for the ceding of rights to an authority that provided protection in exchange, individuals feared that the costs incurred would exceed their benefits. Today's world is especially fast-paced: radio took 38 years to reach 50 million users; Facebook hit the milestone much faster—two years; and Pokémon Go broke through the barrier in just 19 days.¹ In response to today's changing world, governments increased the extent of surveillance regimes for security, whether against common criminality or more extreme terrorism. MI-5's head claims that intelligence services are vigilant and effective at thwarting attacks, 17 attacks in the 18 months as of last August including both Islamist and far-right violence. Another 676 investigations were still ongoing at the time; the trend since then is less clear given no attacks in 2018 and just one at the tail end of 2019.² Ultimately, surveillance is clearly a helpful tool in preventing and responding to attacks—helping catch the 7/7 bomber in the UK and proving its mettle worldwide.³ However, governments are incentivised to keep such information secret to withhold information about their capabilities to potential enemies. Due to the classified nature of such successes, the layperson is ill-equipped to analyse their positive efficacy in preventing violence. However, despite its utility, surveillance comes at a cost as well. These negative aspects of electronic surveillance (hereafter referred to just as surveillance) will be the subject of my analysis, as I hope to concretise these adverse effects.

Two main consequences arise from surveillance: decreased trust in institutions and increased identitarianism, i.e. identity politics, like the white supremacist and nativist discourse of the right and minority-focused dialogue on the left. This identitarianism plays a role in the increasing radicalisation of individuals by both Islamist and far-right groups, preying on fears about rights, safety, and belonging. Hate crimes, which are committed by individuals who manifest those fears as violent action, are a way to measure the pervasiveness of such distrust and identitarianism, which decrease the government's ability to respond effectively to attacks and prevent future ones.

¹ Interactive Schools. '50 Million Users: How Long Does It Take Tech to Reach This Milestone?' Accessed 12 November 2019. <https://blog.interactiveschools.com/blog/50-million-users-how-long-does-it-take-tech-to-reach-this-milestone>.

² Boyle, Danny, Helena Horton, Harry Yorke, and Patrick Sawyer. 'Westminster "Terror Attack": Driver Arrested after Car Mows down Cyclists and Ploughs into Parliament Barrier'. *The Telegraph*, 14 August 2018. <https://www.telegraph.co.uk/news/2018/08/14/car-crashes-barrier-outside-parliament-armed-police-surround/>.

³ Magazine. 'They Are Watching You—and Everything Else on the Planet', 19 January 2018. <https://www.nationalgeographic.com/magazine/2018/02/surveillance-watching-you/>.

Among the many causal mechanisms, one such cause is a crisis mentality emanating from government and media messaging after attacks: this phenomenon is similar to a “rally around the flag” narrative of patriotism. Messaging, used interchangeably with narratives, refers to the language used by various groups in discussing these issues. In this case, government’s language of security first may create precedent for violation of democratic norms by actors in the name of security in exigent circumstances, as well as sparking nationalist messaging via signalling. Ultimately, the result is a trade-off between fear of surveillance and fear of terror. But how does each of these fears lead to adverse outcomes? Government messaging leads to fear of terror via a continued emphasis on vigilance and awareness, leading to increased nationalist sentiment and a rally-around-the-flag mentality which encourages vigilante action depending on individuals’ faith in the government. The idea that everyone should “See it. Say it. Sorted.” promotes a hypervigilance mentality, one where everyone must remain on watch at all times. This perspective may be counterproductive after a point.

Such messaging is particularly dangerous given the relationship between extremist and activist motivations. For example, Muslim civil rights organisations in the UK often use similar narratives to those employed by terrorist organisations; the extremeness of the view is the only difference. In particular, much of these narratives concern victimisation, government legitimacy, and even cultural compatibility.⁴ The victimisation and “suspect culture” emerging from government counterterrorism campaigns have shifted from the Irish to Muslims in the UK: targeting groups, especially via surveillance and policing, ultimately alienates their members and is exacerbated by narratives pushed by the government.⁵ Surveillance and policing are not central here; instead, the perception of victimisation is sufficient to alienate groups, though this perception is furthered by seeing enhanced police and surveillance presences. Thus, messaging is ultimately what galvanises many recruits, and it would not be a far stretch to suggest that similar relationships exist among the right-wing as well.

⁴ Tony Blair Institute for Global Change. *Narratives of Division: The Spectrum of Islamist Worldviews in the UK*. January 2019. Accessed December 10, 2019. <https://institute.global/sites/default/files/2019-01/Narratives%20of%20Division%20report.pdf>.

⁵ Pantazis, C., and S. Pemberton. ‘From the “Old” to the “New” Suspect Community: Examining the Impacts of Recent UK Counter-Terrorist Legislation’. *British Journal of Criminology* 49, no. 5 (1 September 2009): 646–66. <https://doi.org/10.1093/bjc/azp031>.

The specificity of these effects on each of the two causal factors—trust and identitarianism—will be dissected throughout the paper; messaging, hypervigilance, and victimisation are all mechanisms by which surveillance feeds into the identified outcomes.

Ultimately, the less people trust the government the more likely they are to take action on their own. On the other hand, individuals might be galvanised by the success of an attack and consider government responses inadequate, seek to assist in the counterterrorism campaign, or conversely further the messaging of such violence. Conversely, fear of surveillance directly leads to decreased trust in institutions, as Britons are wont to know being the least sceptical by far of their peer nations, thus forcing disenchanted individuals to take matters into their own hands to attain their political goals.⁶ As will be mentioned later, Europeans, who are more sceptical of private rather than government actors, can react similarly in response to corporate overreach. Such statements go beyond bluster: a survey saw 72% believe in inevitable sectarian conflict, to which 30% vocalized a willingness to use force to protect their group.⁷

Shut Up and Dance: Individual Surveillance, Institutions, and Violence

First, we need to determine the extent of cause for concern: it is important to establish how individuals perceive the UK's surveillance regime—while individual polling results (barely) exist, a longitudinal analysis has yet to be conducted. The sole available data on UK public opinions on surveillance comes from pollster YouGov, which includes both a splattering of individual surveys as well as a consistent, longitudinal analysis from January 2015 until March 2016.⁸ Circumstances have since shifted—decreased faith in Europe and

⁶ Kantar. *Standard Eurobarometer 91: Public opinion in the European Union*. Compiled by European Commission, Directorate-General for Communication. Report no. 91. Spring 2019. Accessed December 10, 2019. <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/87491>.

⁷ Goodwin, Matthew. 'The Rise of the Far Right — the UK's Fastest-growing Terror Threat', 20 October 2019, sec. The Sunday Times Magazine. <https://www.thetimes.co.uk/article/the-rise-of-the-far-right-the-uks-fastest-growing-terror-threat-cm78rx9jb>.

⁸ YouGov. "YouGov Survey Results." Unpublished raw data, June 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/d8p3ndaa8f/5.June.15.pdf.

———. "YouGov Survey Results." Unpublished raw data, July 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/mz4zye1tpj/6.July.15.pdf.

———. "YouGov Survey Results." Unpublished raw data, August 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/hu3m8y6vq8/7.Aug.15.pdf.

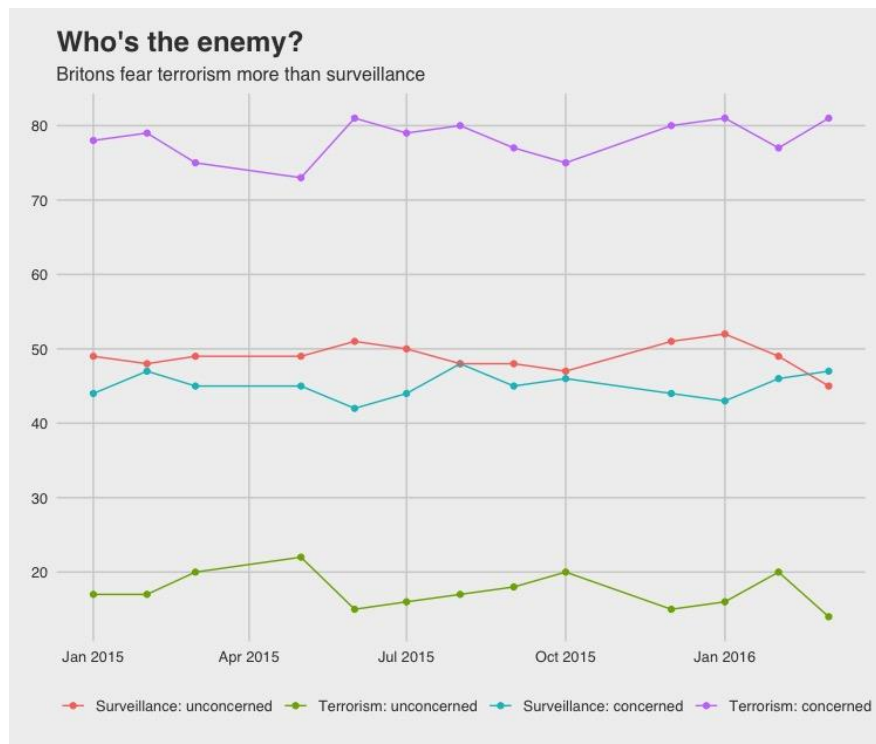
———. "YouGov Survey Results." Unpublished raw data, September 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/2wboxxfz6t/8.Sep.15.pdf.

———. "YouGov Survey Results." Unpublished raw data, October 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/0seq776e95/9.Oct.15.pdf.

———. "YouGov Survey Results." Unpublished raw data, December 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/3jtae4z369/10.Dec.15.pdf.

———. "YouGov Survey Results." Unpublished raw data, January 2016. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/xvia5rffkz/1.Jan.16.pdf.

Britain's own government as well as a slow-down in European and British terrorism—but they still serve as a helpful proxy. Independent analysis produced the ensuing graphs, analysis, and conclusions.



A cursory examination showed a causal relationship in a bivariate relationship between public opinion on terrorism and surveillance, a 1pp change in opinion on terrorism leads to a 0.29 pp change in concern about surveillance in the same direction—a fairly weak result that could be undermined with the inclusion of covariates. A similar result was found looking at first differences in the panel structure, a 1pp increase in the change of opinions on terrorism lead to a 1.1 pp increase in the change of concern for surveillance (both significant beyond the 0.001 level). This same-direction effect feels inaccurate given the conceptual basis for the interaction between the two metrics and should be treated with some degree of scepticism. Given the graphical representation, which shows more volatility in attitudes on

———. "YouGov Survey Results." Unpublished raw data, February 2016. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/0l1mf22k5u/2.Feb.16.Surv.v.Terrorism.pdf.
 ———. "YouGov Survey Results." Unpublished raw data, March 2016. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/wv46xfjhuq/3.Mar.16.Surv.v.Terrorism.pdf.
 ———. "YouGov Survey Results." Unpublished raw data, January 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/5v1xzlccu/1.Jan.15.pdf.
 ———. "YouGov Survey Results." Unpublished raw data, February 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/hii2jdpiky/2.Feb.15.pdf.
 ———. "YouGov Survey Results." Unpublished raw data, March 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/lh78j53fil/3.March.15.pdf.
 ———. "YouGov Survey Results." Unpublished raw data, May 2015. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/mox1m6bbup/4.May.15.pdf.

terrorism as opposed to those on surveillance, such results appear unintuitive and will need to be examined more closely given full data. Unfortunately, bivariate regressions are the extent of the data's usefulness: total statistics are compiled from a weighted pool of individual characteristic survey results. The data does not overlap sufficiently with Eurobarometer data on faith in institutions rendering such analysis obsolete; no UK terrorist attacks happened during the time frame either. Even in the situation where such comparisons were possible there are simultaneous causality issues: distrust leads to fear of surveillance which leads to further distrust while trust leads to faith in surveillance under security grounds, which behoves further trust.

Regarding the overall data, the two-question design may present an implicit dichotomy depending on what is asked first. The survey also ignores other concerns (like economic security) which may be a more ample breeding ground for government distrust. In other surveys, concerns among voters so explicitly lean towards financial considerations, with UK respondents naming the economy as their biggest worry.⁹

This begets the classic question of the link between poverty and terrorism: the logic goes that individuals with worse economic prospects are particularly vulnerable to recruitment due to a lack of other opportunities. However, past surveys of Hezbollah and Hamas/PIJ bombers have found that terrorists actually tend to be wealthier and better educated than the general populace; in part, this may be caused by increased effectiveness of better-educated suicide bombers; independent analysis produced the ensuing graphs, analysis, and conclusions. Ultimately, when controlling for countries' civil liberties there seems to be no difference in terrorist origin from poor or rich nations.¹⁰ Interestingly, such research actually stemmed from analysis of hate crimes and interpersonal violence with a history stretching back to the early 1900s: initial research found correlations between propensity for such violence and low economic wellbeing.¹¹ Along with the original research being questioned, more recent studies have reaffirmed a lack of relationship between

⁹ Kantar, *Standard Eurobarometer*.

¹⁰ Krueger, Alan B., and Jitka Malečková. 'Education, Poverty and Terrorism: Is There a Causal Connection?' *Journal of Economic Perspectives* 17, no. 4 (December 2003): 119–44. <https://doi.org/10.1257/089533003772034925>.

Berrebi, Claude. 'Evidence About The Link Between Education, Poverty and Terrorism Among Palestinians'. *SSRN Electronic Journal*, 2005. <https://doi.org/10.2139/ssrn.487467>.

Benmelech, Efraim, and Claude Berrebi. 'Human Capital and the Productivity of Suicide Bombers'. *Journal of Economic Perspectives* 21, no. 3 (July 2007): 223–38. <https://doi.org/10.1257/jep.21.3.223>.

¹¹ Hovland, Carl Iver, and Robert R. Sears. 'Minor Studies of Aggression: VI. Correlation of Lynchings with Economic Indices'. *The Journal of Psychology* 9, no. 2 (April 1940): 301–10. <https://doi.org/10.1080/00223980.1940.9917696>.

unemployment (often the best conduit for perceptions of economic welfare) and various categories of hate crimes.¹² Thus on face, economic factors are unlikely to be the main explanatory cause of such violence which may instead stem from more tangible concerns about security via narratives and decreased faith in personal privacy and institutions.

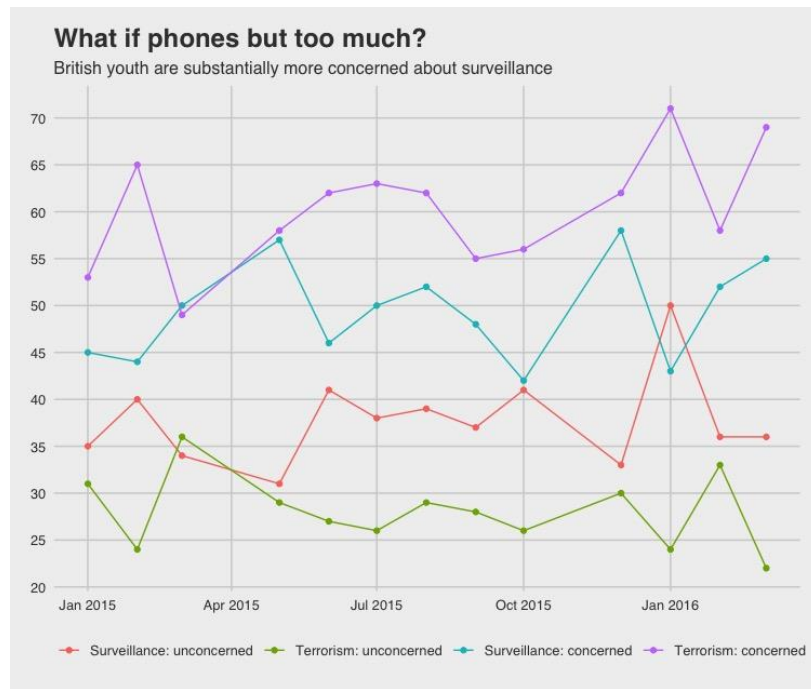
However, the British experience poses a more complicated picture: in Northern Ireland, areas that experienced more violence during the Troubles continue to lag behind in earnings and schooling, while experiencing higher rates of crimes and suicides.¹³ Though this can be linked to paramilitary recruitment from such left-behind areas, the ultimate cause is unclear. Nonetheless, it shows some historical precedent for a correlation between violence, malcontent in institutions, and economic welfare. This may be an argument for the importance of relative rather than absolute economic conditions, as regional between-group inequalities clearly matter in the Northern Irish case; intuitively people care more about their wealth relative to their neighbour versus compared to someone halfway around the world. With anecdotal evidence suggesting that violence is increasing given rising tensions surround Brexit, such concerns are relevant not just for broader links but in their immediate effect on the ground.¹⁴ Ultimately, inequality may feed a distrust in government institutions that are seen as not doing enough, championing the outsider role that right populist parties are all too eager to sweep up, as well as jihadi rhetoric that blames the West's moral failings. Though a potential confounding influence, inequality does not paint the full picture, returning us to discussions of other popular concerns that drive distrust, like security and privacy.

¹² Green, Donald P., Jack Glaser, and Andrew Rich. 'From Lynching to Gay Bashing: The Elusive Connection between Economic Conditions and Hate Crime.' *Journal of Personality and Social Psychology* 75, no. 1 (1998): 82–92. <https://doi.org/10.1037/0022-3514.75.1.82>.

Jefferson, Philip N., and Frederic L. Pryor. 'On the Geography of Hate'. *Economics Letters* 65, no. 3 (December 1999): 389–95. [https://doi.org/10.1016/S0165-1765\(99\)00164-0](https://doi.org/10.1016/S0165-1765(99)00164-0).

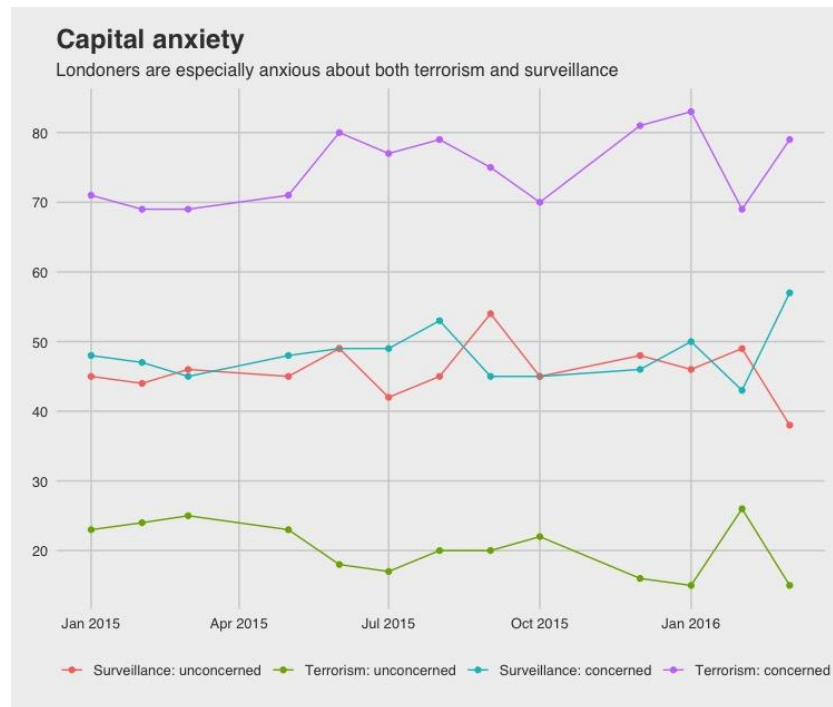
¹³ Knox, Colin. 'Northern Ireland: Where Is the Peace Dividend?' *Policy & Politics* 44, no. 3 (8 July 2016): 485–503. <https://doi.org/10.1332/030557314X14042296270069>.

¹⁴ Payne, Adam. "'The Guns Are Back out Again': Northern Ireland Fears a Brexit Border Will Escalate Violence'. Business Insider. Accessed 12 November 2019. <https://www.businessinsider.com/brexit-northern-ireland-fear-hard-border-escalation-in-violence-2019-8>.



Backing up these causal links, group differentials exist among different groups in the country: unsurprisingly the youth, upper classes (defined as ABC1), and liberals are more likely to be concerned about surveillance and less about terrorism. All the causes appear to be tied to social discourse and messaging more so than specific policy. Youth in particular demonstrate particular volatility in response to government action: the spike in November 2015 may surround the first draft publication of the Investigatory Powers Act of 2016 ('Snoopers Charter') and March 2016's rise may follow its advancement to committee though such a link is frankly unlikely given general apathy about acts' parliamentary proceedings. More likely such trends reflect trends from social media discourse, the kind mobilised by various social movements. The January 2016 spike in terrorist anxieties is unsurprising given the Leytonstone attack the preceding month as well.¹⁵ Such trends are visible in the general data but less observable due to their magnitude. Youth, more digitally literate, are unsurprisingly sceptical of government initiatives to surveil the populace; liberals, via endless privacy-centred messaging, have turned the issue into a cause celebre; and upper classes tend to be better read and thus more sceptical of government rhetoric. The latter in particular may be a substantial causal link, though given increased democratisation of information and today's social media news consumption affirming echo chambers, class as a primary cause appears more likely.

¹⁵ Dodd, Vikram, and Esther Addley. 'Leytonstone Knife Attack: Man Convicted of Attempted Murder'. *The Guardian*, 8 June 2016, sec. UK news. <https://www.theguardian.com/uk-news/2016/jun/08/leytonstone-knife-attack-man-convicted-of-attempted>.



The Scottish are particularly unintimidated by terrorism (in part due to their very limited experience with terrorist attacks) and have stronger privacy leanings, while Londoners are concerned about both. Nonetheless, the overarching message is that Britons are substantially more concerned about terrorism than surveillance on an absolute scale—much of this has to do with government messaging. Given that the UK has the highest concentration of CCTV cameras per capita, its citizens are fairly accustomed to the utility and presence of monitoring. As often needs to be recognised in the political discourse, most citizens are vaguely apathetic, not the least because of cyclical narratives surrounding Brexit and other government action. However, regional distinctions are vast and opinions between groups are substantially different raising the issue: terrorists are never the majority. Even if broad public opinion may be a useful conduit for measuring the controversial nature of a proposal, the issue is probabilistic. Less people overall concerned about surveillance generally means there is a less chance that any particular individual is nonplussed; however, as long as there remains opposition, there remains a chance that any one person will be galvanised, and it only takes one terrorist to carry out an attack. The more opposed groups include youth, who are both the most likely to have concerns about surveillance in part due to digital literacy, and also most susceptible to radicalisation. Recent waves of youth activism in areas of key national interest show their resolve: Extinction Rebellion and the global anti-climate change narrative as well as the domestic-focused Momentum that led to the installation of Jeremy Corbyn at the head of Labour. Such trends in the new civic culture

show how youth are increasingly galvanised to mobilise and could be a key area of concern for unrest and discontent for governments.

As the IRA told former PM Thatcher, the government's challenge with counterterrorism is that they must prevent every attack while their opponents win if just one goes through.¹⁶ Under that lens, it becomes unimportant how many people support the government as long as there remains opposition willing to carry out violence—therein lies the danger of surveillance and its potential as a recruiting tool. Even those that do not carry out attacks can help galvanise others through shared ideology or act in smaller-scale violence like hate crimes. With 38% of Britons seeing Islam and the UK's values as incompatible, the iceberg model may not be far off the mark: though a small group of individuals commit attacks, their ideologies are shared by a wider segment of society.¹⁷ On the other hand, 75% of ethnic minorities believe racist beliefs are widely held with 70% noting that discrimination is common.¹⁸ On both sides of British society, individuals are increasingly sceptical about the promise of equality: each side perceives the other as a problem to some extent. However, as to the impetus that converts individuals to commit violent acts, such questions are still inconclusive.

BBC surveys paint a more complicated picture: UK citizens were among the most satisfied with the impact of the internet on their lives, though they had the same faith in internet freedom as Russian, Pakistanis, and Nigerians compared to the more sceptical Germans and Americans. However, optimism has tempered over time, with an 11% decrease in perceptions of media independence both in the UK and US between 2007 and 2014. However, these trends, though linked to internet presence, are an imperfect proxy of freedom.¹⁹ In 2017, an updated picture saw 83% of Britons support internet access as a fundamental right, identical to the global average and close to France and Spain. Worries about internet information accuracy are fairly low in the UK; only Germans are less bothered. The British also have among the highest opinions concerning the need for internet regulation,

¹⁶ Bingham, John. 'Margaret Thatcher: Seconds from Death at the Hands of an IRA Bomber', 8 April 2013, sec. News. <https://www.telegraph.co.uk/news/politics/margaret-thatcher/9979915/Margaret-Thatcher-Seconds-from-death-at-the-hands-of-an-IRA-bomber.html>.

¹⁷ Goodwin, Matthew. 'The Rise of the Far Right — the UK's Fastest-growing Terror Threat', 20 October 2019, sec. The Sunday Times Magazine. <https://www.thetimes.co.uk/article/the-rise-of-the-far-right-the-uks-fastest-growing-terror-threat-cm78rx9jb>.

¹⁸ Booth, Robert. 'Racism Rising since Brexit Vote, Nationwide Study Reveals'. *The Guardian*, 20 May 2019, sec. World news. <https://www.theguardian.com/world/2019/may/20/racism-on-the-rise-since-brexit-vote-nationwide-study-reveals>.

¹⁹ Higham, Nick. 'Web "Brings Freedom and Scrutiny"'. *BBC News*, 1 April 2014, sec. Magazine. <https://www.bbc.com/news/magazine-26824802>.

second only to the Chinese; while comparatively to other European states they generally feel the internet is free to express their opinions, only 38% agreed, less than the US and almost 10% under the global average.²⁰

National attitudes, however, fail to decompose well. Surveillance has certainly become increasingly politicised: Britons recognise that the pro-privacy voices are more left (37%) while pro-security proponents are more right (27%) with more than a third of respondents unsure.²¹ The implication here concerns leftists' greater willingness to claim a pro-privacy platform (by 10%), while rightists inherently understand the unpalatable implications that a pro-security platform may entail. Such an uneasy balance illustrates the non-partisan nature of political discourse in the UK. However, such discourse may be unsustainable. The unabashedly pro-privacy LibDems and their pro-security counterparts on the right, UKIP/Brexit Party, have increasingly shown a willingness to express stronger opinions on the privacy/security dilemma. Emblematic of their broader "radical" stances relative to the country's centrist parties, such differences will continue to magnify in the wake of polarising political discourse, whether on Brexit or surveillance. The most recent elections pit Brexiteer Tories against Corbyn; the LibDems, in response, have disavowed any chance of a coalition with either, and such trends appear to be spreading.²² This poses a dangerous precedent for social consensus in the UK and may lead to stronger views on issues (very as opposed to just fairly concerned, and not very as opposed to not concerned)—already visible in the breakdown of longitudinal data responses. Simply put, polarisation will stratify the battle lines over surveillance. As right-wing and Islamist rhetoric feeds off these changes, politicians should take stock of their own contributions to discourse.²³

²⁰ GlobeScan. 'Fake Internet Content a High Concern, but Appetite for Regulation Weakens', 21 September 2017. <https://globescan.com/fake-internet-content-a-high-concern-but-appetite-for-regulation-weakens-global-survey/>.

²¹ YouGov. "YouGov - Left Right Recognition Wave 1." Unpublished raw data, January 2019. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/z3frqb6qe6/Left%20right%20recognition%20wave%201%20190106.pdf.

———. "YouGov - Left Right Recognition Wave 4." Unpublished raw data, February 2019. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/wkv7dlea7g/Left%20right%20recognition%20wave%204%20190205.pdf.

²² Smyth, Chris. 'General Election 2019: Lib Dems Rule out Coalition as Jo Swinson Claims She Can Be PM'. *The Times*, 6 November 2019, sec. News. <https://www.thetimes.co.uk/article/general-election-2019-lib-dems-rule-out-coalition-as-jo-swinson-claims-she-can-be-pm-mqmqbrj5v>.

Morris, Chris. 'What Does "Get Brexit Done" Mean?' *BBC News*, 6 November 2019, sec. UK. <https://www.bbc.com/news/uk-50222315>.

²³ 'Leaving the European Union Is Making Britain Less British'. *The Economist*, 26 October 2019. <https://www.economist.com/britain/2019/10/26/leaving-the-european-union-is-making-britain-less-british>.

Compared to peer nations, Britain shows some of the least faith in domestic and European institutions. When asked about the likelihood of a terrorist attack, Britons' fears were second only to the French; on the other hand, their fears of cyber-crime and cyberattacks outstripped their counterparts while just 1 in 4 concerned about the government, and 1 in 3 worried about private corporations.²⁴ The result is government disinterest in questions of limiting surveillance given less political imperative to amend policy due to constituent apathy. However, such attitudes have become less popular over time: 52% support the publication of Snowden's leaks; 51% believe government accessing of private information goes too far; and 50% support increased judicial scrutiny over intelligence services.²⁵ Nonetheless, the results are not intuitively conclusive. The English are notoriously non-committal, with more than 10% of respondents answering "don't know" to any given polling questions; results split more than three ways. The numbers of those concerned or unconcerned about surveillance both number under 50%: relative figures prove more useful in comparisons, and even though more respondents report being unconcerned, the differentials between groups is more striking in such a comparison.

From Bits to Bytes of Doubt: How Surveillance Degrades Trust

We now turn to potential causal links between surveillance, radicalisation, and anti-government messaging: though not the norm, the latter two ideas certainly proliferate in the UK regardless. With the rise of lone actor attacks among the far right and Islamists and a proliferation of global online links for such groups, the importance of sole individual actors must still be considered, even if the majority of Britons remain neutral and unradicalised.²⁶ The far-right's mantra of leaderless resistance is particularly dangerous for the democratisation of violent ideologies and shows the interconnected nature of such actions.

Past research gives us a good understanding of how these mechanisms play out in the general case: specifically, individual fears of terrorism decrease when they have relational trust in the government, or how they feel about it emotionally and ethically.²⁷ The result is

²⁴ YouGov. "YouGov / Handelsblatt Survey Results." Unpublished raw data, May 2017. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/1eqs14w9mx/HandelsblattResults_Topline_May2017_tracked_W.pdf.

²⁵ YouGov. "YouGov Survey Results." Unpublished raw data, July 2013. Accessed December 10, 2019. https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/egcobj0jsw/YG-Archive-Opinion-Formers-survey-results-050713-online-security.pdf.

²⁶ Croft, Stuart, and Cerwyn Moore. 'The Evolution of Threat Narratives in the Age of Terror: Understanding Terrorist Threats in Britain'. *International Affairs* 86, no. 4 (1 July 2010): 821–35. <https://doi.org/10.1111/j.1468-2346.2010.00914.x>.

²⁷ Does, Ramon Van Der, Jaroslaw Kantorowicz, Sanneke Kuipers, and Marieke Liem. 'Does Terrorism Dominate Citizens' Hearts or Minds? The Relationship between Fear of Terrorism and Trust in Government'.

similar for calculative trust, or a rational utility calculation that evaluates expectations of government action, but is weakened by the inclusion of relational trust, indicating that such emotional considerations are individuals' primary consideration when faced with anxieties on terrorism.²⁸ This returns to the data examined earlier: older and conservative voters are especially anxious about terrorism, implying that they have less faith in the government to prevent terrorist attacks. Returning to government anti-terrorist narratives and accusations of fearmongering, my results demonstrate that instilling fear in the population in order to justify continued national security expenditures and policies may be counterproductive. Instead, they magnify individual fears and particularly feed incentives for individuals to partake in self-guided vigilante action. Simply put, scaring the population into compliance is ineffective—though they are willing to accept surveillance as a preventative measure they continue to distrust leaders and act independently.

Additional research, centred around Facebook use, looked at self-censorship and aversion to posting minority views. When presented with a primer of NSA monitoring, participants were less likely to post material on US airstrikes that they deemed contrary to popular opinion, even if they support the security necessity of surveillance.²⁹ Though such opinions are obviously on American participants, given British scepticism on free expression over the internet, such mechanisms are likely to have similar impacts across the pond, though their impact may be less due to increased American anxieties. Another study looking at Wikipedia found a 30% drop in terrorist-related (known to be tracked by the DHS) article views that continued for months after Snowden's June 2013 revelations about the NSA's PRISM program.³⁰ Another US household survey found that 1 in 5 avoided online activity, rising to 1 in 4 when they had additional security concerns and 1 in 3 when concerned about government data collection—this was especially driven by concerns about online security breaches, which are also the primary for Britons (more than 60%).³¹ Though much of these results are confined to the US, the effects they identify are not. The magnitude of the effect

Terrorism and Political Violence 0, no. 0 (29 May 2019): 1–19.

<https://doi.org/10.1080/09546553.2019.1608951>.

²⁸ Ibid.

²⁹ Stoycheff, Elizabeth. 'Under Surveillance: Examining Facebook's Spiral of Silence Effects in the Wake of NSA Internet Monitoring'. *Journalism & Mass Communication Quarterly* 93, no. 2 (1 June 2016): 296–311. <https://doi.org/10.1177/1077699016630255>.

³⁰ Penney, Jon. 'Chilling Effects: Online Surveillance and Wikipedia Use'. SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, 2016. <https://papers.ssrn.com/abstract=2769645>.

³¹ 'Lack of Trust in Internet Privacy and Security May Deter Economic and Other Online Activities | National Telecommunications and Information Administration'. Accessed 12 November 2019. <https://www.ntia.doc.gov/blog/2016/lack-trust-internet-privacy-and-security-may-deter-economic-and-other-online-activities>.

may be lesser given Britons' unconcern about surveillance but still persists given identical causal mechanisms.

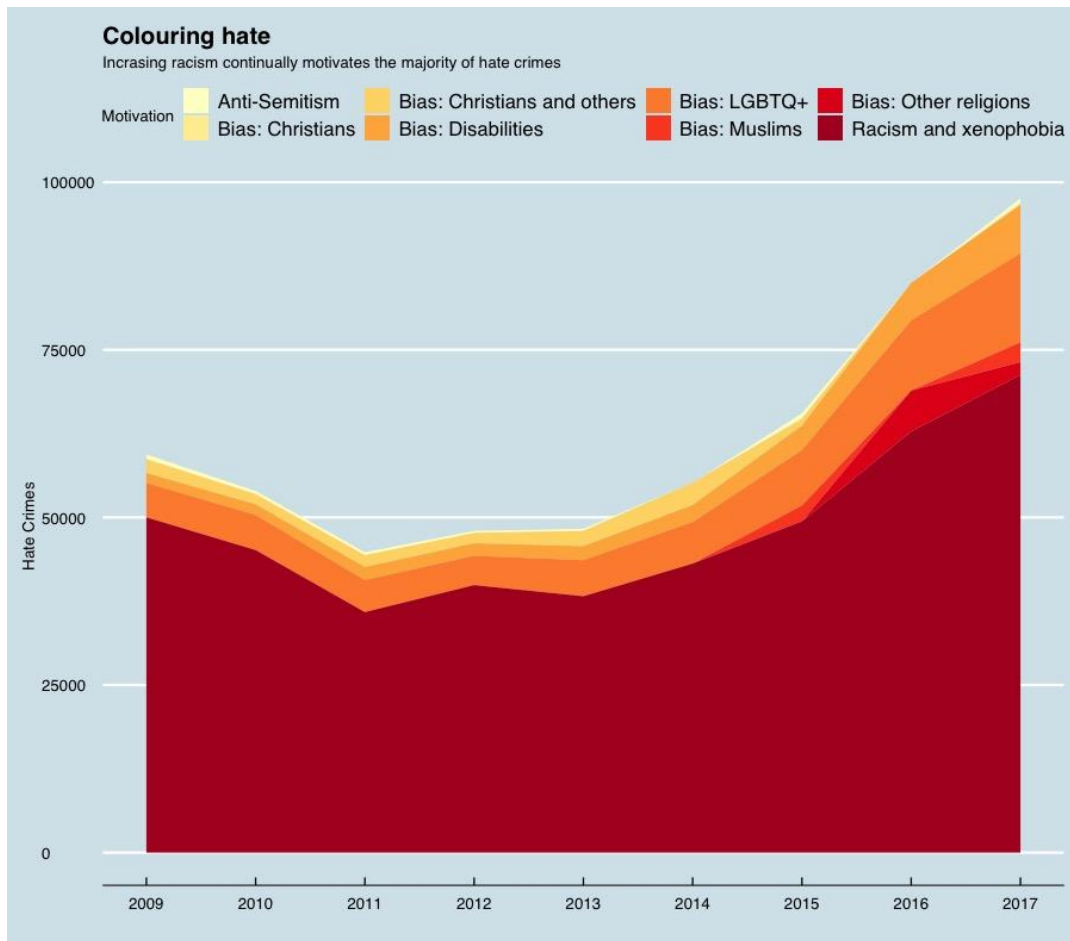
On the right-wing aspect of the relationship between trust in terrorism and institutions, research may explain why Britons in particular are so willing to make sacrifices in the name of security: there is a link between beliefs in right wing authoritarianism and civil rights restrictions. Particularly true in the UK, the threat of terrorism increases allowances for liberties restrictions unlike in Spain, where government relationships with the populace is instilled with substantially less trust for understandable historical and political reasons.³²

Haters Gonna Hate: Prejudice, Violence, and Links to Surveillance

Now that we understand how peoples' opinions shift in response to terrorism and privacy concerns, it's important to characterise to what extent individuals actually act on such beliefs. Rather than delving into the cesspool of electoral policy—parties are imperfect instruments of individuals' beliefs anyways—I opted to examine a more concrete manifestation via documented prevalence of discriminatory behaviour. A survey characterises the rise in such experiences over the last 3 years: 13% more minority individuals reported experiencing some form of discrimination, bringing the total figure to above 70%. Daily online racism was experienced by a majority of minority respondents, spiking from its 2016 values, when individuals were 30% less likely to experience the same. The increasing vocalisation of such sentiments is suspected to be a result of normalised sectarianism post-Brexit, which unearthed said social cleavages.³³ Ultimately, one of the most effective ways of deconstructing the social implication of such trust is examining metrics of discontent: propensity for vigilante violence, stemming from a belief that the government either cannot or will not take action on a crucial action, can be analysed via hate crime measures.

³² Kossowska, Małgorzata, Mariusz Trejtowicz, Soledad de Lemus, Marcin Bukowski, Alain Van Hiel, and Robin Goodwin. 'Relationships between Right-Wing Authoritarianism, Terrorism Threat, and Attitudes towards Restrictions of Civil Rights: A Comparison among Four European Countries'. *British Journal of Psychology* 102, no. 2 (2011): 245–59. <https://doi.org/10.1348/000712610X517262>.

³³ Booth, Robert. 'Racism Rising since Brexit Vote, Nationwide Study Reveals'. *The Guardian*, 20 May 2019, sec. World news. <https://www.theguardian.com/world/2019/may/20/racism-on-the-rise-since-brexit-vote-nationwide-study-reveals>.



Individual analysis of official hate crime statistics from England and Wales via the Home Office found that the number of crimes has been increasing since 2013—coincidentally the same year Nigel Farage’s UKIP saw its first electoral success in local elections.³⁴ Not only does racism and xenophobia make up the unequivocal majority of hate crimes (doubling since 2013), but religiously-motivated violence is becoming more likely as well, though the data’s coding of religiously biased action prevents any further extrapolation. If used as a measure of the manifestation of the aforementioned distrust institutions, it appears that such discontent, though also targeted at groups like LGBTQ+ and the disabled, falls most squarely on ethnic and religious minorities. This accentuates the identitarian nature of contemporary British politics, and the growing divides in the wake of pressing security considerations. Such data, however, is definitely an underestimate of the true prevalence of such crimes due to stigma and resulting underreporting—Home Office calculations estimate that the reporting rate hovers around 50%.³⁵ Victims of reported crimes tended to be young

³⁴ ‘Farage: UKIP Gains a “Game Changer”’. *BBC News*, 3 May 2013, sec. UK Politics. <https://www.bbc.com/news/uk-politics-22382098>.

³⁵ Home Office. *Hate Crime, England and Wales, 2017/18*. Report no. 20/18, 25. October 16, 2018. Accessed December 10, 2019.

Muslim Asian males—cohering with a group that previous analysis would suspect to be less fearful of terrorism and more of surveillance.³⁶ This leads to unsurprising emotional costs, with 17% of Black, Asian, and Minority Ethnic (BAME) respondents indicating fear of future attack.³⁷ Monthly data, though affected by reporting deadlines in March, shows fairly consistent spikes in such violence in the months following various attacks and significant events, from Lee Rigby to Manchester and including the EU referendum.³⁸

But what motivates individuals to commit such crimes? 78% of offline attackers were male, with a majority under the age of 40. Offline, around 25% of cases had a far-right link; online, the number stood at 70%. In 2012-13, those numbers combine in a 56% far right link for hate crimes. The internet in this case is particularly important, however, with 74% of anti-Muslim hate crimes happening online, of which a majority threatened violence: the majority of perpetrators were also male here as well.³⁹ After terrorist attacks such numbers increase substantially: there was a 2-month spike in crimes after 7/7 in London.⁴⁰ The same effect can be seen in the wake of the Lee Rigby murder, with an eightfold increase in anti-Muslim hate crimes in the month following the event at Woolwich that faced a steep drop-off even after just one month.⁴¹ Nonetheless, it remains unclear how fast such decay occurs, which are correlated with subsequent precipitating incidents that in today's case include contemporary Brexit politics. As early as 2013, 21% agreed with the values of the English Defence League (EDL), which was named in 49% of hate crime cases. 49% believed in an upcoming “clash of civilisations” between native whites and Muslims in the UK, and 54% agreed that relations between ethnic groups are likely to deteriorate.⁴²

The EDL is a particularly potent example of reciprocal radicalisation, where extremist groups further each other's radicalisation like the EDL emerging in the wake of Islamist attacks from 2005 to 2009. Drawing on similar narratives of victimisation and culture clash, exacerbated by bilateral inflammatory rhetoric and even violence, and magnified by media

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748598/hate-crime-1718-hosb2018.pdf#page=8.

³⁶ Ibid 23.

³⁷ Ibid 28-29.

³⁸ Ibid 14.

³⁹ Copsey, Nigel, Janet Dack, Mark Littler, Matthew Feldman . ‘Anti-Muslim Hate Crime and the Far Right, June 2013’, 27, *TELL MAMA*, 30 June 2013. <https://tellmamauk.org/anti-muslim-hate-crime-and-the-far-right-june-2013/>.

⁴⁰ Iganski, Paul. *Hate Crime and the City*, 135. Bristol: Policy Press, 2008.

⁴¹ Copsey ‘Anti-Muslim Hate,’ 28.

⁴² Ibid 27.

and political tensions, this link is pervasive, measurable, and persistent.⁴³ Thus, violence against Muslims is answered with further radicalisation within the group, answered by further radicalisation on the right and even more associated violence. This begets a positive feedback loop of radicalisation that furthers polarised viewpoints and identitarianism.

Additional evidence draws out the exact time trends of violence while dealing with the former query of motivation as well. Prior research indicates that media narratives increase the likelihood that individuals will commit hate crimes against groups in the wake of a galvanising attack.⁴⁴ Looking at around 55 000 incidents, of which 76% were Islamophobic hate crimes, various identifying information about perpetrators, time trends, and more could be deduced. On the former, crimes were targeted in economically deprived suburban Muslim-majority jurisdictions (even if such areas are far or unrelated to the location of the attack), targeted by individuals who lived in neighbouring boroughs in similar economic deprivation but outside the more minority-population areas. The trend shows that in the wake of terrorist attacks, hate crimes spike in the subsequent weeks, eventually bottoming out after around a month at a new normal: this level is higher than the preceding incidence, and drives the upwards trend evidenced since 2012 in the broader crime data. These results are even more substantial for recent attacks. With the peak of crimes more closely correlated with media coverage, incidence of sensationalised headlines concerning violence are actually a better representative of group violence. Violence lags, which closely match the delay in media reports, are affirmed to have a significant relationship with hate crime violence.⁴⁵ With Muslim-perpetrated terrorist attacks garnering 4.5 times more media coverage in the US, social discourse is especially skewed to magnify the effects of such sensationalisation, a line that governments buy into in order to justify expenditures and expanded powers.⁴⁶ Different conditions make a direct comparison of quantitative evidence between the US and UK impossible, but similar effects undoubtedly exist even if their magnitude is diminished.

Related to surveillance, government rhetoric that justifies surveillance as a national security concern, especially in the wake of attacks, only feeds these polarising narratives and

⁴³ Knott, Kim, Ben Lee, and Simon Copeland. *Briefings: Reciprocal Radicalisation*. August 2018. Accessed December 10, 2019. <https://crestresearch.ac.uk/download/5839/>.

⁴⁴ Gould, E and E Klor (2016), “The Long-Run Effect of 9/11: Terrorism, Backlash, and the Assimilation of Muslim Immigrants in the West”, *Economic Journal* 126: 2064-2114.

⁴⁵ Ivandic, Ria, Tom Kirchmaier, and Stephen Machin. ‘Jihadi Attacks, Media and Local Hate Crime’. CEP Discussion Papers. Centre for Economic Performance, LSE, April 2019. <https://ideas.repec.org/p/cep/cepdp/dp1615.html>.

⁴⁶ Kearns, Erin, Allison Betus, and Anthony Lemieux. ‘Why Do Some Terrorist Attacks Receive More Media Attention Than Others?’ SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, 2 April 2018. <https://papers.ssrn.com/abstract=2928138>.

encourages further violence. As individuals' fear of terrorism correlates strongly with their lack of concern about surveillance, there are substantial interaction effects that can be traced through these trends. Individuals, whether or not they trust institutions less in the wake of attacks, certainly commit more violence and are more likely to buy the government line on surveillance, which only furthers their perceived justification for such violence. Ultimately, the costs of hate crimes are substantial, as they further the polarisation of groups by impeding assimilation and encouraging targeted individuals to withdraw into their communities.⁴⁷ This positive feedback loop is especially dangerous going forward, meaning that radicalisation within groups and subsequent actions can drive backlash and further violence between communities. A similar feedback loop occurs with regards to trust in institutions, which is best exemplified by their propensity to carry out vigilante violence. Combined with a more fragile relationship between governments and their constituents stemming from decreased trust and more polarisation, the social costs of electronic surveillance substantially hinder its positive benefits and encourage a re-evaluation of current policy.

Framing the Answer: A Snapshot of Paths Forward

Broadly speaking, there are three paths to solving for the adverse effects of surveillance: increasing surveillance, decreasing it, or creating mechanisms to encourage adherence to the optimum level. On the first, assuming the effectiveness of such strategies, additional radicalisation and ostracisation could be tackled with increased anti-terrorist and anti-criminal enforcement bolstered by surveillance. An ideological social planner would be the role undertaken by the government, accepting and counteracting the costs of its policies. Nonetheless, such a drastic step might warrant a more robust analysis of the financial and human capital costs in personnel, controlling for implicit biases and other unproductive predispositions. However, there is reason to believe that the government is already unable to keep up with the scope of radicalisation and struggles as online conversations shift to progressively more encrypted platforms.⁴⁸ The government has failed to address this problem on its own; alternatively, working with corporates may be out of the question: companies like Google and Apple have vociferously reacted to issues like GCHQ's ghost proposal.⁴⁹ Moreover, the government has failed to prevent violence in the past, with previous

⁴⁷ Gould, E and E Klor (2016), "The Long-Run Effect of 9/11: Terrorism, Backlash, and the Assimilation of Muslim Immigrants in the West", *Economic Journal* 126: 2064-2114.

⁴⁸ Klausen, Jytte. 'British Intelligence Fails Again', 7 June 2017. <https://www.foreignaffairs.com/articles/united-kingdom/2017-06-07/british-intelligence-fails-again>.

⁴⁹ Lawfare. 'Open Letter to GCHQ on the Threats Posed by the Ghost Proposal', 30 May 2019. <https://www.lawfareblog.com/open-letter-gchq-threats-posed-ghost-proposal>.

perpetrators known to security services prior to committing acts of violence at London Bridge, Manchester, and Westminster; even if people are known, often thanks to surveillance, there is still a failure to act.⁵⁰ Additionally, any such increase in enforcement does not necessarily decrease radicalisation, but rather seeks to mitigate the extent to which it leads to violence and loss of life. Vigilantism has attempted to fill the gap, with various non-profits identifying as many as 42 000 sympathisers of which 7 000 expressed intent for violence and approaching them under a self-guided approach; though success is low due to a lack of willingness for discourse, a few identified individuals would go on to commit right wing terror.⁵¹

The converse to this is decreasing the scope of government surveillance and available powers. The benefits are clear, allowing people to have faith in their privacy and further trusting governments as a guarantor for their rights, while the downside manifests through mostly security costs of direct preventable capabilities by anti-terror personnel. The costs however are twofold: decreased surveillance could hamper the ability of the services to prevent future attacks and pro-privacy messaging could embolden enemies of the state. Surveillance, like other law enforcement strategies, has a deterrent effect as well.

The third and optimal solution is therefore to create a robust mechanism for optimal surveillance, creating a role for impartial bodies and checks and balances to create a long-term and sustainable mechanism that balances security considerations with public backlash. This is the path the government, recognising its credibility problem, has taken to date characterised by a variety of policies: reports to committees, public speeches, increasing the public persona of the heads of the services, and the appointment of independent reviewers or counterterrorist legislation. However, there has been substantial blowback even against the independent reviewer of terrorism legislation Lord David Anderson QC and others despite their independent appointment. As public figures, they remain as untrusted as the politicians they are meant to check. As policymakers are sure to know, such a policy would be innately transparent due to the presence of independent individuals and could act as a check against the personality-centred politics manifesting both in the UK and around the world: no one contests surveillance powers when they trust those in charge. Given levels of distrust for

⁵⁰ The Independent. 'This Is How Much Security Services Knew about the Terrorists Who Attacked the UK This Year', 5 December 2017. <http://www.independent.co.uk/news/uk/crime/uk-terror-attacks-review-report-david-anderson-mi5-known-security-services-manchester-london-bridge-a8093846.html>.

⁵¹ Goodwin, Matthew. 'The Rise of the Far Right — the UK's Fastest-growing Terror Threat', 20 October 2019, sec. The Sunday Times Magazine. <https://www.thetimes.co.uk/article/the-rise-of-the-far-right-the-uks-fastest-growing-terror-threat-cm78rx9jb>.

individual, political actors, the apoliticisation of such policies would provide a robust mechanism for the longevity of such systems. Though certainly in line with government policies to date, the extent simply does not go far enough: despite recent “discovery” of various judicial review privileges and rights in the recent Miller/Cherry cases, the nature of the British system—dictatorship by Parliamentary majority—leaves much to be desired.⁵²

Branching Out: Legislative, Executive, and Judicial Recommendations

Therefore, I suggest four paths forward: (1) clarifying individual protection within British legal doctrine, (2) liberalising the framework for incorporation of surveillance into criminal trials, (3) exercising increasing caution with private-sector outsourcing, which itself functions as a microcosm of such a debate, and (4) investing into and bolstering the ranks of the civil service.

First, clarifying individual protection is essential given the informal nature of Britain’s uncodified constitutional protection and domestic judicial principle of parliamentary sovereignty. Individuals have substantially more faith in regulations like the Snoopers Charter when tempered by judicial discretion: 52% support the act when informed about judicial limitations compared to just 38% otherwise.⁵³ Other polls saw support for bulk data retention rise from 45% to 63% with the inclusion of judicial oversight; as faith declines in intelligence services, the Home Office, ministers, and civil servants.⁵⁴

Constructing a robust mechanism of legal protections from parliamentary discretion would do much to assuage individuals’ concerns. With the government preparing to hold a public inquiry into the 2017 Manchester attacks at the behest of the coroner, individuals are increasingly leveraging their power to push for transparency from the Services.⁵⁵ Instead of waiting for individuals to be up in arms, Parliament could act pro-actively to bolster transparency, and by extension, public confidence. Parliamentary discretion has been discredited, so one has to rely on the legal system rather than government.

⁵² Lidbetter, Andrew, Nusrat Zar, Jasveer Randhawa. ‘Supreme Court Unanimously Holds That Extended Prorogation of Parliament Is Unlawful | Lexology’. Accessed 10 December 2019.

<https://www.lexology.com/library/detail.aspx?g=3c25b21d-5ae8-4ada-9128-ce414d856092>.

⁵³ ———. YouGov. Unpublished raw data, February 2017. Accessed December 10, 2019.

https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/guozfocn1q/YGC%2C%20GB%20Surveillance%202017.pdf.

⁵⁴ ———. "YouGov." Unpublished raw data, November 2015. Accessed December 10, 2019.

https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/vy6z9erpn2/InternalResults_151109_securitypowers_Website.pdf.

⁵⁵ ‘Public Inquiry to Be Held into Arena Bomb Deaths’. *BBC News*, 22 October 2019, sec. Manchester. <https://www.bbc.com/news/uk-england-manchester-50141723>.

The British remain very Eurosceptic, more so since the Brexit referendum due to questions of sovereignty that dominated the exiting debate.⁵⁶ However, large swaths of individual protections stem from the EU Charter of Fundamental Rights, the European Court of Justice, and European Court of Human Rights. The first two, in particular, would be jettisoned under Brexit. Ever since *R (Factortame Ltd) v Sec. of State for Transport* created precedent for the nullification of British law when it conflicts with EU regulations, EU protections, like the General Data Protection Regulation (GDPR) have introduced protections like the right to be forgotten. This compliance mechanism is stronger than that of the Human Rights Act (HRA), which incorporated the ECHR (European Convention on Human Rights, and its enforcer the European Court on Human Rights) into the UK legal system. However, the HRA has left room for parliamentary discretion to act on a declaration of incompatibility: the ECHR and ECtHR lack authority over Westminster, who always has the final say.⁵⁷

Given existing political uncertainty about the UK's place in international organisations as well as general Brexit anxiety in the country, there are thus two paths forward: either codify rights via a "British constitution" or create robust mechanisms for compliance with ECHR judgements. Prorogation has demonstrated the frailty of parliamentary sovereignty—the Fixed-Term Parliament Act, which required a two-thirds majority to call for a premature election, was superseded by means of a simple majority, which then promptly called for an election, thereby accenting the sheer uselessness of its imposition.⁵⁸ Though the courts have reacted to "discover" more rights in the status quo, counting on judicial discretion

Of these two solutions, therefore, there are several limiting constraints. Currently, the acceptance of existing international regulation and judgements depends on legitimacy within the country and to what extent associated judgements are actually seen as palatable. Whether it be Cameron's vitriol at the prospect of giving the incarcerated voting rights or May's

⁵⁶ Kantar, *Standard Eurobarometer*.

⁵⁷ Patrick, Angela, and Doughty Street Chambers. *Mapping the Great Repeal: European Union Law and the Protection of Human Rights*. October 2016. Accessed December 10, 2019.

<https://rightsinfo.org/app/uploads/2016/12/Mapping-the-Great-Repeal-Thomas-Paine-Initiative-November-2016-For-RightsInfo.pdf>.

Morrisroe, Denise, Katherine Perks, and Stephen Lodge. *European Union (Withdrawal) Bill House of Commons Report stage*. January 16, 2018. Accessed December 10, 2019.

<https://www.equalityhumanrights.com/sites/default/files/briefing-eu-withdrawal-bill-commons-report-stage-16-january-2018.pdf>.

Lawyers for Britain. '6.2 EU Law - the ECJ and Primacy over National Laws'. Accessed 10 December 2019. <https://lawyersforbritain.org/brexit-legal-guide/eu-law-and-the-ecj/eu-law-the-ecj-and-primacy-over-national-laws>.

⁵⁸ Yglesias, Matthew. 'The Constitutional Change at the Heart of the UK Parliament's Endless Deadlock'. Vox, 5 September 2019. <https://www.vox.com/2019/9/5/20849086/uk-brexit-fixed-term-parliament>.

dictum of a red line concerning the ECJ in Brexit negotiations, many on the right have complained about the institution and conflated it with ECtHR, related to the very sovereignty concerns that prompted the Brexit vote in the first place.⁵⁹

The issue with the ECtHR, despite worries about sovereignty, concerns its enforceability. Though the court has transformed the British political landscape with judgements on torture, free speech, and gay rights, other decisions have yet to be implemented like its dictum on prisoner voting or prisoner handovers in Iraq.⁶⁰ On counter-terrorism specifically, ECtHR judgements were crucial in repealing stop and search, but remain unobeyed in questions of data retention—a mixed bag.⁶¹ The UK has broadly remained compliant with ECtHR judgements, though increased polarisation and a sense of national superiority (which also drove the Brexit debate) promise to create more challenges in the future.⁶² The court's recent decision on British surveillance, which it deemed theoretically valid (mass surveillance is within the purview of acceptable state powers) but lacking sufficient safeguards and oversight to protect privacy, shows that such disputes will only continue going forward given Britain's particular pro-surveillance stance.⁶³

Thus, if the ECHR and HRA are deemed insufficient or problematic, the government could codify protections separate from concerns about the EU via a new British constitution; this would separate the European issue from the human rights issue and introduce a robust framework for weighting rights that comes directly from Westminster. This is all the more pressing given Euroscepticism's concurrence with right wing views. The particulars of this debate are mostly beyond this paper and involve a complicated set of domestic policies, legal decisions, and public preferences. Nonetheless, policymakers should recognise that the current system is unsustainable and either take steps to robustly increase compliance or create

⁵⁹ POLITICO. '9 Reasons Why (Some) Brits Hate Europe's Highest Court', 26 July 2017. <https://www.politico.eu/article/brexit-ecj-european-court-of-justice-9-reasons-why-some-brits-hate-europes-highest-court/>.

⁶⁰ House of Commons Library. *UK cases at the European Court of Human Rights since 1975*. Compiled by Julie Gill. Issue brief no. CBP 8049. November 2, 2018. Accessed December 10, 2019. <http://researchbriefings.files.parliament.uk/documents/CBP-8049/CBP-8049.pdf>. Donald, Alice, Jane Gordon, and Philip Leach. *The UK and the European Court of Human Rights*. Report no. 83. Spring 2012. Accessed December 10, 2019. https://www.equalityhumanrights.com/sites/default/files/83._european_court_of_human_rights.pdf.

⁶¹ Lowe, David. 'Surveillance and International Terrorism Intelligence Exchange: Balancing the Interests of National Security and Individual Liberty'. *Terrorism and Political Violence* 28, no. 4 (7 August 2016): 653–73. <https://doi.org/10.1080/09546553.2014.918880>.

⁶² Jay, Zoë. 'Keeping Rights at Home: British Conceptions of Rights and Compliance with the European Court of Human Rights'. *The British Journal of Politics and International Relations* 19, no. 4 (November 2017): 842–60. <https://doi.org/10.1177/1369148117732469>.

⁶³ Center for Democracy and Technology. 'Court Blesses Bulk Surveillance But Tells UK You're Doing It Wrong'. Accessed 27 November 2019. <https://cdt.org/insights/court-blesses-bulk-surveillance-but-tells-uk-youre-doing-it-wrong/>.

alternative mechanisms for guaranteeing rights, which will otherwise fall into a judicial grey area.

Secondly, another way to increase transparency and judicial oversight is by liberalising the framework for incorporation of surveillance into criminal trials. As it stands, surveillance is inadmissible in criminal trials, if collected by UK agencies on British citizens.

There are inevitable perverse police incentives, as well as individuals deprived of potential alibis stemming from the exclusion of surveillance. Specifically, when police acquire surveillance evidence of criminal activity, due to its inadmissibility, they have to follow up with additional tactics like searches, which may yield diminished incriminating evidence, or catching the perpetrator in the act, which leads to substantial risks if such an operation fails. On the other hand, individuals tried for an offence lack access to exculpatory surveillance—the services may very well have information about individual movements and behaviours at the time of question that exclude them from an inquiry but face no accountability on its exclusion due to the existing legal regime. Obviously, there are no documented cases of such occurrences due to the classification of surveillance information (classification and the need to protect surveillance methods is the reason behind the ban). Nonetheless, there is reason to believe that such incentive pervades policing methodologies. Considering the deterrence argument, more recent cases have shown that digital paranoia is now the norm: terrorists regularly use encrypted messenger platforms, digital drug operations are often dismantled due to even the slightest footprint.⁶⁴ Such cases exist in the UK too, where in *Virdee v NCA* [2018] EWHC 1119, suspects demonstrated a knowledge of the need to speak offline.⁶⁵

There, additionally, arises an additional perverse incentive: surveillance by British agencies on Britons is inadmissible but foreign intelligence can be used. German and Dutch surveillance have been referenced in domestic trials, while the Snowden revelations recognized that the country likewise shares substantial information about domestic happenings with foreign agencies, even if domestic prosecutors have their hands tied. This substantially weakens checks and balances by forcing British agencies to resort to their foreign partners which lack oversight by the many domestic constraints in the UK and

⁶⁴ Hall, Melanie. 'Man Caught Selling 600kg of Drugs Online in One of Germany's Biggest Narcotics Raids', 14 July 2015, sec. World. <https://www.telegraph.co.uk/news/worldnews/europe/germany/11739946/Man-caught-selling-600kg-of-drugs-online-in-one-of-Germanys-biggest-narcotics-raids.html>.

⁶⁵ 'UK Ban on Eavesdropping Encourages a Culture of International Law Enforcement Arbitrage'. Accessed 27 November 2019. <https://crimeline.co.uk/uk-ban-on-eavesdropping-encourages-a-culture-of-international-law-enforcement-arbitrage/>.

challenges the omnipresent sovereignty concerns that prevail in today's discourse.⁶⁶ On the UK's largest intelligence partner, the US, surveys show that though Britons are nonplussed by their own government's surveillance, 70% find American monitoring unacceptable.⁶⁷

Reintroducing accountability by directly providing judicial mechanisms for transparency while simultaneously altering perverse incentives in the status quo would do much to combat public distrust. There are two clearly identified alternatives to the blanket ban, which fall on the spectrum of least to most permissive. On the lesser end, an application of the state secrets privilege used in the US would still allow the government to exclude all evidence it deems too vital to disclose. Given that the comparative is the exclusion of all surveillance evidence, there is reason to believe that this would at the very least help a small minority of defendants. A more lenient view involves applying a procedure used in other counter-terrorist trials in the UK: closed material procedures and representation by vetted Special Advocates, who have access to restricted materials and represent clients' interests.

Neither system is a panacea: state secrets in the US have been used for various political purposes like the classification of the Pentagon Papers, extraordinary rendition, and even NSA wiretap cases.⁶⁸ Special Advocates in the UK, on the other hand, have been criticised for their lack of accountability to clients, inability to call witnesses or experts, and hand-tying in terms of the accessibility of prior case law.⁶⁹ Nonetheless, given that the comparative is the total exclusion of all surveillance evidence, with at least one surveillance case occurring under the state secrets designation and many more with Special Advocates, there is substantial reason to change. Also, given that the Home Secretary has an obligation to present exculpatory evidence to Special Advocates, this would help eliminate many of the perverse incentives that exist in the status quo. These special lawyers have also been blessed

⁶⁶ Ibid.

⁶⁷ 'Global Opinions of U.S. Surveillance'. *Pew Research Center's Global Attitudes Project* (blog). Accessed 27 November 2019. <https://www.pewresearch.org/global/interactives/global-opinions-of-u-s-surveillance/>.

⁶⁸ American Civil Liberties Union. "'Pentagon Papers' Whistleblower Daniel Ellsberg on ACLU v. NSA'. Accessed 29 November 2019. <https://www.aclu.org/blog/national-security/pentagon-papers-whistleblower-daniel-ellsberg-aclu-v-nsa>.

Findlaw. 'Examining Two Recent Rulings Allowing Suits Against the NSA's Warrantless Wiretapping To Proceed, Despite the State Secrets Privilege'. Accessed 29 November 2019. <https://supreme.findlaw.com/legal-commentary/examining-two-recent-rulings-allowing-suits-against-the-nsas-warrantless-wiretapping-to-proceed-despite-the-state-secrets-privilege.html>.

⁶⁹ 'House of Commons - Constitutional Affairs - Seventh Report'. Accessed 29 November 2019. <https://publications.parliament.uk/pa/cm200405/cmselect/cmconst/323/32307.htm>.

by the ECHR, and there are ongoing initiatives to improve accessibility by creating a legal database with access to prior, closed case law.⁷⁰

Thus, the latter option might appear more feasible given its working within existing British legal regimes. Now obviously this would require more Special Advocates, via barristers and occasionally solicitors, to undertake clearance procedures in order to be government-screened and engage in discourse in camera. There are around 150 000 practicing solicitors and a much smaller 16 000 barristers; information about clearance costs remains unclear—with a 2018 MoD publication reporting a £1 360 cost to DV vetting (one of the four levels) while an earlier one in 2015 cited costs of £895.05 for DV, £56.06 for SC, and £43.66 for CTC.⁷¹ Nonetheless, becoming a Special Advocate is particularly limited—they must be based in London with 5 years of legal experience, have 3 references (one from a judge), pass a panel, and attain clearance. Figures from 2010 indicate just 110 passed the bar, though this could be a question of demand as well.⁷² Ultimately, such a cost evaluation is left to the government, as such costs are non-trivial. Nonetheless, given the relatively inexpensive nature of British legal aid, adjusting for systemic factors shows Britain paying less than both France and Germany: the MoJ spends £912m out of its £7b budget, just 0.13% of its budget that is steadily decreasing due to cost and efficiency savings.⁷³

A third potential solution looks at increasing caution with technological contracts: Britons fundamentally distrust private industry substantially more so than their own government. Evidenced by the widely lauded General Data and Privacy Regulations (GDPR) passed by the European parliament and met with acclaim across the continent, including the

⁷⁰ Graham, Lewis. 'Tariq v United Kingdom: Closed Material Procedures Green-Lit by European Court'. *Strasbourg Observers* (blog), 8 May 2018. <https://strasbourgobservers.com/2018/05/08/tariq-v-united-kingdom-closed-material-procedures-green-lit-by-european-court/>.

Bowcott, Owen. 'Secret Judgments Database Opened to Special Advocates and Senior Judges'. *The Guardian*, 23 January 2019, sec. Law. <https://www.theguardian.com/law/2019/jan/23/secret-judgments-database-opened-to-special-advocates-and-senior-judges>.

⁷¹ Ministry of Defence. "FOI2018/00952." News release. February 13, 2018. Accessed December 10, 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684040/2018-00952.pdf.

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⁷² The Bureau of Investigative Journalism. 'Special Advocates: The Faces of Secret Justice'. Accessed 29 November 2019. <https://www.thebureauinvestigates.com/stories/2012-11-01/special-advocates-the-faces-of-secret-justice>.

⁷³ The Secret Barrister. 'Frequently Asked Questions', 25 May 2015. <https://thesecretbarrister.com/frequently-asked-questions/>.

UK, where individuals are substantially more concerned about the dissemination and privacy of their data in private platforms (though concerns are decreasing).⁷⁴

The rate of government involvement with the private sector is rising, whether it be an innocuous £530.31m worth of Google contracts via the Energy Department or £10.7m worth of Ministry of Defence and £700 000 of Cabinet Office contracts with Palantir, a CIA-backed data analytics company whose London presence now outstrips its home base in California.⁷⁵ The MoD has made particular use of such contracts, including another £4m contract with IBM for an AI-based operational platform.⁷⁶ On one side, the efficiency and interoperability boons from such technology are clear, hence why the CIA funded and the Department of Defense continues to lavish contracts on such companies. There are untapped opportunities to predict, understand, and analyse complex tasks; cost and security benefits are particularly substantial especially with shifts to cloud infrastructure.⁷⁷ Nonetheless, such algorithms which are affirmed time and again across the world in their preventative capabilities.⁷⁸ As providers like Amazon Web Services capture more than a third of the UK public sector market, these concerns are particularly relevant given the company's storage of sensitive biometric and confidential information, from the Home Office to the NHS. With the US's recent Cloud Act, intended to prevent non-compliance by American companies for national security, their growing presence in the UK brings up concerns of the NSA and Snowden's leaks, which prompt substantial anti-surveillance and pro-sovereignty views in the UK.⁷⁹

We need to be particularly careful with such tools, as evidenced in the case of COMPAS in the US which was found to have discriminatory bias against non-whites; other

⁷⁴ Kantar, *Standard Eurobarometer*.

⁷⁵ Department of Energy & Climate Change. "Request for Information under Freedom of Information Act (2015/03167)." News release. February 15, 2015. Accessed December 10, 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408358/03167.pdf.

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⁷⁶ NS Tech. 'Revealed: IBM's £4m Deal to Build Prototype AI Software Platform for UK Military', 8 October 2019. <https://tech.newstatesman.com/cloud/ibm-ai-military-mod-deal>.

⁷⁷ Pinsent Masons. 'UK G-Cloud Is a Model Other Countries Should Follow'. Accessed 27 November 2019. <https://www.pinsentmasons.com/out-law/analysis/uk-g-cloud-model-countries-should-follow>.

⁷⁸ World Economic Forum. 'How Smart Tech Helps Cities Fight Terrorism and Crime'. Accessed 12 November 2019. <https://www.weforum.org/agenda/2018/06/cities-crime-data-agile-security-robert-muggah/>. Garcia, Andres de Castro, Florina Cristiana Matei, and Thomas C. Bruneau. 'Combating Terrorism Through Fusion Centers: Useful Lessons From Other Experiences?' *International Journal of Intelligence and CounterIntelligence* 30, no. 4 (2 October 2017): 723–42. <https://doi.org/10.1080/08850607.2017.1297119>.

⁷⁹ Quetteville, Harry de. 'Special Report: Amazon's Extraordinary Grip on British Data'. *The Telegraph*, 19 October 2019. <https://www.telegraph.co.uk/technology/2019/10/19/special-report-amazons-extraordinary-grip-british-data/>.

algorithms have faced similar critiques for discriminatory effectiveness, like facial recognition's decreasing accuracy for non-white individuals.⁸⁰ Given the government's increasing reliance on private contracts, it's important to consider that Britons are substantially more wary of private institutions (especially American-owned ones that are subject to more onerous US laws) than they are of the government, and so too much deference is a bad look optically.⁸¹

Finally, the apoliticisation of surveillance by empowering the civil service to implement surveillance policies would do much to restore confidence in government. The public overwhelmingly trusts judges, police officers, and teachers—the faces of the bureaucracy—while saving their disapproval for ministers and senior Whitehall civil servants.⁸² The last group has been battered on both ends, facing low pay, ensuing feelings of undervaluation and low morale, insufficient monitoring of value-added in the workforce: unsatisfied with pay, a majority are unable to foresee staying at the organisation for the next three years while competition for new entrants has hastened with the private sector, with the latter keeping its competitive edge.⁸³ Turnover rates are similarly high, unsurprising given recent political developments, with more than a quarter of Cabinet Office personnel leaving, though the numbers are lower for the Ministry of Justice (around 15%) and the Home Office and Ministry of Defence (under 10%)—nonetheless the HO isn't clear yet, with more than 1 in 5 signalling their intention to leave within a year. The costs of this turnover are somewhere between £36 and £74 million due to costs associated with productivity gaps, vacancies, recruiting, and training.⁸⁴ However, not all of the government's policies are so ill-suited, including a placement scheme for civil servants with police personnel, who are seen much more favourably in the country.⁸⁵ As senior civil servants are attacked both from the top with unfavourable pay (more than 30% managed someone with higher pay) and from below with

⁸⁰ Bornstein, Aaron M. 'Are Algorithms Building the New Infrastructure of Racism?' Nautilus, 21 December 2017. <http://nautilus.us/issue/55/trust/are-algorithms-building-the-new-infrastructure-of-racism>.
Noble, Safiya Umoja. *Algorithms of Oppression: How Search Engines Reinforce Racism*. New York: New York University Press, 2018.

Independent analysis of COMPAS data

⁸¹ YouGov, YouGov. (Handelsblat)

⁸² ———. YouGov. (YGC)

⁸³ Prime Minister's Office. *Forty-First Annual Report on Senior Salaries 2019*. Compiled by Martin Read, CBE. Report no. 91. July 2019. Accessed December 10, 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819475/SSRB_2019_Report_Web_Accessible.pdf.

⁸⁴ Sasse, Tom, and Emma Norris. 'Moving On', 16 January 2019.

https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_staff_turnover_WEB.pdf.

⁸⁵ GOV.UK. 'Home Office Encourages Civil Servants across Government to Volunteer with Police'. Accessed 12 November 2019. <https://www.gov.uk/government/news/home-office-encourages-civil-servants-across-government-to-volunteer-with-police>.

social mistrust, the government must do more to minimise turnover and allow for a resumption of work: consistency is key for accountability, which is hard to achieve when even a tenth of the workforce departs annually. As aforementioned discussions of technology exemplify the growing utilisation of digital algorithmic methods and questions of classification increasingly render large swaths of internal government discourse inaccessible, civil servants will play an increasingly important role in surveillance policy. By checking political motivations of upper-level appointees and ensuring cross-administration consistency coupled with robust experience, the more trusted core of the bureaucracy is essential to maintaining public trust and feeling of neglect by British constituents.

Boxed-In with a Bow: Ramifications and Conclusions

Britons still see security as a necessary cost to protecting their health and wellbeing against terrorism. This may be due to a tradition of evaluating negative “wrongs” rather than positive “rights”, irrespective of the blowback from Snowden’s revelations along with other leaks that have given a more holistic picture of Five Eyes collaboration on surveillance matters. Though this perspective is broadly represented among the British, ultimately, the cost doesn’t matter: increasingly research has found that such rhetoric has a chilling effect on speech and faith in holistic institutions, even if the low-level bureaucracy retains public support.⁸⁶ Three trends undermine this in the long-run: urbanites, with the most to lose from terrorism, shift away from seeing privacy and security as a trade-off; polarisation has escalated on both sides of the political spectrum; and an engaged and dissatisfied youth has increasingly mobilised compared to a complacent and aggregable pensioner population. Scots, feeling particularly isolated by currently political discourse, are the most sceptical towards London, not that such a result is particularly surprising. With more problematic views on cultural issues in the UK forming a backdrop for both jihadi and right-wing terrorism, governments cannot afford to lose support for the tools that are increasingly useful.

In the UK, contrary to more exigent demands in the US and other nations, solutions can more closely strike the privacy-security balance while pre-empting backlash and maintaining faith in all echelons of the government, from its foot soldiers in the civil service to the decision-makers at the highest levels. Ultimately, they broadly boil down to increasing checks and balances and shying away from controversy: (1) bolstering judicial principles in the worst case, (2) increasing transparent application of existing principles via changes in

⁸⁶ RUSI. ‘Security Trumps Privacy in British Attitudes to Cyber-Surveillance’, 5 June 2017. <https://rusi.org/commentary/security-trumps-privacy-british-attitudes-cyber-surveillance>.

inquiry structure, (3) maintaining a distance from the easily-vilified, less popular, and opaque processes of multinational technology corporations, and (4) empowering technocratic, apolitical civil servants to make objective decisions without creating a hostile, attritive environment. Some changes are solely the purview of executive power, facing the least blowback though such solutions are ultimately more costly. Other remedies will require more permanent changes to legal and judicial code in the country, necessitating shifting political priorities, or rather just reorienting focus. Some changes, like changes to judicial principles, would fall cleanly within the Withdrawal Agreement Bill framework governing the UK's separation from the EU. Other solutions may be better off standing on their own. The path forward is by no means easy, though it may be both cheaper and efficient in the long run. Incremental remedies offer the best path forward: whether they will take 3 or more years to implement is another issue for another day.

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