

**THE ARTICULATION OF IDENTITY IN DISCOURSES OF  
SURVEILLANCE IN THE UNITED KINGDOM**

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## Abstract

This thesis enacts a discursive approach to surveillance in the UK, revealing implications for surveillance theory, governmentality theory, and for political and social identity theories. It demonstrates the importance of a discursive approach to surveillance, as an expansion of assemblage models of surveillance. It finds convergence between government, governance, finance and media discourses, sufficient to conceive of these as forming a shared *governmental discourse of surveillance*. Governmental, financial and media discourses tend to privilege the assumption that surveillance systems are effective and accurate. This ideological function elides the contingent nature of surveillant practices, presenting them as non-political technological functions. Governmentality accounts of surveillance are supplemented by an expanded understanding of identity as a contested concept, or *floating signifier*, articulated in particular ways in governmental discourses. The discourse theory informed analysis in this thesis points to a distinct articulation of identity – the *governmental surveillant identity* – a political attempt to fix the meaning of identity, and construct a surveillance-permeable form that draws upon the privileging of technological truth over human truth. Identity is articulated across many of the five discourses studied as socially vulnerable. The core articulation of the problem of governance is that identity is problematised; unreliable for the proper functioning of governance in society. Because identity is vulnerable and because identity's ontological nature makes it possible, identity *must* be checked and secured.

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## Chapter One: Introduction

There currently exists no thorough analysis of the discursive politics of surveillance and identity in the United Kingdom. This thesis therefore hopes to go beyond theoretical insights to provide greater understanding of the particular case study. The United Kingdom was recently ranked fourth in the world for surveillance of its population, coming in behind China, Malaysia and Russia.<sup>1</sup> There has been significant concern over the extent to which the UK is, or is becoming, a surveillance society. Surveillance is politically controversial, encountering opposition, both organised and diffuse, attracting media attention and comment, and causing feelings of concern and discomfort. This thesis enacts a discursive approach to surveillance in the UK, revealing implications for surveillance theory, governmentality theory, and for political and social identity theories.

There are shared regularities of articulation of surveillance practices across a number of fields of discourse. There is convergence between government, governance, finance and media discourses, sufficient to conceive of these as forming a shared *governmental discourse of surveillance*. Across the governmental discourses is identified a particular governmental articulation of identity and the technological-utopian intentions constructed alongside this.

Whilst discourse and governmentality theories suggest an understanding of identities as subject positions or subjectivities, the discourse analysis in this thesis points to a distinct articulation of identity – the *governmental surveillant identity*.

Governmentality accounts of surveillance are supplemented by an expanded

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<sup>1</sup> [http://www.privacyinternational.org/article.shtml?cmd\[347\]=x-347-559597](http://www.privacyinternational.org/article.shtml?cmd[347]=x-347-559597)



understanding of identity as a contested concept, or *floating signifier*, articulated in particular ways in governmental discourses, rather than solely a theoretical marker for subjectivities. Within governmental discourses there are political attempts to fix the meaning of identity, and construct a surveillance-permeable form that draws upon the privileging of technological truth over human truth.

This thesis arises from within the field of surveillance studies, drawing upon a distinctly political post-structural perspective, bolstered by theories of information and technology. This thesis provides three novel interventions. Firstly the theoretical advance provided through the examination of the double role of identity as both subjectivity and contested concept, secondly the application of discourse theory methodology to the phenomena of surveillance, and thirdly, the detailed textual analysis of empirically occurring discursive politics of surveillance and identity in the UK. In so doing, the thesis introduces a discursive dimension to the theory of the surveillant assemblage, one of the most significant post-panoptic surveillance theories, fitting well with its Deleuzian origins.

Discourses construct the reality of social problems, and what are deemed to be appropriate social and political responses to those problems. A dominant type of discourse in the UK at the start of the 21<sup>st</sup> century is one which privileges technologically mediated surveillant responses to a wide range of social problems, privileges the outputs of those systems and normalises both their use and implementation. At the heart of these *discourses of surveillance* is a particular way of understanding the concept of identity: *the surveillant articulation of identity*. Identity fraud and identity cards are both phenomena of surveillance and identification; one is

a criminal activity and the other a state function. What is shared between these two phenomena is a shared articulation of the concept of identity that operates across a number of social discourses. The very concept of individual identity is articulated by many of the practices and the discourses of surveillance, including identity cards, identity theft and the securitisation of identity. Identity is an act of power, and the ways political actors think and talk about identity have political effects. This can be understood as a struggle for discursive hegemony with political implications.

Understanding this trend requires an exploration of the discursive environment of surveillance in the early 21<sup>st</sup> century. The governmental surveillance identity is ontologically objective, unitary, biologically determinist, shallow but compelling, behavioural and based on actuarial and probabilistic logics, attributed by structured society, historically persistent and resistant to change. Importantly, identity is articulated across many of the discourses of surveillance as vulnerable. It is this vulnerability that necessitates and legitimates the surveillant response. The core articulation of the problem of governance within the governmental discourse is that identity is problematised: it cannot be relied upon for the proper functioning of governance in society. Whilst identity is ontologically objective, its existing social manifestations are vulnerable. Because identity is vulnerable to theft and forgery, because multiple identities are associated with negatively evaluated practice and social actors such as terrorists and illegal immigrants, and because identity's essential ontological nature makes it possible, identity *must* be checked and secured. It cannot be left undetermined or ambiguous. Governmental discourses of surveillance construct a range of social problems, such as fraud, terrorism and immigration and in so doing, delimit the range of acceptable solutions to those social problems. These

acceptable solutions rely heavily upon surveillance practices and thereby act as a direct driver of surveillance proliferation.

This thesis adds to surveillance theory by providing increased understanding of the complex and nuanced understandings of identity actively in use in contemporary UK society. Prior to this, surveillance theory has either used identity in a technical form, or in terms of some form of political subjectivity. Investigation of the politics of identity cards, for example, is frequently focused upon the technology rather than the underpinning ontology, epistemology and rationality behind their use and introduction. Similarly, identity theft is often examined as a criminological, rather than a political, issue. Subjectivity accounts of identity are limited in that they do not account for all processes which can be understood as creating identity, instead focusing on processes through which the individual becomes a subject or identifies with a subjectivity. Political theories of identity which only understand identity as subjectivities miss the important effects of identity, as a concept, in active political use in contemporary societies, and they also miss the interaction of identities with systems of identification. The existence of a persistent, externally attributed identity, readable by surveillance systems, casts doubt upon accounts emphasising the flexibility and fluidity of (post)modern identities. This thesis demonstrates that not all identity creation processes are self-creation, and that there are strong structure-like effects of discourses and practices. Accounts of subjectivities are not sufficient, and studies of the discourses surrounding identification practices that make reference to supposed identities are necessary. Identification is taken to mean the practices and technologies that make reference to an identity, or attempt to single out or determine the identity of an individual. Jenkins suggests that to avoid reification, we should

probably only ever talk about ‘identification’.<sup>2</sup> However, he calls for attention to how identity ‘is worked’, to its social construction and interaction. It is recognised that the distinction between identity and identification is frequently collapsed in the discourses under examination, and this demonstrates how part of the working occurs.<sup>3</sup> Given the methodology of discourse analysis, it would be illegitimate to say that certain discourses are incorrect in their terminology, as the choice of terminology is taken as meaningful. Following Bourdieu, identity can be understood as both a *category of analysis* and a *category of practice*, where there is reciprocity between practical and analytic uses.<sup>4</sup>

This analysis demonstrates the pressing need to conceptualise both the *form* and the *content* of identity in modern society. Subjectivity accounts should be supplemented by an understanding of attributive identity at shallower yet compelling levels. This necessity is reflected in the structure of Chapters Five and Six. Subject positions can be understood as the content of identity, whilst the articulation of identity examines the form in contemporary society. This thesis therefore contributes to the analysis of one of the strategies of filling of the empty ground of identity caused by postmodernity and other dislocatory factors.

Discourse theory, derived from the work of Laclau and Mouffe, is a maturing research theory and methodology, with an understanding of the fundamental contingency of both language and social reality. Discourse theory also has an understanding of political contestation and the partial fixation of meaning. It also provides a set of

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<sup>2</sup> Jenkins, R. (2004) *Social Identity*. London & New York: Routledge. p.5.

<sup>3</sup> Harper, J. (2006) *Identity Crisis: How Identification is overused and misunderstood*. Washington: Cato Institute. p.2.

<sup>4</sup> Brubaker, R. & Cooper, F. (2000) ‘Beyond Identity’ *Theory and Society*. 29: 1-47.

conceptual tools with which to interrogate the discursive politics of identity and surveillance. Discourse theory is leveraged for empirical analysis due to the ontological centrality of a theory of non-essential subjectivity and a theory of conceptual contestation, which allows for the analysis of both form and content. The politics of surveillance in the UK is highly dependent upon the way that surveillance is articulated, represented and evaluated. This occurs through discourses, making the analysis of discourses of surveillance a fundamental task. Discourse theory is combined with theories of contemporary surveillance.

### *Research Findings*

The findings of this thesis have implications for the field of surveillance theory, governmentality theory, and for political and social identity theories, as well as for understanding the politics of surveillance and identity in the United Kingdom.

This thesis identifies the characteristics of discourses of surveillance. These include a privileging of surveillant response to social problems, an identification of negative practices and social actors, political individualism, risk aversion, a positive orientation towards technology, and a particular understanding of identity. There is substantial consistency of representation across a number of surveillant practices. These discourses serve to legitimise and normalise the use of surveillance, based on accounts of risk and necessity, and complicates any attempt to resist or oppose such practices.

The surveillant articulation of identity has social justice implications. It is likely to most negatively affect the most vulnerable in society, and be managed only by those

with sufficient resources, as well as creating practical problems for processes, institutions and individuals. Despite policies and rhetoric pointing in the direction of individual control of identity, the amount of meaningful control an individual can exercise over their own identity is distinctly limited, with implications for autonomy and the relationship between individuals and institutions. A particular, *context-insensitive* articulation of identity is spread across a number of social areas. This has negative implications for *any* political project with an alternate, incompatible, articulation of identity. The use of discourse theory allows identity to be conceptualised as a floating signifier that this governmental discourse attempts to articulate in a specifically delimited and defined way, so as to further the *raison d'état*, effect government and counter the proliferation of identities.

The core articulation of the problem of governance within the governmental discourse is that older forms of identity are problematised; they cannot be relied upon for the proper functioning of governance in society and must be updated, modernised and, critically, secured. In this way this governmental discourse positions the state as a guarantor of identity security, whilst the individual is responsible for appropriate security conscious behaviour. Identity is constructed as a series of institutional reputations mediated through specific types of personal information disclosed to the formal institutions of structured society. Identity produced and ascribed by surveillance is taken as more reliable than any account of themselves that any individual might be able to give, problematising any attempt to negotiate or escape from ascribed identities, or to challenge them with alternative forms or contents.

## *Research Design*

The research questions explored in this research are: ‘what discourses of surveillance are identifiable in the contemporary United Kingdom?’; ‘what rationalities are at play in these discourses?’; ‘how is the nature of the governmentality problem defined in these discourses?’; ‘what roles or subject positions are made available by discourses of surveillance?’; and fundamentally ‘how is the idea of individual identity articulated within contemporary discourses of surveillance?’

This research design is a discursive, text analytical investigation of the various concepts of identity in contemporary discourses of surveillance in the United Kingdom, drawing on post-structuralist and post-Marxist approaches in discourse theory and analysis – primarily the discourse theory of Laclau and Mouffe.<sup>5</sup> This research pays close attention to empirical material in the form of texts and documents that make up discourses of surveillance, yet this empirical material is placed firmly within the theoretical contexts of both discourse and surveillance. The textual analysis is structured around five surveillance points of reference, the government, the Office of the Information Commissioner, the movements of opposition to identity cards, the news media, and the banking and financial sector. One of the key messages of the analytics of government approach that frames the empirical research is that we should look beyond the traditional model of the state to a broader range of surveillance actors and identity stakeholders.

The structure of the thesis is as follows:

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<sup>5</sup> Laclau, E. & Mouffe, C. (2001) *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. Second Edition*. London & New York: Verso.

Chapter Two (Surveillance Studies and Surveillance Theory: Governmentality, Identity and Discourse) provides an overview of current surveillance research including the central debates and controversies, demonstrates the importance of the concept of identity to surveillance, and shows the potential of discourse analysis approaches to provide a positive contribution to understanding how identity is articulated in discourses of surveillance. It draws upon governmentality theory to set out the research questions of the thesis.

Chapter Three (Research Design and Methodology – Discourse Theory and Analysis) sets out the methodological theory and empirical research design of the project, and turns theoretical research questions into answerable and operational questions using discourse theory derived from Laclau and Mouffe. It argues for, and codifies, the discursive analysis of textual documentary empirical material.

Chapter Four (Representations of Surveillance), the first empirical chapter, sets out the results of the analysis of discourses of surveillance and identity around the five reference points of the project – government, opposition, ICO, financial, and media discourses. It examines the representation and evaluation of surveillance practices, including data protection principles, the debates over national identity cards, and the phenomena of identity theft. This chapter also contextualises surveillance discourses, necessary for close analysis of specific issues in the subsequent two chapters. This chapter demonstrates the lines of conflict over surveillance practices in contemporary UK society. This chapter is structured by surveillant reference point, whilst the following two chapters break from this format to reflect the regularities and discontinuities between reference points. Mapping the representations of surveillance



is the necessary first step to map out the field of discursive politics of surveillance before further analysis can be conducted. This stage highlights the mechanisms of problem construction within discourses of surveillance, and how, along with evaluative frameworks, this serves to structure acceptable responses to social problems.

Chapter Five (Subject Positions in Discourses of Surveillance), the second empirical chapter, demonstrates the subject positions available in discourses of surveillance and shows how these subject positions are differentially represented. Politically relevant subject positions are divided into three main categories. Firstly, *the individual*, secondly, negatively evaluated subject positions from the *illegal immigrant* to the *terrorist* and thirdly, the contested construction of *the vulnerable*. It concludes that most surveillance discourses are individualistic, dominated by negatively evaluated actors, and focus upon the responsibility of individuals for identity security rather than institutions or structures.

Chapter Six (Articulations of Identity), the final empirical chapter, answers the core research question – how identity is articulated in discourses of surveillance in the UK. The chapter demonstrates how a form of *surveillant identity* is articulated that is ontologically objective, unitary, physically determinist, shallow yet compelling, behavioural, attributed, persistent and socially vulnerable. Identity is constructed as a series of institutional reputations mediated through specific types of personal information disclosed to the formal institutions of structured society.

Finally, Chapter Seven (Conclusions and Implications) draws together the conclusions of the empirical chapters together with existing surveillance theory and the theoretical framework developed in Chapters Two and Three, to examine the theoretical, political and policy implications of these findings. It argues that dominant representations of surveillance reduce the efficacy of resistance to surveillance and normalise surveillant practices, and provides an account of *machine truth* dominant over *human truth*. The implications of the surveillant articulation of identity are discussed, including the way that attributed identities circumvent the subjectivities upon which much contemporary identity politics is predicated, the problems caused for people with non-normal identities, and the responsibility placed upon people to police their personal information in an environment weighted heavily against this. Attempts to place individuals in control of their identity are fundamentally frustrated by the surveillant attribution of identity. A number of policy recommendations are made which suggest ways to counter these issues of social injustice.



## **Chapter Two: Surveillance studies and Surveillance Theory: Governmentality, Identity and Discourse**

This chapter aims to perform four main tasks. Firstly, an overview of the field of surveillance research, including its history and origins, key models, lacunae and areas of contestation and debate. From this framework, the chapter demonstrates why governmentality theory provides the most promising framework for further research. Secondly, it demonstrates the centrality of the concept of identity to issues of surveillance, and how identity provides a critical entry point into empirical and theoretical surveillance debates. It highlights the definite politicisation of identity in surveillance. Thirdly, it will demonstrate the critical role to be played in surveillance research by a study of *discourse*, assessing existing work with a discursive orientation, drawing lessons from this and suggesting fruitful areas of discursive surveillance research, specifically in the concept of individual identity. Finally, it aims to draw together the contextual knowledge necessary for conducting discursive analysis and highlight a number of insights arising from surveillance theory that will influence the methodological and practical elements of the thesis.

The working definition of surveillance used here is Lyon's 'focused, systematic and routine attention to personal details for the purpose of influence, management, protection or direction.'<sup>6</sup> A more detailed account is drawn out as the subfield is displayed and key controversies are examined.

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<sup>6</sup> Lyon, D. (2007) *Surveillance Studies: An Overview*, Cambridge, Polity Press. p.14.

## Surveillance research

This section first provides an overview of the emerging field of surveillance studies, identifying its various disciplinary origins and influential theorists. It will then examine key debates and controversies in the field. This section also contains a summary of the empirical research directly focusing on the United Kingdom case.

Surveillance studies is a multi-disciplinary field. It has emerged from a number of disciplinary areas including classical sociology, urban geography, criminology, history, workplace and management studies, information technology and computer science, law, political theory, political science and international relations. The range of research into surveillance demonstrates that surveillance encompasses phenomena found across all elements of political, social and economic life, as well as a fruitful area for interdisciplinary research. This overview will examine the contributions of these disciplines.

Giddens argues that surveillance is an essential part of modernity, and that it should be understood as a process in its own right rather than simply an outgrowth of rationalisation or a product of capitalist relations of production.<sup>7</sup> Dandeker added to this the role played in the development of surveillance by processes of militarisation in the modern nation state and its external conflicts.<sup>8</sup>

It is perhaps impossible to discuss surveillance without reference to the panopticon.

The concept became a central trope of surveillance theory due to Foucault, who in

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<sup>7</sup> Giddens, A. (1990) *The Consequences of Modernity*. Cambridge: Polity.

<sup>8</sup> Dandeker, C. (1990) *Surveillance, Power and Modernity: Bureaucracy and Discipline from 1700 to the present day*. Cambridge: Polity.

*Discipline and Punish* used Bentham's panopticon design as a model for his conception of disciplinary power.<sup>9</sup> It became a 'crucial diagram' for Foucault's work on surveillance, despite the presence of surveillance in other areas of Foucault's work.<sup>10</sup> According to Lyon, it:

encapsulated both an emphasis on discipline as the archetypal modern mode, supplanting previous coercive and brutal methods and a focus on classificatory schemes by which sovereign power would locate and differentiate treatment of the variety of prisoners.<sup>11</sup>

Foucault writes:

The major effect of the Panopticon is to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power. So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action; that the perfection of power should tend to render its actual exercise unnecessary; that this architectural apparatus should be a machine for creating and sustaining a power relation independent of the person who exercises it.<sup>12</sup>

McGrath has argued that 'For many years Foucault was considered in the academic establishment to have said all that needed to be said about surveillance.'<sup>13</sup> This dominance of the panopticon has been challenged in recent years, and an examination of this post-panoptic move will be developed later in this chapter.

Sociology has also contributed research into the experiences of the subject under surveillance. Insights have been drawn from the work of Goffman on the presentation of self – the social work done by individuals to present an appropriate public face to

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<sup>9</sup> Foucault, M. (1991) *Discipline and Punish: The Birth of the Prison*. London: Penguin.

<sup>10</sup> Lyon, D. (2006) 'The Search for Surveillance Theories' in D.Lyon (ed), *Theorising Surveillance: The Panopticon and Beyond*, Cullompton, UK: Willan. p.3.

<sup>11</sup> Ibid., p.3.

<sup>12</sup> Foucault, 1991, p.201.

<sup>13</sup> McGrath, 2004, p.7.

other members of their social group. Additionally there are accounts drawing upon phenomenological and psychological approaches focusing on differing degrees of scopophobia and scopophilia (the fear and love of being watched).<sup>14</sup> Many analyses of resistance to surveillance emerge from this level of analysis, focusing on the experience of the individual under surveillance,<sup>15</sup> as do many of the artistic contributions to a cultural understanding of surveillance practices.<sup>16</sup>

Surveillance theory is influenced by theories of risk. Beck's *Risk Society* examines the way risk, and the calculation of risk, have become central to modern societies.<sup>17</sup>

Technology had created a category of risks with low probability of occurrence, but with such high potential for catastrophe if they did occur that they must be prevented. Beck's work focused on scientific and environmental risks; however, his analysis has been expanded to society, crime and security, highlighting the use of pre-emptive mechanisms, and the operation of surveillance in supposedly non-political fields such as insurance underwriting, as well as in novel ways in more familiar arenas. Risk has a specific normative orientation. Because measures can be taken to prevent and anticipate potential risks, there is a normative requirement that they *are* taken.

In the utilitarian morality of risk management, the norm or standard of acceptable risk is always both factual and moral. It signifies the typical or usual standard but also ethical constraint. Risk classifications infuse moral certainty and legitimacy into the facts they produce, allowing people to accept them as normative obligations and therefore as scripts for action.<sup>18</sup>

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<sup>14</sup> Jay, M. (1994) *Downcast Eyes: The Denigration of Vision in Twentieth-Century French Thought*. Berkeley: University of California Press.

<sup>15</sup> Koskela, H. (2006) 'The Other Side of Surveillance': Webcams, Power and Agency' in D. Lyon (ed.)

<sup>16</sup> Leven, T.Y., Frohne, U., & Weibel, P.(eds.) (2002) *CTRL[SPACE] Rhetorics of Surveillance from Bentham to Big Brother*, Cambridge, Mass & London: MIT Press. See also, McGrath, J. (2004) *Loving Big Brother: Performance, Privacy and Surveillance Space*, London & New York: Routledge.

<sup>17</sup> Beck, U. (1986) *Risk Society: Towards a New Modernity*. London: Sage.

<sup>18</sup> Ericson, R. & Haggerty, K. (1997) *Policing the Risk Society*, Toronto: University of Toronto Press. p.6.

The identification of pre-emptive risk assessment combined with norms masquerading as non-political facts, can be seen in a number of fields of surveillance research including Gandy's models of social sorting, Marx's 'New Surveillance', and Erickson and Haggerty's *Policing the Risk Society*.<sup>19</sup>

Gandy's pioneering work on database sorting showed how classification was an exercise of power, and a structural feature of contemporary society.<sup>20</sup> Gandy's work focused upon sorting and classification in marketing and economic relations showing how 'the classification of persons into categories often associated with risk, or hazard, or potential loss.'<sup>21</sup> He demonstrated that whilst personal information stored in databases was used to place people within categories, it was also used to exclude them from other categories: affecting 'life chances linked to employment, insurance, housing, education and credit'.<sup>22</sup> The 'Panoptic Sort' demonstrated the process of 'social sorting' – the sorting of people into categories on the basis of surveillance data and using these categories in social, political and economic decision-making – involved complex discriminatory technology. In Customer Relationship Management companies use personal data to sort individuals into appropriate categories in order to focus their effort on the most lucrative 20% and avoid the most awkward 20% of customers. The Panoptic Sort also occurs in policing and criminal justice.

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<sup>19</sup> Gandy, O.H. (1993) *The Panoptic Sort: A Political Economy of Personal Information*. Boulder, CO: Westview Press; Marx, G.T. (1989) *Undercover: Police Surveillance in America*. Berkeley: University of California Press; Ericson & Haggerty, 1997.

<sup>20</sup> Gandy, O.H. (2006) 'Quixotics unite! Engaging the pragmatists on rational discrimination' in Lyon (ed).

<sup>21</sup> Ibid., p.320.

<sup>22</sup> Gandy, O.H. (1996) 'Coming to terms with the Panoptic Sort' in D. Lyon & E. Zureik (eds.) *Computers, Surveillance, Privacy*. Minneapolis & London: University of Minnesota Press. p.132.



Gandy considered the sort 'panoptic' as the logic considered all information about an individual potentially useful and worthy of inclusion in categorisations. 'Panoptic' was therefore an intention rather than an outcome. In fact, the categorisations were always missing elements. They are narrower than the myriad possible facts about unique individuals, yet their utility came from their efficiency. It is easy to lose individuals in wider categories, not all information about an individual may be present when the sort is made, and information abstracted from its source is easily taken out of context, resulting in conflicting interpretations. Yet the products of surveillance are taken as more reliable than any account of themselves that any individual might be able to give. The pronouncements of the manufacturers of surveillance technologies and the providers of geo-demographic and lifestyle mapping services hawk the accuracy of their systems. The image created from their various categories is seen as more real, accurate and accessible than the individual itself or its accounts of its own identity. This extends to attempts by the individual to correct inaccuracies in the data, which can prove remarkably difficult.

Social sorting also accounts for the inferential logic behind many contemporary surveillance phenomena. Social sorting accounts, supplemented by the concept of the 'phenetic fix' are situated as a solution to problems of governance. Arvidsson argues that contemporary geo-demographic techniques are much more interested in mobile 'postmodern' individuals viewed at a much higher 'resolution' through categories that are often themselves products of the collected data, in the sense that they are iterative and inductive.<sup>23</sup> However, Gandy is highly conscious of the racial discrimination present in such profiling and 'rational discrimination' seeming to suggest that not all

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<sup>23</sup> Arvidsson, A. (2005) 'On the Prehistory of the Panoptic Sort: Mobility in Market Research'. *Surveillance and Society* 1(4). p.458.

individuals subjected to the social sort are equally ‘mobile’ and that some categories are remarkably persistent. He argues that because of the availability and visibility of controversial markers such as race, gender, age and ethnicity, these characteristics are liable to be more highly overused than their statistical contribution to the reduction of uncertainty would suggest.<sup>24</sup> He draws upon the notion of ‘cumulative disadvantage’<sup>25</sup> to show how social hardships tend to cluster, and the ways that historical behaviour affects future opportunities. He also identifies the harm in the expressive character of profiling – the treatment of certain groups disproportionately as suspects.

People we value less to begin with are assured of being seen as less valuable in the future because of the ways in which they are treated today. It is for this reason that the expressive harms that flow from the reproduction and use of negative stereotypes complicate the rational calculus of choice.<sup>26</sup>

Bogard draws upon Baudrillard to suggest that it is simulation rather than surveillance that is the critical contemporary category of social control.<sup>27</sup> The potential speed of information technologies allows surveillance systems to potentially ‘overtake themselves’<sup>28</sup> moving from surveillance to simulation, the prediction and anticipation of events rather than a monitoring of ‘real’ events. However, information provided by surveillance is required to build simulation. Individuals interact with surveillance when their data is inserted into or compared against a simulation. It is possible to analyse how these different types of activity are articulated discursively. By avoiding

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<sup>24</sup> Gandy, 2006, p.330.

<sup>25</sup> Blank, R.M., Dabady, M. & Citro, C.F. (eds.) (2004) *Measuring Racial Discrimination*. Washington: National Academies Press.

<sup>26</sup> Gandy, 2006, p.330.

<sup>27</sup> Bogard, W. (2006) ‘Welcome to the Society of Control: The simulation of Surveillance revisited’ in K. Haggerty, & R. Ericson. (eds.) *The New Politics of Surveillance and Visibility*. Toronto, Buffalo & London: University of Toronto Press. p.63.

<sup>28</sup> Lyon, 2007, p.56.

absolutist assumptions that all surveillance is simulation we gain greater sensitivity to those specific cases where surveillance is replaced by simulation.

Criminology has provided strong insights into surveillance, including much early empirical research. Criminology deals with many of the subjects under surveillance, especially in periods where new technologies are being developed. Its focus on socially deviant groups, and methods associated with their control and management, gives criminology an insight into the sites in which surveillance technology is trialled and tested. Hence it is unsurprising that criminologists were amongst the first to analyse changes in surveillance. G.T. Marx's influential study 'Undercover: Police Surveillance in America' introduced the concept of the 'New Surveillance'.<sup>29</sup> In comparison to old methods of surveillance such as the police 'stakeout', the new surveillance assisted by technology was able to transcend space in the forms of distance, darkness and physical barriers. It was able to transcend time due to the potentials for storage, retrieval, combination and communication provided by information technology. It was also often less visible or easily detected by the subject, capital-, rather than labour-intensive, involved decentralised self-policing, and critically, involved a shift from individual level suspicion to categorical suspicion: suspicion due to membership of particular social categories rather than due to individual actions. The insight that there is something qualitatively new about contemporary surveillance penetrates deeply throughout surveillance studies. The role of categorical suspicion was taken up in the work of Feeley and Simon who described the shift from 'old penology' to the 'new penology'.<sup>30</sup> The new penology relied less

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<sup>29</sup> Marx, G.T. (1988) *Undercover: Police Surveillance in America*, Berkeley: University of California Press.

<sup>30</sup> Feeley, M & Simon, J. (1992) 'The new penology: notes on the emerging strategy of corrects and its implications', *Criminology*, 30 (4): 449-74.

upon retroactive determination of guilt and more upon the actuarial and probabilistic identification of risk groups and the pre-emption and prevention of criminal or deviant activity. Ericson and Haggerty explored this further in 'Policing the Risk Society'<sup>31</sup> where they identified the policing role as a 'risk communication system' and demonstrated the increased appetite of the police for more and more data.

Research at the boundary between criminology and sociology has contributed to surveillance research through a number of strongly empirical studies of specific sites of surveillance. Norris and Armstrong's paradigmatic study of closed circuit television in the UK set the pattern for a number of subsequent studies looking at CCTV in a number of different locations, environments and countries.<sup>32</sup> Studies such as McCahill, Coleman and Smith examined the mechanisms of social control and the maintenance of order in urban environments such as retail environments and city centres, as well as the effects of exclusion, the redefinition of the normal use of public space, and the construction of deviance in CCTV control rooms.<sup>33</sup> Studies such as these identified the spread of visual surveillance systems across the city and town centres of the United Kingdom, and identified the UK as the most surveilled country in the world, with the Square Mile of the city of London the most surveilled public space in the world.<sup>34</sup>

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<sup>31</sup> Ericson & Haggerty, 1997.

<sup>32</sup> Norris, C. and Armstrong, G. (1999) *The Maximum surveillance society: The rise of CCTV*, Oxford and New York; Berg.

<sup>33</sup> McCahill, M. (2002) *The Surveillance Web: the Rise of Visual Surveillance in an English City*, Cullompton, UK: Willan. Coleman, R. (2004) *Reclaiming the Streets: Surveillance, Social Control and the City*, Cullompton, UK: Willan. Smith, G. (2004) 'Behind the Scenes: Examining Constructions of Deviance and Informal Practices among CCTV Control Room Operators in the UK' *Surveillance and Society*, 2 (2/3): 376-95.

<sup>34</sup> Coaffe, J. (2004) 'Rings of Steel, Rings of concrete, Rings of confidence: Designing out terrorism in Central London pre and post 9/11', *international journal of urban and regional research*, Vol.28.1, 201-11.

Historical studies of surveillance, originating in a number of disciplines, have helped to provide context, and the reminder that surveillance did not emerge with computer technology but has had significance throughout modernity. Key examples in this field include Hacking's work on the development of statistics.<sup>35</sup> Intimately tied up with the development of the census and the need for detailed knowledge of the population in preparation for war, statistics has a social origin often hidden in its supposedly neutral, scientific use. Papers in the edited collection *Documenting Individual Identity* by Caplan and Torpey, explore historical ways in which individuals have been subject to documentary identification techniques by modern governments. They identify the creation of 'legible people' as a fundamental activity of government.<sup>36</sup> Joyce's *The Rule of Freedom* examined the construction of the liberal city as a site of surveillance and governmentality, designed to create a visible and freely flowing population, removing the dark and hidden areas of society.<sup>37</sup>

Political science has been the origin of some of the earliest research into surveillance. Rule's *Private Lives and Public Surveillance*, one of the first empirical investigations into surveillance, operationalised a measure of surveillance based on congruence with an ideal type model of the 'total surveillance society' derived from an Orwellian model.<sup>38</sup> Political studies of surveillance have tended to cluster around the concepts of privacy, regulation and governance, or analyse specific government activities, such as the introduction of identity cards in the UK.<sup>39</sup> The focus is on the institutional and

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<sup>35</sup> Hacking, I. (1990) *The Taming of Chance*. Cambridge: Cambridge University Press.

<sup>36</sup> Caplan, J & Torpey, J. (2001) *Documenting Individual Identity: The Development of State Practices in the Modern World*. Princeton and Oxford: Princeton University Press.

<sup>37</sup> Joyce, P. (2003) *The Rule of Freedom: Liberalism and the Modern City*. London & New York, Verso.

<sup>38</sup> Rule, J.B. (1973) *Private lives and Public Surveillance*. Harmondsworth & New York: Allen Lane.

<sup>39</sup> Bennet, C. (1992) *Regulating Privacy*, Ithaca, NY: Cornell University Press.

Bennet, C. & Raab, C. (2006) *The Governance of Privacy*. Cambridge, MA: MIT Press.

policy frameworks that allow surveillance or provide opportunities to resist surveillance such as data protection. There is a wide-ranging debate about the usefulness of the concept of privacy, whilst it still remains in use in many analyses.<sup>40</sup> The international politics of surveillance draws upon the elite theories of Michels, Mosca and Pareto<sup>41</sup>, demonstrating the international pressures that drive surveillance, as well as a focus upon the security dimension of surveillance, situating it against a background of a hostile international condition of anarchy, added to by the threat of contemporary terrorism. Political theorists such as Bigo have focused on the role of the border as a key site of surveillance in liberal democracies.<sup>42</sup> Political theorists have also drawn upon the Marxist tradition in analysing surveillance as part of a (neo)liberal project of exploitation and control, relating surveillance as a tool of the state.<sup>43</sup> The work of critical theorists such as Marcuse has filtered through to add to the rationally administered society model in sociology. Surveillance research also draws upon the historical and political studies of totalitarian and authoritarian societies.<sup>44</sup>

Two linked fields of surveillance research are workplace and consumer surveillance. Organisational studies researchers have examined the use of surveillance in call centres and retail environments.<sup>45</sup> Research into consumer surveillance has shown the extent to which the consumer is the subject of intense surveillance, sorted into

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<sup>40</sup> See for example Gotlieb, C.C. (1996) 'Privacy: a concept whose time has come and gone' in D. Lyon, & E. Zureik. (eds.) *Computers, Surveillance, and Privacy*.

<sup>41</sup> Lyon, 2007 p.19.

<sup>42</sup> Bigo, D. (2006) 'Security, Exception, Ban and Surveillance' in D. Lyon (ed).

<sup>43</sup> Coleman, R. and Sim, J. (2000) 'You'll never walk alone: CCTV surveillance, order and neo-liberal rule in Liverpool city centre', *British Journal of Sociology*, 51(4):623-639.

<sup>44</sup> Los, M. (2006) 'Looking into the future: surveillance, globalization and the totalitarian potential' in D. Lyon (ed).

<sup>45</sup> Ball, K. (2003) 'Power, control and computer based performance monitoring: repertoires, resistance, and subjectivities' in D. Lyon (ed.) *Surveillance as Social Sorting: Privacy, Risk and Digital Discrimination*, London and New York, Routledge.

categories, and targeted by direct advertising and marketing. This research questions the traditional state model of surveillance, highlighting the range of actors in the commercial sphere who engage in surveillance, ranging from supermarket loyalty card schemes to credit reference agencies and insurance companies. The dominant model is the 'glass consumer', the individual as consumer made visible to corporate entities through a huge, and growing, market for personal information.<sup>46</sup> In the 'personal information economy' databases of personal information constitute economic resources, raising concerns over who owns personal data: the individual to which it refers, or the private entity holding the database?<sup>47</sup>

In the personal information economy, the risks that we present to large organisations as consumers, employees or citizens constitute the nature of our 'merit' and the basis of a distinct kind of meritocracy.<sup>48</sup>

Information technology and computer science approaches have introduced a number of insights into surveillance research and will likely continue to do so. Clarke's concept of 'dataveillance'<sup>49</sup> applies to the vast majority of contemporary surveillance. He argued the dominant form of modern surveillance was not visual but rather conducted through mass volumes of personal information, sorted and analysed by computers and held in databases. Roper argued that computers are highly proficient at what he calls 'passive surveillance', the collection of data and comparison of that data

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<sup>46</sup> Lace, S. (2005) 'Introduction' in S. Lace (ed) *The Glass Consumer: Life in an Surveillance Society*, Bristol: Policy Press/National Consumer Council.

<sup>47</sup> Garfinkel, S. (2001) *Database Nation: The Death of Privacy in the 21<sup>st</sup> Century*, Sebastopol, USA: O'Reilly.

<sup>48</sup> 6, P. (2005) 'The Personal Information Economy: trends and prospects for consumers' in S.Lace (ed).

<sup>49</sup> Clarke, R. (1991) 'Information Technology and Dataveillance' in C. Dunlop and R. Kling (eds.) *Controversies in Computing*. Academic Press.

with models.<sup>50</sup> In comparison with ‘active surveillance’ (human observation, wire taps etc), passive surveillance allows for a breadth of surveillance that pre-computerisation technology and record keeping could simply not accomplish. Lessig has contributed an analysis of the surveillance, regulation and control of cyberspace through ‘code’ that is useful for analysis of surveillance in the physical world.<sup>51</sup>

## **Surveillance in the United Kingdom**

It is worth pausing to consider the insights of surveillance research into surveillance in the UK. This will position the UK as an appropriate case study for examining surveillance politics. The UK can be considered an exemplary case of the contemporary role of surveillance in politics and society. The UK has been identified by surveillance researchers as one of the most surveilled countries in the world, surprising for one of the oldest liberal democracies. Since the wave of CCTV development in the 1990s, CCTV systems are present in nearly every British town centre. It is roughly estimated that there is approximately one CCTV camera for every fourteen people in the UK, and that it is conceivably possible for an individual to be caught on camera around 300 times in an active day in a busy urban setting.<sup>52</sup> The government is unable to state the number of CCTV systems in the country.<sup>53</sup> The United Kingdom is in the middle of the contested process of bringing in identity cards with biometric identifiers and a centralised database of all residents of the country.

This project is historically unprecedented. It has been argued, by the Information

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<sup>50</sup> Roper, C. (1984) ‘Taming the Universal Machine’ in C. Aubrey & P. Chilton (eds.) *Nineteen Eighty Four*. London & NY: Routledge. p.60.

<sup>51</sup> Lessig, L. (1999) *Code and Other Laws of Cyberspace*. New York: Basic Books.

<sup>52</sup> Norris & Armstrong, 1999, p.4.

<sup>53</sup> Wills, D. (2008) ‘United Kingdom Identity card scheme: Shifting Motivations, Static Technologies’ in Bennett & Lyon (eds) *Playing the Identity Card: Surveillance, Security & Identification in Global Perspective*. London & New York: Routledge.



Commissioner, that this heralds a significant change in the relationship between citizens and state.<sup>54</sup> Surveillance stories are a weekly occurrence in the press and broadcast media. The Information Commissioner has warned that Britain may be ‘sleepwalking into a surveillance society’.<sup>55</sup> There do not seem to be the levels of public concern about privacy that exist in countries such as Canada and the USA. The UK has weaker data protection legislation than these, or European, countries, as well as a data protection commissioner with limited powers of enforcement.<sup>56</sup> UK public services routinely collect significant amounts of personal data during interactions with citizens. Bellamy *et al* argue that this arises from a ‘modernising’ agenda of the Labour government, the drive to ‘join up’ the provision of services across government, and the use of preventative risk assessment in social policy – a model that requires processing large amounts of personal data.<sup>57</sup> In addition the UK has the world’s largest DNA database, with the police empowered to collect DNA samples from anyone arrested on suspicion of a recordable offence since 2004.<sup>58</sup> This range of factors makes the UK a significant site for surveillance research, with implications for a range of political issues.

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<sup>54</sup> BBC News (8/06/2004) ‘Watchdog’s ‘alarm’ over ID cards’  
[http://news.bbc.co.uk/1/hi/uk\\_politics/3787971.stm](http://news.bbc.co.uk/1/hi/uk_politics/3787971.stm)

<sup>55</sup> Booth, J. (August 16 2004) ‘UK ‘sleepwalking in Stasi state’ Britons are ‘under surveillance’.’ *The Guardian*.

<sup>56</sup> Bellamy, C., 6, P., & Raab, C. (2005) ‘Personal data in the public sector: reconciling necessary sharing with confidentiality.’ In S.Lace (ed.).

<sup>57</sup> Ibid, p.134.

<sup>58</sup> Lyon, 2007, p.150.

## **Controversies and debates in surveillance research**

Given the widespread nature of surveillance, the multiplicity of its forms, and the wide range of potential effects, there is substantial heterodoxy in surveillance research. This section examines key controversies and debates: firstly, the analysis of the appropriate level of analysis for studies of surveillance, encompassing the extent to which we live in a 'surveillance society, a 'maximum' or 'total' 'surveillance society'. This is opposed by theories prioritising micro-level sites of surveillance. This flows into an examination of the dystopian trends of surveillance theory, and assumptions about the smooth functioning of power. Following this is an analysis of the debates surrounding the supposed shifts from disciplinary to some form of *control* or *risk* society. Fourthly, questions about the importance or centrality of the state are examined, followed by an assessment of the level of technological determinism in surveillance theory. The final debate is an examination of the attempt to move surveillance theory beyond its dominance by the panopticon, and the potential of a post-panoptic surveillance theory.

### *The surveillance society*

The United Kingdom Information Commissioner has stated that he fears the UK is 'sleepwalking into a surveillance society', mirroring the title of the report commissioned by his office from the Surveillance Studies Network which suggested

that we now live in a ‘surveillance society’ because of the way modern existence is underpinned by massive surveillance systems.<sup>59</sup> Lyon argues that:

Because of the widespread, systematic and routine ways in which personal data are processed in the twenty-first century, it is appropriate to talk of the surveillance society. This is not a sinister conspiracy or a comment about everyday prison like conditions, just a feature of social life today.<sup>60</sup>

Rule’s ideal type ‘Total Surveillance Society’ constructed a model of a surveillance society drawing heavily upon Orwell’s *Nineteen Eighty-Four*.<sup>61</sup> Rule aimed to compare actually existing societies against this ideal type by measuring the amount of information collected, the centralisation of that information, the speed of information flows and decision-making and fourthly the number of ‘points of contact’ between the population and the surveillance infrastructure.<sup>62</sup> It involved a single system of surveillance and control that affects everyone, has uniform norms governing all aspects of behaviour, in which subjects’ every action is scrutinised, all information collected through surveillance is collated to a single point, the whole fund of information brought to bear upon any decisions and any disobedience is likely to result in corrective action from authority. Rule found only a difference of *degree* in capability between this model and the contemporary UK and USA.

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<sup>59</sup> Murakami Wood, D. (ed.) (2006) *A Report on the Surveillance Society*. Wilmslow, UK: Office of the Information Commissioner/Surveillance Studies Network.

<sup>60</sup> Lyon, 2007, p.7.

<sup>61</sup> Orwell, G. (1999) *Nineteen Eighty-Four*. London: Secker and Walburg.

<sup>62</sup> Rule, 1973, p.37.

Interpretations of Foucault's thesis in *Discipline and Punish* have assumed that we live in a 'disciplinary society' in which disciplinary surveillance has leaked out of institutional incubators and containers to become a dominant element in society.<sup>63</sup> It is at this level of analysis that we can situate many of the sociological or cultural theorists who might have something to say about surveillance, such as Giddens, Dandeker, Castells' *The Rise of the Network Society*, Deleuze's *Postscript on Societies of Control*, Marcuse's *One Dimensional Man*, Hardt and Negri, or Lyotard.<sup>64</sup> To the extent that these approaches operate at the general level of the social and make broad, all-encompassing claims, we can identify them with the surveillance society model.

One advantage of the surveillance society heuristic is that it draws our attention to the myriad sites of surveillance across social life. If surveillance was previously limited to specific institutional sites (the prison, the workhouse), or to specific social categories (prisoners, the destitute), it has now spread to become a routine feature of the social world. Part of Haggerty and Ericson's argument in '*The Surveillant Assemblage*' is how (unlike historically) there are now no social groups totally free of surveillance:

While poor individuals may be in regular contact with the surveillance systems associated with social assistance or criminal justice, the middle

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<sup>63</sup> Foucault, M. (1991) *Discipline and Punish: The Birth of the Prison*. London: Penguin.

<sup>64</sup> Giddens, A. (1990) *The Consequences of Modernity*. Cambridge: Polity

Dandeker, C. (1990) *Surveillance, Power and Modernity: Bureaucracy and Discipline from 1700 to the present day*. Cambridge: Polity.

Castells, M. (2000) *The Rise of the Network Society*. London: Blackwell.

Deleuze, G. (2002) 'Postscript on Control Societies' in T. Levin, U. Frohne & P. Weibel (eds) *CTRL-Space: Rhetorics of Surveillance from Bentham to Big Brother*. Cambridge, Mass & London: MIT Press. pp.317-321.

Hardt, M. & Negri, A. (2005) *Multitude*, London: Hamish Hamilton.

Bauman, Z. (2000) *Liquid Modernity*. Cambridge: Polity Press.

Virilio, P. (2007) *City of Panic*. London: Berg

Lyotard, J. (1984) *The Postmodern Condition: A Report of Knowledge*. Manchester: Manchester University Press.

and upper classes are increasingly subject to their own forms of routine observation, documentation and analysis.<sup>65</sup>

This should not be taken to be a ‘democratic’ levelling, as there is no corollary expansion of democratic control over surveillance. Whilst all groups can be exposed to surveillance, that exposure is not uniform. Capacity to evade, resist or oppose surveillance varies along familiar social strata such as, but not limited to, wealth, gender and race.

Similarly, the surveillance society model draws our attention to the effects of large scale social events, such as globalisation or the development of information technology, and identifies features of contemporary social life that may be qualitatively different from those of previous eras and epochs. If for example, Hardt and Negri’s claim that the paradigmatic and hegemonic form of labour is now intellectual and cultural production, rather than material production, and that the world is increasingly interconnected through networks<sup>66</sup> is accepted, then surveillance, as a form of knowledge production with a networked nature fits within this framework.

However, by privileging surveillance in this way, it may actively occlude other important social factors. Surveillance is instrumental, and whilst the rationalities and logics of surveillance have important social and political effects, they are often in tandem with other logics and mentalities. Privileging surveillance as the core defining characteristic of contemporary societies is perhaps to overplay one’s hand. This is a problem common to accounts which elevate a particular element of the social to

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<sup>65</sup> Haggerty, K & Ericson, R. (2000) ‘The Surveillant Assemblage’ *British Journal of Sociology* 51(4):605-622. p.618.

<sup>66</sup> Hardt, M. & Negri, A. (2005) *Multitude*, London: Hamish Hamilton.

hegemonic status, perhaps to draw attention to a previously unnoticed phenomenon, or for rhetorical effect. Rose argues that this applies to any of the 'sociological' range of alternate 'societies' such as 'societies of control', or general 'post-disciplinary societies' and that this approach is unsuitable for political research.<sup>67</sup> In addition, he argues that thinking in terms of epochal shifts in the nature of societies limits the analysis of forms of subjectivity and identity to epochal changes in which subjectivities are simply read off from total cultural transformations.<sup>68</sup> It should however be understood that in many ways the surveillance society model arising in surveillance studies is a heuristic rather than a macro-sociological model. Whilst advocating thinking in terms of surveillance societies, Lyon also draws attention to multiple sites of surveillance with nuanced and complex particular dynamics.<sup>69</sup>

There is now a large range of such micro-scale analysis of sites of surveillance. These often draw upon ethnographic techniques and participant observation to examine the specific practices in a specific site of surveillance. The classic example of this would be the studies of CCTV control rooms previously mentioned (Norris and Armstrong, McCahill, Coleman, Smith) as well as studies such as Dubbeld on the telemonitoring of cardiac patients.<sup>70</sup> Lyon has also argued for the utility of thinking in terms of sites of surveillance, because whilst society is suffused with surveillance, surveillance operates in different ways across a variety of sites.<sup>71</sup> These sites of surveillance are not a homogeneous mass and therefore whilst there is a need for research into these specific sites of surveillance, the transferability of this research may be somewhat

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<sup>67</sup> Rose, N. (1999) *The Powers of Freedom*. Cambridge, Cambridge University Press.

<sup>68</sup> Rose, N. (1996) 'Identity, Genealogy, History' in S. Hall and P. du Gay (eds.) *Questions of Cultural Identity*. London: Sage.

<sup>69</sup> Lyon, 2007, p.25.

<sup>70</sup> Dubbeld, L. (2006) 'Telemonitoring of Cardiac Patients: user centred research as input for surveillance theories' in D.Lyon (ed).

<sup>71</sup> Lyon, 2007, p.25.

limited. The above studies have all used their specific sites of surveillance as a stepping off point for the discussion of more theoretical concerns, yet will, unavoidably, be located in their specificity.

When selecting a level of analysis in surveillance research it is important to bear in mind the tension between sociological level analysis of the 'surveillance society' type, and the need to focus on specific sites of surveillance for the production of empirical evidence. This involves an opposition of abstraction and the ability to draw generalisations against specificity and locality. Research into surveillance must avoid the trap of the omnipresent homogeneous surveillance society, whilst still ideally being able to provide a level of analysis beyond descriptive studies of particular sites. It is important to avoid the worst excesses of endless deliberation on 'what is surveillance?' from a purely theoretical point without the grounding of such theorisation in empirical evidence, be that at the level of a specific institutional site, or more broadly (for example at the level of the discourse of various interacting groups in a society).

#### *Dystopias and perfect surveillance vs complexity and resistance*

Following on from the concept of the surveillance society is the degree to which surveillance research can be characterised by a dystopian attitude, and as an important component of this, the extent to which surveillant power is perceived of as operating seamlessly and smoothly. This section also examines the current theories of resistance to surveillance.

There are three main sources of the pessimistic trend in surveillance research. Firstly is the Orwellian inheritance. Secondly, what Rose terms a ‘sociological misreading of Foucault’.<sup>72</sup> Thirdly, from journalistic and sensationalist accounts of the creeping spread of contemporary surveillance. These three strands are not isolated and can be seen feeding into each other in numerous ways. For example, journalistic accounts of surveillance draw heavily upon *Nineteen Eighty-Four*. Lyon suggests that much of the tendency to pessimism arises precisely because of the normative concerns of surveillance researchers, but that to write as if power is omnipresent and perfected is a ‘disservice to social science’.<sup>73</sup>

In Orwell’s *Nineteen Eighty-Four*, the protagonist, Winston Smith attempts to resist the might of the omnipresent surveillance state of Oceania. Members of The Party are under near permanent surveillance through networks of spies and informers, overhead helicopters and the telescreen present in nearly every room. A landmark novel in the dystopian tradition, it was seen as a criticism of totalitarian societies, but also of tendencies existing in liberal democracies. Similarly, Kafka’s novels such as *The Trial* and *The Castle*, focusing on uncertainty and bureaucracy, arising from a critique of Austro-Hungarian bureaucracy with final judgement perpetually postponed, have also played a role in the development of surveillance theory. Whilst early surveillance studies drew explicitly upon this model of dystopic, centralised and perfected surveillance, it still exerts an influence. The novels provide strong images which continue to affect presumptions about surveillance, and these accounts do provide some insights and perspectives. The continual nagging fear is that we may be moving

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<sup>72</sup> Rose, 1999, p.237

<sup>73</sup> Ibid, p.92.



closer to such a society. Whilst these accounts should not be ignored, it should be obvious that they are fiction not social science.

Haggerty suggests dystopian trends are also reflected in Foucault's analysis of the 'diabolical' character of that 'cruel, ingenious cage' the panopticon, and that the dominance of Foucault's model contributes to the dystopian normative orientation of surveillance theory.<sup>74</sup> However, Rose argues that dystopian trends emerge because of a misreading of Foucault. Whilst in *Discipline and Punish* Foucault examined disciplinary institutions, the 19<sup>th</sup> century was not completely disciplined. It should be understood that Bentham's panopticon was never built, and even had it been, its working may have been nowhere as effective as he envisaged. In analysing surveillance, we should be wary of taking the claims of those designing or promoting surveillance technologies and practices as social fact, although intentions of technologists are important. However this analysis goes deeper. Ransom criticises those who have taken Foucault's work as equivalent to the 'rationally administered society' thesis of the Frankfurt School, in which there is little room for resistance or agency, the subject already being the product of power – a docile body.<sup>75</sup> Disciplinary technology is far from perfect, and always includes room for resistance.<sup>76</sup> Power is fragile.

The dystopian model portrays surveillance as simply a tool of social control. The reality is more nuanced and complex than this. Lyon has argued strongly and

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<sup>74</sup> Haggerty, K. (2006) 'Tear down the walls: on demolishing the panopticon' in Lyon (ed.) p.35.

<sup>75</sup> Ransom, J.S. (1997) *Foucault's Discipline: The Politics of Subjectivity*. Durham & London: Duke University Press. p.21

<sup>76</sup> Ibid, p.21

consistently against this presumption.<sup>77</sup> He believes that surveillance can be used to both control and care for others. Examples of this include tagging in neo-natal wards to prevent child abduction, or the storage and transmission of life-saving medical data in emergencies. Are parents not surveillance powers with regard to their children? This is an important argument to be made, and is itself a corrective to parts of the dystopian traditional view. Surveillance can be useful for us, as well as those in authority and power. However it is important to contrast between using surveillance in ways that benefit ourselves and using surveillance in ways that benefit others, but in ways decided upon by the surveillance agent rather than the surveillance subject.

There is a rich emerging literature on resistance to surveillance, which Lyon feels is an important corrective to the dystopian trends in surveillance research.<sup>78</sup> Much of this research necessarily involves paying attention to subjects of surveillance, their experience and activities. Lyon identifies a number of caveats when considering resistance to surveillance: firstly that surveillance is ambiguous, it is not a purely negative phenomenon; secondly that surveillance is complex, with different institutions or perspectives playing a large part in the specific politics of surveillance; thirdly, that surveillance technology is not infallible.<sup>79</sup> These three factors affect the way that surveillance is complied with, negotiated, and resisted. As the converse of resistance, surveillance is frequently complied with for reasons of: the widespread presence of surveillance practices, that many practices are taken for granted, that we are unaware of many surveillance practices, and that many systems are accepted as

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<sup>77</sup> Lyon, D. (2003) 'Surveillance as Social Sorting: Computer codes and Mobile bodies' in D.Lyon (ed). p.18.

<sup>78</sup> Lyon, 2007, p.160.

<sup>79</sup> Ibid, p.162.

legitimate and necessary.<sup>80</sup> Resistance can range from *ad hoc* and individual, (avoiding CCTV cameras by walking a different route) to organised and collective (joining a group to campaign against the introduction of identity cards).

Marx presents a typology of eleven forms of resistance to surveillance. These include discovery, avoidance, piggy-backing, switching, distorting, blocking, masking (identification), breaking, refusal, cooperative and counter-surveillance moves.<sup>81</sup> These moves can be contrasted with explicitly political strategies to remove surveillance systems and practices through democratic political process or direct action. Work in political theory on resistance to surveillance often tends to take the form of analyses of privacy and practices of the regulation of personal data, emphasising the individual, owned nature of privacy rather than collective or social resistance.

Lyon argues an important part of understanding resistance to surveillance is the subjectivities of those resisting surveillance, especially the alternate identities which can be mobilised against imposed and attributed surveillant representations.<sup>82</sup> There is a politics of resistance associated with the subject's own understanding of their identity or identities and interaction with the data double. Rose identifies a problem with identity-based responses to surveillance. He argued experience of the actuarial processes of contemporary surveillance practices does not produce collective identities, in the same way as the collective experience of workplace exploitation or

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<sup>80</sup> Ibid, p.164.

<sup>81</sup> Marx, G.T. (2003) 'A Tack in the Shoe: Neutralizing and Resisting the New Surveillance.' *Journal of Social Issues* 59 (2). pp.269-390.

<sup>82</sup> Lyon, 2007, p.67.

racism.<sup>83</sup> Anticipating the same impediments, Ogura provides a potential solution to this problem.<sup>84</sup> He suggests that ‘identity politics’ should be drastically transformed. Rather than attempting to ‘establish the collective identity of social minority groups against cultural, ideological or political integration or affiliation by social groups’ he points in the direction of a ‘de-convergent politics’ able to resist methodological individualism and biological determinism he sees as present in information technology identity systems. Whilst he acknowledges that we have not yet seen such a social movement or politics based on identity, he identifies ‘criminal’ identity activity, such as fake ID cards and identity theft as manifestations of a surveillance orientated society’s focus on methodological individualism and biological determinants of identity (such as biometrics). He predicts the possibility of a politics based around self-determination of identity, potentially associated with the (non-criminal) use of multiple identities, collaborative identities or anonymity.

If the exploitation of identity expands and deepens, resistance against it to achieve self determination rights of who ‘is’ will also follow. In the very near future, we may grab hold of an alternative identity politics based on an identity of identities that is against identity exploitation.<sup>85</sup>

### *Centrality of the state*

Classical accounts of surveillance assumed the state as prime agent of surveillance. The surveillance systems analysed by Rule were driving licenses and passports; identity documents issued by the state. He assumed that the system closest to ‘the total surveillance society’ had the highest degree of centralisation, presumably in the

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<sup>83</sup> Rose, 1999, p.236.

<sup>84</sup> Ogura, T (2006) ‘Electronic Government and Surveillance-Oriented society’ in Lyon (ed). p.293.,

<sup>85</sup> Ogura, 2006, p.292.

hands of the state.<sup>86</sup> For Orwell, it was the state, personified by the figure of Big Brother at the apex of the surveillant system. Historically, only nation states, and perhaps the Catholic Church, possessed the resources to establish large bureaucracies and information handling systems necessary to perform censuses, or the military and intelligence apparatuses required for international espionage. In G.T. Marx's early work, the police and intelligence agencies as state agents were the main users of the 'new surveillance'.<sup>87</sup> If the state is seen as the core or sole surveillance actor then anti-surveillance politics take on a liberal or libertarian cast. The role of the state constitutes the distinction between public and private. The state is the public actor, attempting to penetrate the private sphere of the individual.

However, contemporary surveillance is simply not one huge monolithic state apparatus. Arguments can be made that the state is no longer the primary actor in surveillance. Whitaker argues for a transition from the surveillance *state* to the surveillance *society* representing 'a very different complex of power, impacting in very different ways on authority, culture, security and politics, than did the state centred surveillance power of the immediate past.'<sup>88</sup> Non-state actors now play major roles in surveillance. This can range from supermarkets using loyalty cards to profile and track consumer purchases, to marketing agencies, insurance companies and political parties. In addition to this, charities make use of personal data to attract donations, and the vast majority of CCTV systems in the UK are owned and operated by the private sector.<sup>89</sup> The three British credit reference agencies maintain profiles of data culled from multiple sources that have real effects upon individuals' life

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<sup>86</sup> Rule, 1973. pp.37-40.

<sup>87</sup> Marx, 1989.

<sup>88</sup> Whitaker, R. (1999) *The End of Privacy: How Total Surveillance is Becoming a Reality*. New York: The New Press. p.29.

<sup>89</sup> 6, 2005, p.18.

experiences and chances. Marketers are ‘aggressively seeking personalised information and creating computer systems that categorize individual consumers’.<sup>90</sup>

Data mining, and consumer profiling conducted by private sector firms is a fundamental part of their business model. Hall states that 7.8 million adults in the UK have been barred from mainstream sources of credit because of credit scoring techniques, and that this raises problems of exclusion, because in many circumstances, credit and insurance can be seen as essential services – for example, in very low income families who may require access to short term credit to cover gaps in income.<sup>91</sup> However, she concedes that electronic collection and manipulation of data has resulted in many consumers being able to access credit and insurance they would have been unable to before.<sup>92</sup>

With the industry’s growth driven by government release of census data to the commercial sector in the 1970s and 1980s, 6 argues:

Companies offering geo-demographic profiling data are the 21<sup>st</sup> Century equivalent of the great energy companies of the 20<sup>th</sup>, but subject to much more competition than were the old energy giants.<sup>93</sup>

This line of thought reaches its most productive moment in Haggerty and Ericson’s The ‘Surveillant Assemblage’. The paper draws upon Deleuze and Guattari to describe the form of contemporary surveillance.<sup>94</sup> This form involves the connections

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<sup>90</sup> Garfinkel, 2001, p.158.

<sup>91</sup> Ibid, p.159.

<sup>92</sup> Hall, H. (2005) ‘Data use in credit and insurance: Controlling unfair outcomes’ in S.Lace (ed.) p.157.

<sup>93</sup> 6, 2005, p.18.

<sup>94</sup> Deleuze, G & Guattari, F. (2004) *A Thousand Plateaus: Capitalism and Schizophrenia*. London & New York, Continuum.

between seemingly disparate and previously discrete surveillance technologies, sites, practices and agents traditionally studied in isolation. An 'assemblage' is a 'multiplicity of heterogeneous objects, whose unity comes solely from the fact that these items function together, that they work together as a functional entity'.<sup>95</sup> They do warn against talking about 'The' surveillant assemblage when it is an unstable entity with shifting boundaries. It is a potentiality, arising out of existing surveillance technologies, actors, signs, people and practices coming to act in certain ways. Connections are often informal rather than formal or legal. One example is journalists acting as buyers of personal information. This does not involve the state, being a relation between journalists and semi-legal personal information brokers.<sup>96</sup> They also argue that surveillance is driven by the desire to bring systems together and that these combinations allow for the exponential growth in surveillance capacities.<sup>97</sup> It is this assemblage model better than any unitary totalising model that explains the spread of surveillance in contemporary societies. It is not one process, but the interaction of numerous processes heading in similar directions.

The assemblage works through a process of de-territorialisation and re-territorialisation of individual bodies abstracted and turned into flows of information before being reassembled into data doubles. The multiplicity of the assemblage follows the Deleuzian tendency to problematise stable and unitary phenomena.<sup>98</sup> The body is not perceived by the assemblage as a single, unitary entity, but rather as the source of a number of flows. Haggerty and Ericson offer a theory of a new type of

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<sup>95</sup> Patton, 1994, p. 158, quoted in Haggerty and Ericson, 2000, p.608

<sup>96</sup> The Information Commissioner's Officer (2006) *What Price Privacy? The Unlawful trade in confidential personal information*. London: The Stationery Office. p.17.

<sup>97</sup> Haggerty & Ericson, 2000, p.610.

<sup>98</sup> Haggerty & Ericson, 2000, p.608.

individual created by assemblage raising questions about the nature of identity in surveillance societies.

Today, however, we are witnessing the formation and coalescence of a new type of body, a form of becoming which transcends human corporeality and reduces flesh to pure information. Culled from the tentacles of the surveillant assemblage, this new body is our 'data double'.<sup>99</sup>

And while such doubles ostensibly refer back to particular individuals, they transcend a purely representational idiom. Rather than being accurate or inaccurate portrayals of real individuals, they are a form of pragmatics: differentiated in how useful they are in allowing institutions to make discriminations among populations. Hence, while the surveillant assemblage is directed towards a particular cyborg flesh/technology amalgamation, it is productive of a new type of individual, one comprised of pure information.<sup>100</sup>

The political ramifications of this multiplication of actors are varied, especially as many resistance strategies are orientated towards defending individual privacy against state surveillance. An example would be the question of political accountability. If data is gathered by a state then there may well be channels, albeit imperfect, of democratic accountability and transparency that allow citizens access to this data or information about how data is gathered, stored and used. These channels do not exist in the same way with corporate surveillance entities, and strategies developed to monitor or respond to the former may be ineffective with regard to the latter. Commercial data gathering practices are less visible than those of the state (bureaucratic administration, taxation, census practices etc) and citizens, whilst aware of the potential of state surveillance, may be unaware of the amount of data gathered about them by non-state actors. The visibility or awareness of a practice is the

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<sup>99</sup> Ibid, p.613.

<sup>100</sup> Ibid, p.614.



prerequisite to holding an actor to account for that practice. Additionally, certain social categories are better placed to manipulate commercial surveillance practice through information technology literacy, education and material resources. In reference to the political effects of the surveillant assemblage, Haggerty and Ericson write:

In the face of multiple connections across myriad technologies and practices, struggles against particular manifestations of surveillance, as important as they might be, are akin to efforts to keep the ocean's tide back with a broom – a frantic focus on a particular unpalatable technology or practice while the general tide of surveillance washes over us all.<sup>101</sup>

This theory has the advantage of empirical verisimilitude. Records and databases link up and various technologies and organisations are used to reach common goals.

Witness for example the way that data from various surveillance sources (lists of missing people, CCTV images, international intelligence agencies etc) was used in tracking and identifying the London bombers in July 2005. This is an example of the operation of a surveillant assemblage.

However, the state retains a role in surveillance research. Agamben has analysed how by creating states of emergency which were previously limited to wartime, contemporary states have been able to create 'states of exception' which remove prior limits on government action, including the use of surveillance, alongside permanent detention of 'terrorists'.<sup>102</sup> The logic allowing Guantanamo Bay, allows for increased state surveillance. Similarly, Bigo has shown the importance of the nation state with the continued existence (and the reinforcement) of the national border, even in (and

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<sup>101</sup> Ibid, p.609.

<sup>102</sup> Agamben, G. (2005) *State of Exception*, Chicago: University of Chicago Press. p.3.

because of) a globalised world of supposedly free movement.<sup>103</sup> Bigo situates this amongst sovereignty debates in international relations and the construction by the United States of a global state of insecurity. He suggests that the heavy monitoring of the border (see for example the fortified US-Mexico border, the so-called security fence built in the Palestinian territories by Israel and the experience of asylum seekers in UK detention centres) and the treatment of the immigrant should be understood as techniques of *government by unease* through the normalisation of a state of watchful emergency.<sup>104</sup>

It is important not to forget that the state retains substantial coercive capacity and resources. Despite discourses of globalisation discussing the weakening of the nation state in the face of international pressures it should be remembered that this may be a weakening of specific elements of the nation state, whilst other elements may remain strongly intact or even redoubled in response to these pressures. Surveillance studies must proceed with recognition that there are multiple surveillance actors, with multiple technologies, resources and motivations underpinning their surveillance activities, yet it must not forget that one of these surveillant actors is the nation state, and that it is still a significant actor. From a political studies perspective, attempting to address the political effects of surveillance this is a highly important consideration.

### *Technological determinism*

It would be possible to describe the capabilities of new developments in surveillance technology, and then deterministically read-off the social and political effects of these

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<sup>103</sup> Bigo, 2006. p.47.

<sup>104</sup> Ibid, p.63.

developments from the technology. This occurs in popular, untheorised and journalistic accounts positing technological advances as the core reason for the spread of contemporary surveillance practices, but is resisted in contemporary surveillance studies. Contemporary surveillance does have a highly technological basis.<sup>105</sup> This is not however, to obscure pre-technological forms of face-to-face human observation or surveillance. The bureaucratic file predates its computerised digital namesake.

Any social or political theory that attempts to incorporate the technological is vulnerable to charges of ‘determinism’. That is, the impact of new artefacts and system may easily colonise the argument, such that already existing situations and processes are downplayed and ‘indigenous’ factors may be obscured by an exaggerated view of technical capacities.<sup>106</sup>

Philosophically universal technological determinism has largely been abandoned ‘for a view that admits the possibility of significant ‘difference’, i.e. cultural variety in reception and appropriation’.<sup>107</sup> There is still a temptation to look to the technological design and capabilities when faced with new developments such as data-mining, ‘smart’ CCTV, RFID chips, ID cards or biometric surveillance technology.

Bentham’s panopticon is technologically deterministic. He had *a priori* visions of how the panopticon – an architectural technology for ‘seeing without being seen’, would create conforming inmates through the ‘apparent omnipresence of the inspector combined with the extreme facility of his real presence’<sup>108</sup> and yet this was not tested in practice. There are many examples of technologies that do not live up to the

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<sup>105</sup> Lyon, 2007, p.69.

<sup>106</sup> Ibid, p.54.

<sup>107</sup> Feenberg, A. (2003) ‘Critical Evaluation of Heidegger and Borgman’ in R.C. Scharff & V. Dusek, *Philosophy of Technology: The Technological Condition, An Anthology*. Oxford, Blackwells.

<sup>108</sup> Bozovic, M. (ed) (1995) *Jeremy Bentham: The Panopticon Writings*. London: Verso. pp.10-11.

expectations, dreams or assertions of their designers. At the same time, studies utilising a panoptic framework have been beset by examples of negotiation and resistance which problematise the smooth, deterministic functioning of the panoptic technology.

Surveillance research has been influenced by the broader field of science and technology studies that explore the complexity of the interactions between society and technology – how social, political and cultural values affect scientific research and technological development, and how the latter also affect society, politics and culture.<sup>109</sup> As such, the field predominantly rejects technological determinism and has produced a range of research with a nuanced approach to technology. These range from the impact on risk thinking from modern communications technology, to the effects of digital surveillance on inequality, and the role of technology in punishment and control.<sup>110</sup>

In rejecting technological determinism, we should not commit the equal fallacy of assuming that technology is politically neutral. Whilst technology does not deterministically direct us in one necessary direction, specific technologies do have specific ways of working, specific optimal inputs, and specific outputs (both intentional and unintentional). We should also not depoliticise the actions of scientists, engineers and designers who create technologies with surveillance

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<sup>109</sup> MacKenzie, D. and Wajcman, J. (eds.) (1985) *Social Shaping of Technology*. London: Open University Press; Bijker, W., Hughes, T. & Pinch, T. (1987) *The Social Construction of Technological Systems: New Directions in the Sociology and History of Technology*. Cambridge, Mass & London: MIT Press.

<sup>110</sup> Lianos, M. & Douglas, M. (2000) 'Dangerization and the End of Deviance: The Institutional Environment' *British Journal of Criminology*, 40:261-278; Graham, S. & Wood, D. (2003) 'Digitising Surveillance: Categorisation, Space and Inequality.' *Critical Social Policy*, 23(2). pp.227-48; Jones, R. (2000) 'Digital Rule: Punishment, Control and Technology' *Punishment and Society*, 2(1). pp.23-39.

capacities. We should not ignore the institutional norms and values which guide those designs, nor the commercial market or state channels through which they are introduced into society. Science and technology are not politically neutral, instead driven by political imperatives and logics. These logics are likely articulated in the discourse of scientists and engineers involved in producing surveillance. It may be productive to draw upon constructivist accounts of science and technology, which do not exempt scientists and technologies from sociological examination addressed to non-scientific beliefs.

Constructivism argues that theories and technologies are underdetermined by scientific and technical criteria. Concretely, this means two things: first, there is generally a surplus of workable solutions to any given problem, and social actors make the final choice among a batch of technically viable options; and second, the problem-definition often changes in the course of solution.<sup>111</sup>

New technologies make contemporary surveillance possible, but they do not make it inevitable. Whilst sufficient attention must be paid to the reality of surveillance capacities to ensure that they are neither over- or underestimated, it should not dominate an analysis which must incorporate the ways technologies are constructed and utilised in the world.

### *The panopticon*

The final key controversy in surveillance research involves the dominance of the panopticon, and attempts to move beyond this model. This section engages with the

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<sup>111</sup> Feenberg, A. (2003) 'Democratic Rationalization: Technology, Power and Freedom' in Scharff & Dusek (eds). p.654.

move to a post-panoptic theoretical position characteristic of the work of Boyne and Haggerty.

Originating in a prison designed by Jeremy Bentham and his brother, the most dominating feature is the central tower, housing an inspector, enabling him to observe the cells surrounding the tower, whilst at the same time remaining concealed from inmates in the cells by a series of blinds.<sup>112</sup> The prisoner is left exposed, and with no point where the gaze of the inspector might be obscured, the single occupant in each cell is rendered permanently visible.

Bentham's fullest explication of the panopticon stretched to twenty chapters, and included complicated and detailed elaborations to maintain the central principles of the panopticon: that the prisoners remained separated from each other and permanently visible to an inspector whose presence could never be directly confirmed or denied. The architectural features were to maintain the *asymmetry of visibility*. Any deviant behaviour by the prisoner could be observed by the inspector who could then take appropriate action. Unable to determine if they were under observation at any given moment, the prisoner was forced to assume they were under surveillance at all times, and act accordingly if they wished to avoid punishment. The panopticon is the 'the leading scholarly model or metaphor for analysing surveillance', and is therefore a widespread concept, pressed into a wide range of (often worryingly unreflective) intellectual service.<sup>113</sup> Hardly any work on surveillance can ignore the panopticon, and many papers or books feature an extended description of Bentham's design and Foucault's interpretation of it. Because of the interdisciplinary nature of surveillance

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<sup>112</sup> Evans, R. (1971) 'Bentham's Panopticon: an incident in the social history of architecture' *Architectural Association Quarterly*. Vol.3.

<sup>113</sup> Haggerty, 2007, p.23.

research, theorists come to the panopticon from a number of perspectives. This can mean that the panopticon (or elements of it) can be taken out of specific contexts (for example the utilitarian reformist politics of Bentham, or the archaeological and genealogical work of Foucault). Additionally, simply because nearly every article on surveillance makes mention of the panopticon, there is a tendency to continue this. In order to talk about surveillance, it seems that one must mention the panopticon, and additionally, one must pay homage to Michel Foucault.

The tendency exists to describe surveillance phenomena, invoke the model of the panopticon, and read off the supposedly panoptic characteristics of the latest iteration of surveillance technology. Accounts which untheoretically apply the term panoptic in front of the word surveillance miss the specificity of the account. A separate argument (using a particular model of what constitutes the panopticon) must be made to justify the specification of a surveillance event or phenomena as panoptic. These unreflective usages of panoptic to mean essentially any form of surveillance should be discounted as fundamentally meaningless statements where the word panoptic becomes an empty concept. Lyon argues that the concept persists because it is multifaceted, capable of multiple interpretations and draws on the major problematics of modernity.<sup>114</sup> He however argues that to move forward, surveillance theory is obliged to look beyond the panopticon. Its dominance has stifled the range of possible questions in surveillance research. For some time, surveillance research focused on the question ‘to what extent is contemporary surveillance more/less panoptic.’<sup>115</sup> Haggerty presents a list of expanded or reworked panoptic models culled from the literature

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<sup>114</sup> Lyon, 2006, p.5.

<sup>115</sup> Simon, B. (2005) ‘The Return of Panopticism: Supervision, Subjection and the New Surveillance’ *Surveillance and Society*. 3(1) 1-20, available at [http://www.surveillance-and-society.org/articles3\(1\)/return.pdf](http://www.surveillance-and-society.org/articles3(1)/return.pdf).

which includes: the superpanopticon, the electronic panopticon, the omnicon, the ban-opticon, the global panopticon, the panspecticon, the myopic panopticon, the fractal panopticon, the urban panopticon, the pedagogicon, the polyopticon, the synopticon, panoptic discourse, social panopticism, cybernetic panopticon and the neo-panopticon.<sup>116</sup> He argues that this range of variations on the concept, as well as signalling the dominance of the model in surveillance theory, also demonstrates the lacunae, the inadequacies and the limitations of the model. Each extension or refinement points to a way in which the panopticon model does not fit with the reality of contemporary surveillance. For example, the electronic panopticon<sup>117</sup> signals the lack of attention paid to contemporary information technology in Foucault's supposed 'history of the present', whilst the synopticon highlights the way in which the powerful are exposed to public visibility through modern media technology in a way which parallels and supplements the panopticon model.<sup>118</sup>

Boyne summarises arguments for abandoning the panopticon from a number of theorists. These are the displacement of the panoptic method by techniques of seduction in the work of Bauman, the redundancy of the panoptical impulse due to self-surveillance functions, the reduction in the need for panoptic surveillance due to simulation and prediction, the supplementation of the panopticon by the synopticon, and the failure of the panopticon to reliably produce docile subjects.<sup>119</sup> However, his conclusion is that there is still room for the panopticon as an analytical ideal type.

Bauman argues that the panopticon is an inappropriate model for societies based

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<sup>116</sup> Haggerty, 2006, p.26.

<sup>117</sup> Lyon, D. (1994) 'From Big Brother to the Electronic Panopticon' in *The Electronic Eye: The Rise of Surveillance Society*. Minneapolis, University of Minnesota Press. pp.57-80.

<sup>118</sup> Mathiesen, T. (1997) 'The Viewer Society: Michel Foucault's 'Panopticon' revisited.' *Theoretical Criminology*, 1 (2), pp.215-34.

<sup>119</sup> Boyne, R. (2000) 'Post-Panopticism' *Economy and Society*. 29 (2) p.285.



around consumption, rather than soldiers and factory workers.<sup>120</sup> Boyne suggests that this universalises the experiences of affluent western middle classes, and that positioning one method of social control as *the* method is problematic.<sup>121</sup> However, it does echo the movement of surveillance to borders and the edges of society observed by Bigo.<sup>122</sup> Boyne makes an important argument when he states that the panopticon is locked within a ‘functionalist’ paradigm.<sup>123</sup> Bogard is the source of the argument, based upon Baudrillard, that surveillance is increasingly being replaced by simulation by computer technology, by anticipation rather than retroactive monitoring.<sup>124</sup> Boyne is sceptical of this thesis, but accepts an important question is the way models of ‘normal’ activity and behaviour are politically and socially constructed by elites. Boyne also draws upon Mathiesen’s concept of the synopticon,<sup>125</sup> a parallel model of visibility through which the many watch the few. Mathiesen demonstrated the way in which these processes both involved forms of surveillance and the ways in which they interacted to increase levels of surveillance in society. Finally, Boyne traces the way that subjectivities and resistance are explored in Foucault’s later work on sexuality and governance. He concludes that Foucault’s later work can already be understood as ‘post-panoptic’.<sup>126</sup>

Haggerty argues for the abandonment of the panopticon due to its limited perspectives on the purposes of surveillance, its focus on top-down, hierarchical forms of surveillance, the way it ignores both non-human targets and agents of surveillance

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<sup>120</sup> Bauman, Z. (1999) (1999) ‘On postmodern uses of sex’ in M. Featherstone. (ed.) *Love and Eroticism*, London: Sage.p.23.

<sup>121</sup> Boyne, 2000, p.286.

<sup>122</sup> Bigo, 2006.

<sup>123</sup> Ibid, p.299.

<sup>124</sup> Ibid, p.300.

<sup>125</sup> Mathiesen, T. (1997) ‘The Viewer Society: Michel Foucault’s ‘Panopticon’ revisited’ *Theoretical Criminology*. Vol. 1, pp.215-34.

<sup>126</sup> Boyne, 2000, p.302.

whilst rendering human subjects entirely passive, and the way that it includes no mention of new surveillance technologies.<sup>127</sup> He also argues that the theoretical dominance of the concept in studies of surveillance leads to it obscuring other alternative theories that may be more productive.<sup>128</sup> Surveillance is used for a wide variety of purposes, and the majority of these are not carceral. Surveillance does not just monitor people, but also the physical world and environment. This is not to say that this is not political – the example Haggerty provides is the monitoring systems intended to detect tsunamis or disease epidemics – but that the panoptic model is poorly designed for this sort of surveillance.<sup>129</sup> In direct contradiction to Foucault, Haggerty suggests that it makes a significant social difference who the agent of surveillance is; that the power relation is not independent of who exercises it.

It is profoundly important whether the people who use surveillance systems are members of the Canadian Security Intelligence Service, The American Civil Liberties Union, or the Ku Klux Klan.<sup>130</sup>

Haggerty argues that the subjects of surveillance in the panoptic model are entirely passive, and that whilst resistance to power is an important theme in Foucault's later work, this understanding is not present in the analysis of the panopticon.<sup>131</sup> The model also requires that subjects of surveillance are aware they are under surveillance. Haggerty argues that many contemporary surveillance practices, such as dataveillance, require that this surveillance be covert or that subjects are not highly

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<sup>127</sup> Haggerty, 2006, pp.27-33.

<sup>128</sup> Ibid., p.23.

<sup>129</sup> Ibid., p.31.

<sup>130</sup> Ibid, p.34.

<sup>131</sup> Haggerty indicates that concerns with resistance occur in *The History of Sexuality*, most probably in response to criticisms about the lack of resistance in *Discipline and Punish*. This leads Foucault to his famous comment 'Where there is power, there is resistance'. Foucault, M. (1978) *The History of Sexuality, Volume I*. New York: Vintage. p.95.

aware of the practices. This mirrors an orientation within behavioural psychology that awareness of observation will somehow prevent access to true behaviours, potentially due to the numerous practices of negotiation, resistance and subversion that individuals engage in when they understand themselves as under surveillance.<sup>132</sup>

Some of the previous discussions in this section can inform different notions of the panopticon. Panoptic models may suggest that modern society has been generally panoptic (and often that this is in fact the defining characteristic of modern disciplinary society), or that relatively recent developments in contemporary surveillance technology (for example digital and computer technology, information technology, facial recognition and biometric technology and even CCTV) have allowed the panopticon to expand from the prison to (potentially) cover the whole of the social world. This argument is looking somewhat dated, and has similarities with other heavily hyped theories arising out of the so-called digital revolution. It is no longer heavily favoured in academic studies of surveillance but it exists in less academic and older accounts and it has filtered through to a popular culture and artistic level.<sup>133</sup> Both these models fall foul of Rose's critique of the 'sociological misreading of Foucault' whilst the second seems to exhibit a distinct strand of simple technological determinism.

The panopticon concept retains some utility as a model for the analysis of specific sites of surveillance. Simon has suggested that all that was necessary for a 'simple panoptic machine' was a human subject of surveillance, a form of enclosure or territorialisation, a form of partitioning or segmentation and an

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<sup>132</sup> Parker, I. (2007) *Revolution in Psychology: Alienation to Emancipation*. London & Ann Arbor, MI: Pluto Press. p.27.

<sup>133</sup> Leven *et al* (eds), 2002.

agent of surveillance.<sup>134</sup> In these circumstances we can talk about the possibility of (or tendency towards) panoptic power. This suggests a partial response to Haggerty. Whilst it is politically important who the agent of surveillance is, it may still be a ‘simple panoptic machine’. Foucault’s purpose can be interpreted as situating the panopticon within a model that attempts to decentralise the personal nature of political power located in the person of the sovereign, replacing it with more generalisable mechanisms of power. This panopticon is not state-based but micro-political, it is not permanent but contingent, it is not necessarily based on visibility but rather knowledge and information and the interaction between participants in a knowledge-based interaction – one ridden with meaning, categorisation and subject constitution, and finally it is not automatic – there is agency and resistance in this model. One of the most useful points in Haggerty’s analysis is the suggestion that one should not engage in a search for the pure panopticon found in the true Foucault, but instead one that fits with empirical reality and therefore provides a productive basis for further research. Haggerty concludes his article with an examination of the potential use of Foucauldian governmentality approaches to surveillance. This will be explored in the next section.

### *Controversies and debates in surveillance research*

This section has demonstrated the main dividing lines, areas of debates and core questions in surveillance theory and research. Additionally, it has set out some contingent solutions to these questions, suggesting directions in which further

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<sup>134</sup> Simon, 2005. p.6.

research should progress. There is a need for a nuanced understanding of the limits of the surveillance society, the appropriate level of analysis, the efficacy of surveillance, the role of the state, the effects of technology and a sceptical orientation towards previously dominant tropes of the genre. This points the way towards an approach that can navigate the potential pitfalls of surveillance research whilst still producing useful and revealing insights into surveillance phenomena. The next section presents such an approach.

## Governmentality

Drawing upon the previously discussed surveillance research literature, and addressing itself to a number of concerns raised in the examination of the sub-field's controversies and debates, this section outlines the approach known as *governmentality* or the *analytics of government* and demonstrates the suitability of this theory for research into surveillance. An overview of the approach and its key theorists will be followed by an analysis of its sensitivities and valuable perspectives.

Governmentality arises from Foucault's work on government and liberalism. The lectures at the College de France from which the pivotal essay 'Governmentality' was taken have only recently been published in English.<sup>135</sup> However, the perspective had filtered through by the late 1990s. The term 'governmentality' seeks to distinguish the particular mentalities, arts and regimes of government. The term government is used generally for any calculated direction of human conduct.<sup>136</sup> Historically, governmentality emerged in early modern Europe from the uneasy combination of pastoral power and *raison d'etat*. Pastoral power is a 'dedicated, kindly power', the idea of the Christian shepherd's responsibility for his flock, bringing a requirement of 'an individual knowledge of each member, attained by techniques of self-knowledge and confession, and the obedience of each member.'<sup>137</sup> *Raison d'etat* is the modern way of integrating individuals, making the individual politically useful to the state in ways that enhance the state's capacity in relation to other states. A contemporary example is the way that individuals are encouraged to become economically useful

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<sup>135</sup> Foucault, M. (2007) *Security, Territory, Population: Lectures at the College de France 1977-1978*. edited by M. Senellart, translated by G. Burchell. Houndmills, Basingstoke: Palgrave.

<sup>136</sup> Dean, M. (1999) *Governmentality: Power and Rule in Modern Society*, London, Thousand Oaks and New Delhi: Sage, p.2.

<sup>137</sup> Simons, J. (1995) *Foucault and the Political*. London: Routledge. p.38.

producers and consumers. Governmentality emerges with the separation of the government from the person of the sovereign. Government then has to take account of the ‘thing to be governed’ – the population; in ways that sovereign power did not.<sup>138</sup> This parallels Lefort’s analysis of the democratic revolution as the creation of an ‘empty place’ of power fillable by a number of actors.<sup>139</sup> Critically linked to biopower – the control over the processes of life rather than the question of life or death, governmentality in the form of liberalism, is an ‘active and inventive deployment of freedom as a way of governing people’.<sup>140</sup> The liberal governmental state acquires a responsibility for the care of its subjects, it cannot just control them. Bio-politics brings life and its mechanisms (health, sanitation, reproduction, birth rates) into explicit calculations, making power/knowledge an agent of the transformation of human life.<sup>141</sup>

Government can be understood as the ‘conduct of conduct’, any attempt to ‘shape with some degree of deliberation aspects of our behaviour according to particular sets of norms and for a variety of ends.’<sup>142</sup> Government involves not direct control, but encouraging forms of self-direction appropriate to certain situations. This is clearly wider than traditional understandings of ‘government’ as executive, sovereign power. In fact, government ‘employs and infiltrates a number of discourses ordinarily conceived as unrelated to political power, governance or the state.’<sup>143</sup>

Governmentality is:

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<sup>138</sup> Joyce, 2003, p.3.

<sup>139</sup> Lefort, C. (1986) *The Political Forms of Modern Society*. Oxford: Oxford University Press, p.301.

<sup>140</sup> Joyce, 2003, p.3.

<sup>141</sup> Ransom, 1997, p.61.

<sup>142</sup> Dean, 1999, p.10.

<sup>143</sup> Brown, W. (2006) *Regulating Aversion: Tolerance in the age of Identity and Empire*. Princeton and Oxford: Princeton University Press. p.81.

“not a matter of imposing laws on men, but rather disposing things that is to say, to employ tactics rather than laws, and if need be, to use laws themselves as tactics.”<sup>144</sup>

Thought of as a perspective from which to conduct political research, and drawing on the above understanding of government and governmentality, Dean provides a typology of the approach he terms the ‘analytics of government’. He lists the identification of problematisations, the priority given to questions relating to process, mechanisms and tactics of governance, the view of governments as assemblages or regimes rather than homogenous totalities. Drawing on Deleuze’s perspective on the *dispositif*, he highlights a concern for technical aspects of government, such as means, mechanisms, procedures, instruments and (critically) vocabularies, ideas and values. The analytic also considers government as a rational and thoughtful activity – how does government as an assemblage think? How does it approach problems, and how does it attempt to overcome those problems? He asks ‘How do these practices of governing give rise to specific forms of truth?’<sup>145</sup>

The analysis of government is concerned with thought as it becomes linked to and embedded in practices and institutions, thus to analyse mentalities of government is to analyse thought made practical and technical.<sup>146</sup>

From this perspective, thought is a collective rather than an individual activity. It is not a matter of the representation of the individual mind or consciousness, but instead of collective bodies of knowledge, opinions and beliefs. Mentalities are collective,

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<sup>144</sup> Foucault, M. (1991) ‘Governmentality’ in G.Burchill, C.Gordon & P.Miller (eds.) *The Foucault Effect*. Chicago: University of Chicago Press.

<sup>145</sup> Dean, 1999, pp.27-30.

<sup>146</sup> Ibid, p.18.



relatively bounded unities of thought that are not readily accessible to those who are inside them.<sup>147</sup> Mentalities are highly associated with the discursive construction of the ‘problem space’; the construction of the nature of the various problems to which government can be addressed:

The ways in which those who would exercise rule have posed to themselves the question of the reasons, justifications, means and ends of rule, and the problems goals or ambitions that should animate it.<sup>148</sup>

Governmentality is inherently concerned with surveillance, predicated upon knowledge and visibility of the population. Surveillance is traceable to the governmental imperative to ‘know the population’. Detailed knowledge of the population is required before appropriate management strategies can be constructed.

Governing a specific population requires an intricate knowledge of its particularities, tendencies and inclinations. This emphasis on the operation of knowledge, along with an understanding of the importance of different technologies for conceptualising and executing governmental ambitions, places practices of visibility at the forefront of governmental practices.<sup>149</sup>

Foucault sees the origins of this in pastoralism and the need to watch over the Christian flock.<sup>150</sup> Within governmentality, there is a need to harness collective energies that might otherwise be anarchic, self-destructive, or simply unproductive. Surveillance is perceived by Rose as part of the price paid for the liberal expansion of freedoms to act.<sup>151</sup> Governance is therefore a site of bounded freedom.

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<sup>147</sup> Ibid, 1999, p.16.

<sup>148</sup> Rose, 1999, p.3.

<sup>149</sup> Haggerty, 2007, p.40.

<sup>150</sup> Foucault, 2007. p.123-129.

<sup>151</sup> Rose, 1999, 240.

Governmentality supports an awareness of the importance of data-based forms of surveillance. This arises from studies on the development of the census. The census is a critical response to the necessity of knowing the population before appropriate strategies can be applied. In a real sense, the census *creates* citizens.<sup>152</sup> This perspective reveals the importance of databases, lists, records, files and the like for creating subjectivities and identities. Statistics is intimately linked with the state, developing out of the need to conduct censuses and analyse the data they produced. This parallels the way cartography maps the extent of the territory, and constitutes the nation state as geographically bounded entity.<sup>153</sup> Governmentality reveals the political incentives that drive the production of a seemingly objective and autonomous scientific method.

The governmentality model breaks down the centralised state model of surveillance, instead demonstrating the multiplicity of actors involved in government. A core aspect is the awareness of ‘a plurality of distinct forces [that] goes into shaping modern forms of power.’<sup>154</sup> The government is not conceived of as a single unitary actor, but a wide range of agencies, bodies, institutions, practices and discourses. The governmental perspective pays attention to the way governance is ‘enacted and coordinated by extra-state agents such as corporations, non-governmental agencies, international bodies and community groups.’<sup>155</sup> The contemporary nation state must incorporate the governance capacity embodied in civil society. Coleman incorrectly suggests that:

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<sup>152</sup> Lyon, 2007, p.30.

<sup>153</sup> Joyce, 2003, p.15.

<sup>154</sup> Ransom, 1997, p.67.

<sup>155</sup> Haggerty, 2007, p.40.

The governmentality literature has thus forced a reconsideration of social control: its relationship to the exercise of power, the state and social order. Instead of being a leading social force, the state concept melts away into the social body and becomes no more than the combined effects of micro-powers.<sup>156</sup>

Governmentality instead recognises the heterogeneity of the state, and the blurry edges between the state and other governmental actors, but does not completely dissolve the state, nor abstract it to a single homogeneous actor. It recognises that power is not the preserve of the state as traditionally defined. This is useful for negotiating the contested role of the state in surveillance theory. Following governmentality, it is unsurprising that there are myriad surveillance actors beyond the state. This fits well with the arguments for the heterogeneity of surveillance emerging from the surveillant assemblage:

Rather than exemplifying Orwell's totalitarian state-centred Oceania, this assemblage operates across both state and extra-state institutions.<sup>157</sup>

In addition to a multiplicity of actors, governance makes use of a multiplicity of strategies. Therefore this theoretical perspective can incorporate many surveillance theories such as social sorting or simple panoptic machines as particular strategies of governance without having to accept the sociological tendency to believe we reside in an electronic panopticon, or maximum surveillance society. Neither does governmentality preclude the exercise of sovereign or disciplinary strategies within a governmental framework, rather, according to Dean, all three are fundamental to

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<sup>156</sup> Coleman, 2004, p.29 see also, pp.40-1.

<sup>157</sup> Haggerty & Ericson, 2000, p.610.

modern forms of authority.<sup>158</sup> Rather than seeking an axiomatic explanation of surveillant power, this triad allows for nuance in determining which forms of power are in play at a specific surveillance site.

Governmentality is sensitive to issues of identity and identification, which will be shown to be of key importance to issues of surveillance later in this chapter. Rose's 'securitization of identity' model emerges from governance. He suggests the need to 'identify the specific loci and practices within which conduct has been problematised in ways which have led to the introduction of new techniques of identification.'<sup>159</sup> He notes the emergence at a number of sites and practices 'problems of the individualisation of the citizen to which securitization of identity can appear as a solution'.<sup>160</sup> These sites are dispersed and disorganised, and they act as 'switch points' which must be passed by an individual, if that individual is to be able to access circuits and flows of benefits and services – the benefits of liberty. Technologies such as ID cards, presented at a border, or when applying for work, operate as a surveillant check on entitlement to access social goods. Linked to this is the tension in the analytics of government between the individual and the collective. In terms of its development, pastoral power is associated with individualisation whilst the 'population' is collectivising. This has interesting parallels with the way the individual involved in social sorting is collectivised through their categorisation, but is individualised through the cross cutting nature of those categories, and the sheer volume of information tied to that individual.

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<sup>158</sup> Dean, 1999, p.19.

<sup>159</sup> Rose, 1999, p.242.

<sup>160</sup> Ibid, p.241.

The analytics of government draws upon a Foucauldian understanding of power, as power/knowledge, in the knowledge of the population as a prerequisite of governance, the inevitability of resistance to governmental power, the creative and constitutive role of power (especially with regard to identities), and the way that power is not owned or held, but instead *flows* through multiple sites.

Dean suggests a number of perspectives that an analytics of government should pay attention to. These are potentially revealing for political surveillance research. Firstly, the examination of the fields of visibility of government: ‘by what light it illuminates and defines objects and with what shadows and darkness it obscures and hides others’.<sup>161</sup> The logic of government, and the rationalities involved, will construct social objects in differing ways, through the articulation of specific discourses. The objects of surveillance, and the specific ways in which objects of surveillance are viewed affect what is politically possible or acceptable. Governmentality allows the research to ‘capture the sense in which seeing and doing are bound into one complex’.<sup>162</sup>

Secondly, Dean advises the extraction of the utopian element in government.<sup>163</sup> He argues that government aims to do more than exercise authority for authority’s sake. Government aims to make things better (although the question of ‘for whom’ is highly relevant). It should be understood that whilst government should be considered as *utopian*, this is not an incitement to believe that government is *utopic*. This is not a naïve belief that government has all our best interests at heart, or that it always acts morally, but rather the intentional orientation towards ends and objectives. This

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<sup>161</sup> Dean, 1999, p.30.

<sup>162</sup> Ibid., p.30.

<sup>163</sup> Dean, 1999, p.33.

position is a useful corrective to dystopian trends in surveillance research, which at their worst can perceive government simply as a unified conspiracy against the individual, using surveillance to secure the position of power. Rose argues:

The kind of empirical analysis that is involved here is not hermeneutic. It is not a question of decoding or interpreting a particular strategy to discover hidden motives, of critiquing a particular alignment of forces to identity class interests, or of interpreting a particular ideology to discover the real objectives that lie behind it.<sup>164</sup>

Instead, strategies and tactics must be analysed in their own terms. Utopian strategies, with specific goals and intentions, must be analysed in terms of the identities, objectives, enemies, alliances, categories and relations of equivalence or difference, that are constructed by the strategies themselves. Coleman is concerned that this fails to challenge the terms of the reference of official discourse, and that critically, the ‘political processes that construct problems that governmental risk strategies respond to and seek to remedy’ are missing.<sup>165</sup> There is some weight to Coleman’s concern, and an accurate analysis should have concern for the influences that cause governmental responses.

Similarly, governmentality involves the avoidance of ‘global or radical’ positions. It cannot simplistically assume that all governing is good or that all governing is bad. This echoes Lyon’s arguments about the dual nature of surveillance. Surveillance can be used for both positive and negative aims. What is perceived as negative from the perspective of the social critic or the subject of surveillance may be regarded as socially beneficial aims in the discourse of police, social workers, health workers, or

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<sup>164</sup> Rose, 1999, p.56.

<sup>165</sup> Coleman, 2004, p.46.

managers. These points suggest an orientation towards the discursive constructions of both problems and solutions within governmental projects. According to Rose 'genealogies of government seek to reconstruct the problematisations to which programmes, strategies, tactics posed themselves as a solution.'<sup>166</sup> Dean mirrors this, stating:

An analytics of government often commences analysis by examining the ways aspects of regimes of practices are called into question (or problematised) by such programmes.<sup>167</sup>

Additionally, as Haggerty points out, scepticism towards general theories of 'social control' is combined with the construction of subjects as active social agents, capable of resistance, avoidance or subversion.<sup>168</sup> This allows an analysis of the politics of surveillance and practices of resistance, although he warns that this would require breaking with Rose's perspective that there is no such thing as 'the governed'.<sup>169</sup>

Haggerty suggests that:

In this quest for a form of methodology and epistemological purity, studies of governmentality inevitably forgo important lines of inquiry into the actual experience of being subjected to different governmental regimes.<sup>170</sup>

He suggests an awareness of the politics of surveillance, and attention to the subjects of surveillance as a corrective to a weakness in the governmental account.

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<sup>166</sup> Ibid, p.98.

<sup>167</sup> Dean, 1999, p.22.

<sup>168</sup> Haggerty, 2007, p.40.

<sup>169</sup> Ibid, p.41.

<sup>170</sup> Ibid, p.42.

For surveillance research, the analytics of government approach provides a way of negotiating the role of the state by presenting governance as a dispersed heterogeneous activity occurring across numerous sites and through numerous practices and regimes. It also allows the avoidance of totalistic accounts of surveillance societies. It avoids technological determinism, but is capable of incorporating a wide range of practices and techniques within an analysis of government. It incorporates surveillance as a critical element in the knowing of the population and the constitution of individual identities. It addresses risk and control in its understanding of the conduct of conduct, and avoids the worst excesses of dystopian theory through its concern for the utopian elements of government. The governance approach suggests attention to multiple sites of surveillance, the discourses that constitute governmental practices and strategies, the identities created through these processes and the problems that motivate them. For these reasons it provides a powerful toolkit for the analysis of the politics of surveillance.



## Identity – contested and constructed

This section demonstrates the centrality of the concept of identity to the politics of surveillance. It will demonstrate the range of sites in which identity is in play whilst presenting theoretical justifications for a focus on identity. This section shows why it is of critical importance to analyse the articulation of individual identity. The issues here strongly relate to the way that identity is conceptualised, either as an objective quality or as a social construction. Raab identifies ‘identity’ as mostly an examined term in discussions of personal identity or identity management, and that hidden assumptions exist with implications for social and technical matters.<sup>171</sup> He identifies that what counts as identity, or part of identity, is socially variable and contextually dependent.

### *Identity in surveillance practice*

Identity is critical to contemporary surveillance practices. Whilst there are surveillance systems primarily concerned with behaviour rather than identification per se, even these systems (such as crowd monitoring CCTV systems) disaggregate individuals from collectives for technical purposes. The result is that:

Identity is so embedded in our daily interactions that people rarely give it much thought, but it is an essential social and economic process. Identification is part of nearly every meaningful encounter among people. It is part of every sophisticated commercial and legal transaction. It is part of most [*sic*] every contact between a government and its citizens.<sup>172</sup>

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<sup>171</sup> Raab, C. (2005) ‘Perspectives on Personal Identity’ *BT Technology Journal*. Vol.23. No.4. p.15.

<sup>172</sup> Harper, J. (2006) *Identity Crisis: How Identification is overused and misunderstood*. Washington: Cato Institute. p.11.

Politically, Stalder and Lyon position a concern with the stable identities of subjects as the central concern of the modern state.<sup>173</sup> Placing this model inside a governmental framework, Rose's 'securitization of identity' model describes a situation in which:

At the close of the twentieth century, subjects are locked into circuits of control through the manipulation of sites where the exercise of freedom requires proof of legitimate identity.<sup>174</sup>

Contemporary life has become impossible without a 'secured identity'. Demonstration of identity is required for the 'obligatory access points of active citizenship', to access consumption or to enjoy the 'benefits of liberty'. Access to social privileges requires an entry in the appropriate database and the presentation of the correct identity. Each subsequent access to social services, commercial products etc, adds another entry to the database. This will be visibly brought together in the UK with the planned introduction of the National Identity Register. Rose perceives these circuits and sites of identification as the inevitable cost of the exercise of liberal freedom, but notes that whilst the securitization of identity creates a secured space within certain limits (similar to the 'bounded freedom' in Joyce's account) is also generates multiple points of exclusion.<sup>175</sup>

However, this is not to say that identity and identification are solely contemporary issues. Attention has been paid to the development of technologies of identification, including the history of fingerprinting and its contested development and use in

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<sup>173</sup> Stalder & Lyon, 2003, p.1.

<sup>174</sup> Rose, 1999, p.240.

<sup>175</sup> Rose, 1999, pp.240-6.

criminal identification, and the history of the passport.<sup>176</sup> Various authors have explored the history of identification, situating this against a narrative of expanding paper-based bureaucracies, criminological theories, and social trends of modernity. Passports were initially a bill of safe travel for a small mobile minority, but industrialisation created a more mobile population which became divorced from locations in which they were known and recognised, and clustering in anonymous cities.<sup>177</sup> Both fingerprinting and the census originated as technologies of control of subject populations, before being brought back to the centres of imperial power.<sup>178</sup> Policing, the control of deviance, a threatening range of ‘suspect bodies’ and the problem of criminal recidivism provided drivers for identification.<sup>179</sup> The history of identification is a history of control through individuation, the attempt to create a people ‘legible’ to the emergent bureaucracies.<sup>180</sup>

Identification technologies were developed, not for society’s respectable Jekylls, but for its suspicious looking Hydes. Not just criminal suspects but also a wide range of people considered ‘suspect’ and alien for other reasons.<sup>181</sup>

Hacking associates identification practices, such as Bertillonage with the development of theories of statistical correlation.<sup>182</sup> However, technological development was not determined but highly contextual. Even technologies that are relatively unquestioned today had to construct their accuracy and purpose against a range of alternatives, and

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<sup>176</sup> Cole, S. (2001) *Suspect Identities: A History of Fingerprinting and Criminal Identification*. Cambridge, Mass & London: Harvard University Press; Torpey, J. (2000) *The Invention of the Passport: Surveillance, Citizenship and the State*. Cambridge: Cambridge University Press,

<sup>177</sup> Torpey, 2000, Chapter Three.

<sup>178</sup> Cole, 2001, pp.60-96; Hacking, 1990, p.17.

<sup>179</sup> Caplan & Torpey, 2001, p.9; Cole, 2001, p.3.

<sup>180</sup> Scott, J. (1998) *Seeing like a State: How certain schemes to Improve the Human Condition have Failed*. New Haven: Yale University Press, p.65.

<sup>181</sup> Cole, 2001, p.3.

<sup>182</sup> Hacking, 1990, p.187.

with appropriate discursive and political support. Fingerprinting overtook the seemingly more scientific anthropometrics due to its greater support from police forces and prison wardens.<sup>183</sup>

Early pioneers of identification did something extraordinary: they created a link between an individual body and a paper record held by the state. It was a link, moreover, that everyone believed in: judges, bureaucrats, scientists, and the general public alike.<sup>184</sup>

The history of pre-digital identification demonstrates its relationship to control, the political nature of the uptake of particular methods, and the way that particular discourses structured what social problems were amenable to solution through identification.

The practices of ‘identity management’ originating in online environments have started to emerge into the physical world.<sup>185</sup> The potential anonymity of virtual identities, coupled with a commercial desire to exchange goods and services, check bank accounts, and manage relationships has led to a number of mechanisms for the authentication and verification of identity:

The interactions of strangers across vast distances brought by credit card and cyberspace dealings also requires substitutions of the identification that came from face to face interaction with a known person.<sup>186</sup>

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<sup>183</sup> Cole, 2001, pp.140-167.

<sup>184</sup> Ibid p.4.

<sup>185</sup> O’Hara, K. & Stevens, D..(2006) *Inequality.com: Power, Poverty and the Digital Divide*. Oxford: Oneworld. p.28.

<sup>186</sup> Marx, 2001, p.323.

Lyon identifies individuation as basic to capitalist and bureaucratic practice, but suggests that it is highly amenable to incorporation within computer-based systems.<sup>187</sup> Dodge and Kitchen argue that we are now seeing the creation of a 'machine-readable world' in which methods of identification can be automatically read and acted on by software without any human control.<sup>188</sup> They situate identification codes as essential components of new forms of communication, transport and information management, that provide to business and government methods of authentication and accreditation that replace earlier forms of self-authentication and vouching.<sup>189</sup>

### *UK ID cards*

Since the Identity Cards Act 2006 the United Kingdom has an act of parliament legislating for identity cards, but has not yet started to issue cards. The government is currently procuring technology and starting to bring online the administrative components of the system. From the legislation and supporting announcements, the Labour government seems to be aiming for a highly complex ID card system, involving biometric technology and a centralised national identity register spread across three existing databases. At the system's core is the National Identity Register (NIR), of which identity cards are a physical manifestation. Surrounding the register are policies and legal statutes that ensconce the identity scheme within the wider framework of UK governance. The stated statutory purpose of the Act is to establish a 'secure and reliable record of registrable facts about individuals in the UK'.<sup>190</sup> This is

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<sup>187</sup> Lyon, 2007, p.68.

<sup>188</sup> Dodge, M. & Kitchin, R. (2005) 'Codes of Life: Identification codes and the Machine-readable World.' *Environment and Planning D: Society & Space*. Vol.23. pp.851-881.

<sup>189</sup> Ibid, pp.857-8.

<sup>190</sup> Great Britain. *The Identity Card Act 2006: Elizabeth II. Chapter 11*, London: The Stationery Office., p.1.

perceived as performing two functions. Firstly a ‘convenient method for such individuals to prove registrable facts about themselves to others who reasonably require proof’ and ‘a secure and reliable method for registrable facts about such individuals to be ascertained or verified wherever that is necessary in the public interest’.<sup>191</sup> ‘Registrable facts’ include identity, address of principal place of residence and other places of residence, previous residences, current and previous residential statuses (nationality, entitlement to remain in the UK), identification numbers, when information on the individual has been provided from the register and information recorded in the register at the individual’s request. The Act explicitly exempts this information from the definition of sensitive personal data in the Data Protection Act 1998. The Act’s definition of ‘identity’ refers to full name, other names by which an individual might previously have been known, gender, date and place of birth and ‘external characteristics of his that are capable of being used for identifying him.’<sup>192</sup>

The Act criminalises the possession of false identity documents, identity documents obtained improperly, or identity documents that pertain to somebody else, with the intent to use this documentation to establish ‘registrable facts’ about themselves or another. These offences carry a potential sentence of up to ten years’ imprisonment and the relevant ‘identity documents’ include ID cards, immigration documents, passports, and UK driving licenses. The Act also creates offences relating to the National Identity Register: unauthorised disclosure of information from the register (up to two years’ imprisonment), providing false information to the register (up to two years’) and tampering with the register (up to ten years’).

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<sup>191</sup> Ibid, p.1.

<sup>192</sup> Ibid, p.2.

The UK has previously had national identification systems during the First and Second World Wars, which were dismantled shortly after the second war, and have been the subject of detailed historical study.<sup>193</sup> The present act appears to introduce a major restructuring of the way identification functions politically, economically and socially in the UK. Identity becomes associated with a singular centralised authoritative documentary source. This provides a significant political example of the ways in which identity is a core part of existing and developing surveillance practices.

### *Identity in surveillance theory*

Identity plays a number of roles in surveillance theories. In traditional theories, up to and including the Orwellian model, identity is untheorised, unproblematic and generally the Cartesian subject. The liberal, Enlightenment subject is assumed to be prior to the social context, including surveillance. The individual is whole, but then oppressed by external social forces. The panoptic and disciplinary models of surveillance move to Foucauldian understanding of identity which includes the process of subjectification, soul training and normalisation. The individual is a product of processes which obscure the linguistically created nature of the Cartesian self.<sup>194</sup> In the surveillant assemblage identity becomes associated with ‘data doubles’, flows and abstractions. Identity is shifted from the individual to their representation in

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<sup>193</sup> Thompson, S. (2008) ‘Separating the sheep from the goats: The United Kingdom’s National Registration Programme and social sorting in the pre-electronic era’ in Bennett, C.J. & Lyon, D. (eds.) *Playing the Identity Card: Surveillance, Security, and Identification in Global Perspective*. London & New York: Routledge; Agar, J. (2001) ‘Modern Horrors: British Identity and Identity Cards’ in Caplan, J. and Torpey, J. (eds.) *Documenting Individual Identity*. Princeton & Oxford: Princeton University Press.

<sup>194</sup> Poster, M. (1996) ‘Databases as Discourse, or Electronic Interpellations’ in Lyon, D. & Zureik, E. (eds.) *Computers, Surveillance, Privacy*. Minneapolis: University of Minnesota Press. p.177.

multiple databases. In Deleuzian societies of control, identity becomes codes and signatures, much like on the internet.<sup>195</sup>

Identity exists in complicated relationship with privacy. Joyce argues that the liberal concept of the individual is historical rather than universal, and co-synchronous with political concepts of privacy.<sup>196</sup> Notions of privacy are dependent upon a fully constituted individual with a reflexive sense of self.

Identity is contested. Identity is not an objective characteristic. This is obvious from contemporary theories of identity; however it also emerges in practices when much surveillance activity is dedicated towards determining the identity of some unknown object. In these identification processes, identity is actively constructed. Marx sets out the historical origins of this process when he argues;

The nineteenth century ways of classifying individuals that Foucault associated with the development of institutions have continued to expand. The validity of these abstractly constructed, indirect, profiled indicators is in general lower than with the simple determination of legal name and biological identity.<sup>197</sup>

A number of theorists have explored the way in which surveillance phenomena involve the creation of new identities (or classifications) that represent the individual to which they are attached. These ‘data images’, ‘data doubles’,

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<sup>195</sup> Deleuze, 2002. p.320.

<sup>196</sup> Joyce, 2003, pp.66-7.

<sup>197</sup> Marx, G.T. (1991) Identity and Anonymity: Some Conceptual Distinctions and Issues for Research. Caplan, J and J.Torpey. (eds.) p.323.



‘digital personae’ or ‘additional selves’ are created through surveillance

processes.<sup>198</sup> This is an:

Electronic profile compiled from personal data fragments of an individual person and it takes on increasing social significance as assessment and judgements are made in various contexts based upon it...the data double becomes part of the make up of the individual, a component of his or her identification even though the data subject may question its accuracy.<sup>199</sup>

Clarke introduced ‘Digital personae’ to demonstrate the way in which networked computing creates or enables a ‘model of the individual’.<sup>200</sup> Clarke noted the way in which these models can be potentially dangerous to the individual. They are a product of monitoring and potentially a tool of control. Data doubles have a much greater mobility than their physical counterpart, easily reproduced and transmitted. They are constantly updated due to the information flowing from the individual.<sup>201</sup> They are a creation of information. The data double can experience a life of its own, becoming ‘more real’ than the individual upon which it is based as it is used to inform decision-making. Given individuals distanced from the institutions with which they interact, and otherwise anonymous except for the data double, the data double *is* the individual’s identity for the purposes of that organisation. Los identifies similarities between the data double and the ‘file’ of totalitarian societies, assumed to exist but never actually encountered.<sup>202</sup>

People’s life chances and prospects are affected at least as much by the ways in which they are identified as by their identities.<sup>203</sup>

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<sup>198</sup> Lyon, 1994, p.19; Haggerty & Ericson, 2000, p.606; Clarke, R. (1994) ‘The Digital Persona and its application to data surveillance’ *The Information Society*, 10 (2): 77-92; Poster, 1996, p.175.

<sup>199</sup> Lyon, 2007, p.200.

<sup>200</sup> Clarke, 1994, p.78.

<sup>201</sup> Lyon, 2007, p.114.

<sup>202</sup> Los, 2006, p.74.

<sup>203</sup> Jenkins, 2000, quoted in Lyon, 2007, p.91.

The nature of this ascribed, externally imposed identity, which is more an image than a representation of the individual's identity, has the potential to effect very real influence on the individual's life chances and opportunities. If examples are taken from consumer profiling, decisions may be harmful if they are made on an inaccurate profile, *or* if they are made on an accurate profile.

### *Identity in governance*

These external, imposed identities cannot unproblematically be compared with a 'real' identity. Attempting this comparison would ignore the way that identities are relationally and socially constructed. Attempting to demonstrate that these new forms of identity are somehow unwarranted impositions on top of a 'realist' authentic, unconstructed, unproblematic conception of identity, does offer the temptation of seeming to provide a strong foundation for a critique of the new forms of identity. However, it is misleading in that it occludes the historically situated and contextual nature of liberal democratic identity – the Cartesian self of the Enlightenment. Any changes occurring must be contextualised as a part of a continuum of changes in both the construction of identity and the formation of specific subject positions. The new type of individual created by the surveillant assemblage is not contrasted to a prior existing, unitary, Cartesian individual, but instead must be compared to types of individual, with specific types of identity, created by actions of de-territorialisation and re-territorialisation through other forms of assemblages. The surveillance subject may also have their own perception of their identity.

As surveillance categories make people up to fit them, so these thus identified may also assert what they claim are their identities, those ways of thinking about themselves that make sense to them.<sup>204</sup>

This is the defining difference between the post-structuralist model of subjectification and the ascription or attribution of identity. In subjectification, the subject is successfully interpellated as that subjectivity. With ascription, the subject may attempt to resist the externally imposed identity, may not acknowledge it, or may not even be aware that it has been applied to them. This is frequently the case for categorisation where we only experience the effects of the ascription indirectly, if we are able to separate the categorisation signals from social background noise. Lyon suggests the social sorting model tends to focus on the way individuals are ‘made up’ by outside, external forces, rather than on the Foucauldian model of ‘becoming a subject’ or self.<sup>205</sup>

Subjectification refers to the multifarious process and practices, through which human beings come to relate to themselves as persons of a certain sort.<sup>206</sup>

Rose adds that subjectification is simultaneously individualising and collectivising. Identities, as subjectivities, are therefore always collective and relational.<sup>207</sup> However, his model of the securitisation of identity involves identity as the ‘password’ for entry to a number of sites and services, and fundamentally, to active citizenship in the liberal model. This draws on the model presented by Deleuze. Through this securitisation, identity is individuated – rendered applicable only to a specific

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<sup>204</sup> Lyon, 2007, p.74.

<sup>205</sup> Ibid, p.91.

<sup>206</sup> du Gay, P. (2007) *Organising Identity*. London, Thousand Oaks, New Delhi: Sage. p.28.

<sup>207</sup> Rose, 1999, p.46.

individual, separate from the social mass, but also rendered permeable to forms of modulation and control.

The focus in the governmentality literature and in wider field of surveillance studies on identity as subjectivity means that there is an element missing from the conception of identity. The content of the identity is up for discussion; much of the literature addresses ways subjectivities are created through discourses and interpellation, and the ways individuals come to recognise themselves as a subjectivity. Little attention is paid to the way that identity itself is articulated – to the *form* as opposed to the *content*. The governmental accounts operate with their ontological understanding of identity as subjectivity. This ignores the fact that there is a world external to theory conceiving of identity in very different ways. This may be the historical view of identity as an unproblematic (and untheorised) category, or as is argued in this thesis, forms of identity which prioritise surveillance permeability. The form of identity has political effects above and beyond the effects of differing subjectivity. Models such as the data double, digital personae and Poster's superpanopticon point in this direction.<sup>208</sup> These networks of practices and technologies, including technologies such as identity cards, do not simply offer alternate subjectivities or subject positions; they actively attempt to rearticulate the meaning of identity itself. These political effects will be explored at the conclusion of this chapter. For now, it is worth examining the elements of surveillance research that focus upon traditional models of identity politics.

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<sup>208</sup> Poster, 1999. p.277.

### *Identity politics*

Modern identity politics (a broad narrative stretching over more than forty years) revolves around demands for the recognition of group identities as opposed to universal recognition based on shared humanity. *Identity* in contemporary political theory often refers to these group identities. As seen in the section on resistance to surveillance, there are analyses of surveillance that draw upon identity politics. These accounts were challenged on the problematic nature of collective surveillance identities, and the need to develop an alternative identity politics based on self-determination.<sup>209</sup> Examples of identity politics in reference to surveillance include: Gillom's use of identities/subjectivities to look at different forms of resistance to surveillance based upon pre-existing identities, in his case women on restrictive welfare programmes.<sup>210</sup> Research into CCTV has shown that it predominantly selects targets on the basis of external appearance and there is therefore a political dimension to the identities under surveillance.<sup>211</sup>

The use of the concept of identity in social science is attacked by du Gay. He suggests that it has been stretched into too many areas, 'expanding its empire and losing its explanatory power'.<sup>212</sup> However, he accepts that there is still room for practical studies which invoke identity as a descriptive rather than theoretical term. du Gay's critique is addressed at the type of social constructionist account which takes 'this particular identity is socially constructed' as an end point, and a position of critique. If

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<sup>209</sup> Ogura, 2007, p.293.

<sup>210</sup> Gillon, J. (2006) 'Struggling with Surveillance: Resistance, Consciousness, Identity' in K.Haggerty and R.Ericson (eds.) *The New Politics of Surveillance and Visibility*. Toronto & London: University of Toronto Press.

<sup>211</sup> Norris and Armstrong, 1999. p.117.

<sup>212</sup> Du Gay, P. (2007), p.2.

all identities are considered as socially constructed, then how can it be a critical position to reveal the socially constructed nature of a particular identity? However, if the socially constructed nature of identity is taken as the starting point for a practical and empirical analysis of the ways in which particular identities are created, or privileged over and above others, and the effects of this political move, then du Gay's critique holds substantially less weight.

## Discourse and surveillance

This section positions discursive approaches as an important contribution to surveillance research and demonstrates their further potential.

Marx uses a ‘true fiction’ account to outline what he sees as the dominant contemporary ‘security-control ideology’ (or discourse).<sup>213</sup> Marx adopts a model of ideology critique derived from Mannheim which defines ideology as a *weltanschauung* in service of the interests of the more powerful.<sup>214</sup> This is based upon the highly problematic notion of the ability of a ‘free floating intellectual’ to ‘scientifically unmask’ (and thereby see beyond) ideology. Whilst this account has distinct methodological problems, it does provide a potential ideal type against which to compare actually existing discourses and the paper itself argues for the importance of examining surveillance in society through its ‘cultural aspects’. Marx however draws a strong distinction between cultural and non-cultural elements as he sees cultural elements as ‘supportive of contemporary surveillance technologies as social control’ rather than playing any role in their constitution.<sup>215</sup> This is a familiar trend in surveillance research when significant attention has been paid to cultural depictions of surveillance, either as inspiration for theoretical models with which to understand or model surveillance or to argue for the role of cultural models of surveillance (for example, Endemol’s *Big Brother* franchise and the BBC’s *CrimeWatch*) in the legitimisation of real-life surveillance practices.<sup>216</sup> The list of relevant cultural

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<sup>213</sup> Marx, G.T. (2006) *Rocky Bottoms and some Information Age Techno-fallacies*. <http://web.mit.edu/www/rockybottoms.html> p.17.

<sup>214</sup> Eagleton, T. (1991) *Ideology: An Introduction*. London & New York: Verso. p.109.

<sup>215</sup> Ibid, p.1.

<sup>216</sup> Levin, T. (2000) ‘Rhetoric of the Temporal Index: Surveillant narration and the cinema of ‘real time’ in T. Levin *et al.* pp.578-593. See also McGrath, 2003. Chapter 2.

products is substantial and growing. Obviously *Nineteen Eighty-Four* in both print and film, Kafka's *The Trial* and *The Castle*, Yevgeny Zamyatin's *We*, *Minority Report* (2002), *Gattaca* (1997), *Enemy of the State* (1998), *The Conversation* (1974), *Rear Window* (1954), *Sliver* (1993), *Hidden* (*Caché* - 2005), *Freeze Frame* (2004), to name but a few. However, the focus of such research is often artistic and cultural production as either representation or critique/support of surveillance.<sup>217</sup> Marks argues that such recent surveillance films show a:

Variety of complex and nuanced accounts that range over entertainment, genetic scrutiny, new forms of access and exclusion and the use of social sorting to create social and cultural hierarchies.<sup>218</sup>

Although such cultural products are undoubtedly political (or at the very least capable of being politicised) there is a need for research that investigates the discourses active in the explicitly political realm, and whilst it is clear that 'cultural products' can have political effects, it is also clear that so too does political language.

Poster uses post-structural linguistic theory to construct databases containing personal information as discourses.<sup>219</sup> Discourses are generally seen as producing subjectivities, yet the 'superpanoptic' databases produce 'objectified' rather than 'subjectified' individuals with dispersed data identities of which they might not even be aware. Poster also argues for the presence of discourse in previous surveillance theories.

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<sup>217</sup> Albrechtslund, A & Dubbeld, L. (2005) 'The Plays and Arts of Surveillance: Studying Surveillance as Entertainment.' *Surveillance and Society* 3 (2/3): 216-221.

<sup>218</sup> Marks, P. (2005), quoted in Lyon, 2007, p.151.

<sup>219</sup> Poster, 1999, p.277.



Properly understood, the panopticon is not simply the guard in the tower, but the entire discourse/practice that bears down on the prisoner, one that constitutes him/her as a criminal. The Panopticon is the way the discourse/practice of the prison works to constitute the subject as a criminal and to normalise him/her to a process of transformation/rehabilitation.<sup>220</sup>

Muller uses a discursive approach to analyse implementation manuals for biometric technology, concluding that these manuals (co-)construct the space of the database as the space of biometric technology, and reduce identity to a 'technological identifier'.<sup>221</sup> Whilst his research largely relies upon a relatively under-theorised version of critical discourse and frame analysis and draws from a relatively narrow population of texts, it demonstrates the utility of an explicit focus on discourse.

Bowker and Star expand the realm of discourse to include information technology programming. Software programmes are linguistic – albeit non-traditional language. Information technology freezes values and opinions at the time of its creation. Software codes and protocols can be understood as 'frozen organisational and policy discourse'.<sup>222</sup> Authorial software decisions are underdetermined by technical concerns. They include political and social issues even if these are unarticulated or un contemplated. This is another aspect of the de-neutralisation of technology. Unfortunately for social scientists, it is difficult to determine the social and political effects from code itself if unfamiliar with the programming language. If code is frozen policy discourse, then it is highly likely that these discourses are articulated in similar ways through alternate media and texts more accessible to the non-computer scientist.

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<sup>220</sup> Poster, 1999, p.277.

<sup>221</sup> Muller, B. (2005) 'Borders, bodies and biometrics: towards identity management' in E.Zureik & M.Salter (eds.) pp.83-94.

<sup>222</sup> Bowker, G. & Star, S.L. (1999) *Sorting Things Out: Classification and Consequences*. Cambridge, MA: MIT p.135.

The final comment on discourse in surveillance research is the identification of an absence, where one might expect to find the concept of discourse in use. Haggerty and Ericson do not include a discursive dimension in *The Surveillance Assemblage*, despite the presence of such a linguistic dimension in the work of Deleuze and Guattari, upon whom Haggerty and Ericson draw. They discuss the drives to bring together technologies, systems and practices, but do not, however, deal with the discursive dimension of assemblages.<sup>223</sup> Although Deleuze and Guattari freely encourage a selective toolbox approach to appropriating the concepts they prolifically create, they have provided a highly useful concept in the *collective assemblage of enunciation*. In *A Thousand Plateaus*, Deleuze and Guattari discuss the concept of assemblages that involve both a machinic (what Haggerty and Ericson would term systems, practices and technologies) and an enunciative component of ‘acts and statements, of incorporeal transformation attributed to bodies.’<sup>224</sup> Deleuze and Guattari give the example of the feudal assemblage. The machinic element composes the bodies of the overlord, the vassal, the serf, the horse and the relation to the stirrup, weapons and soil. The enunciative element includes the statements, expressions, the juridical regime of heraldry, and oaths of obedience or love. The two elements of assemblages are both equally necessary, and interweave and interpenetrate each other.

Assemblages are also systems of signs, semiotic systems. That is assemblage elements include discourses, words, ‘meanings’ and non-corporal relations that link signifiers with effects.<sup>225</sup>

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<sup>223</sup> Haggerty & Ericson, 2000, p.610.

<sup>224</sup> Deleuze, G & Guattari, F. (2004) *A Thousand Plateaus: Capitalism and Schizophrenia*. London & New York, Continuum. p.98.

<sup>225</sup> Macgregor, J. (2005) ‘Assemblage’ in C.J. Stivale, *Gilles Deleuze: Key Concepts*. Chesham: Acumen. p.80.

This absence may be due to drawing upon Patton's limited account of enunciative assemblages.<sup>226</sup> Given the existence of a linguistic element, inextricably linked to the theory of assemblages in the work of Deleuze and Guattari, it is the argument here that this discursive element should be (re)introduced into the model of the surveillant assemblage, prompting an attention towards the discursive elements that construct and constitute the assemblage. This introduction will serve to drive forward a discursive analysis of the politics of identity and surveillance.

### *Discourse in governmentality*

Because of its Foucauldian origins, the governmentality approach utilises discourse analysis to underpin its theoretical work. Governmentality as a logic and rationality is understood as permeating through discourses otherwise unassociated with the state or government as traditionally understood within political science. Discourse analysis plays an important role in understanding the way problems of government are constructed, articulated within the assemblage of governmental agencies and actors, and result in hegemonic understandings of problems leading to the selection of appropriate strategies and tactics.

Ericson and Haggerty explore risk discourse; this promotes the interpretation of problems as errors or discrepancies in what exists, presents knowledge as the possession of experts, cultivates insecurities and focuses on scapegoats. It focuses on danger and the perpetual doubt that danger is being counteracted.<sup>227</sup> Rationalities of

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<sup>226</sup> Patton, P. (1994) 'MetamorphoLogic: bodies and powers in A Thousand Plateaus' *Journal of the British Society for Phenomenology* 25(2): 157-69.

<sup>227</sup> Ericson & Haggerty, 1997, p.86.

risk discourse promote the management of the irrational by rational means. This model is situated within a framework of biopower and governmentality.

Haggerty has criticised governmentality for focusing purely on discourse and missing more ‘realist’ elements of a politics of surveillance.<sup>228</sup> Whilst suggesting that discursive approaches are unproblematic *within* the governmentality framework, and supported by the theoretical orientation, the focus on discourse may be problematic from *outside* the approach, and that it may be important to consider the wider politics of surveillance and produce an approach with a sufficiently wide understanding of discourse; that is not, for example, reducible to linguistics, but that also has a sufficiently grounded empirical dimension. It is hoped that such an approach will be outlined in the following chapter of this thesis.

### *Conclusion*

This section has provided an overview of the linguistic, cultural and discursive trends in surveillance research, demonstrating that whilst discourse analysis has seen some use, it has been restricted to either highly theoretical positions which do not engage with actually existing discursive content as in Poster’s understanding of databases as discourse, or tends to focus on cultural products rather than the analysis of governmental tactics and strategies created and expounded through discourse. It is suggested that a productive approach to surveillance research involves the examination of the discourses of governance through surveillance and (re)introducing the assemblage of enunciation to the surveillant assemblage.

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<sup>228</sup> Haggerty, 2006, in D. Lyon (ed.).

## Implications and considerations

The section unites themes running through this chapter, taking forward the issues and conflicts in surveillance research, incorporating the perspective of analytics of government, the centrality of identity and the role of discourse in order to present considerations affecting the research design of this thesis. This section culminates in an argument for the political importance of the research project demonstrating the importance of identity in discourses of surveillance.

The combined insights of Deleuze's societies of control with their continuous modulation and the replacement of disciplinary logics, the surveillant assemblage's heterogeneous surveillance actors, and the governance perspective on the multifarious range of governance strategies, tactics and actors show that surveillance is not limited to specific sites, and that it can be examined in multiple locations as it permeates all aspects of social and political life. This suggests the study of rationalities of surveillance in a number of differing sites, rather than at the limited level of a single type of site. An appropriate level of scepticism towards macro-sociological accounts suggests that we should focus on specific locations, strategies and practices rather than at the level of the social as a totality. This supports Ransom's suggestion to 'study processes of rationalisation in a number of fields not just at the level of society'.<sup>229</sup> This contrasts governmentality with the approach of the Frankfurt school – for example Marcuse's concept of the 'Logos'.<sup>230</sup>

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<sup>229</sup> Ransom, 1997, p.73.

<sup>230</sup> Marcuse, H. (2002) *One Dimensional Man: Studies in the Ideology of Advanced Industrial Society*. London & New York: Routledge, p.152.

The wide range of surveillance research suggests that potential fields can be found in the workplace, in the private sector realms of consumption and financial services, in the police, military and security apparatuses, in government traditionally understood as well as in the wider institutions of 'governance', in social services, in the media, in science and technology where surveillance systems are produced, and amongst the activities of groups resisting surveillance practices. The key message of the analytics of government is that we should look beyond the traditional model of the state to a broader range of surveillance actors and identity stakeholders.

From surveillance theory and research we can draw a number of concepts and ideas that will allow the appropriate attention to the context of the research. Attention should be paid to occurrences of panopticism, surveillant assemblages, social sorting techniques, identification protocols, chilling effects, drives for classification, categorical suspicion, statistical and inferential logics, conceptualisations of risk and security, data doubles, dataveillance, representation, the role of technology as an enabler and an influence in a non-deterministic manner, and a panoply of other theories of surveillance. There is a rich, developing field of surveillance studies, and in analysing the role of identity in discourses of surveillance it would be foolish to neglect this resource.

Discourse is important. Governmentality is understood as operating through discourse, and particular subjectivities are constructed through discourse. Discourse is central to issues of identity. This directs research in the direction of a methodology incorporating a form of discursive analysis compatible with the core assumptions of

governmentality, providing sufficient analytical leverage and paying attention to the creation of subjectivities and subject position.

Research should have a proper concern for the empirical. The analytics of government has a strong theoretical underpinning, but also a strong concern for the empirical nature of the subject of study. Research into surveillance should avoid the temptation to conduct *a priori* theorisation about the perspectives of surveillance actors or surveillance subjects. Instead, attention should be paid *to the way identities and types of identity are actually constructed through the medium of discourse*. Empirical manifestations of discourse should be examined and analysed in order to provide evidence for theoretical claims. The governmental attention to the ways in which discourses construct problems of governance, subjectivities, lines of exclusion and inclusion and strategies of power in their own terms is apposite here.

Governmentality provides a framework for understanding surveillance from a political perspective. It also highlights the importance of the concept of identity, as well as the articulation of concepts through discourse. This points the way towards a number of research questions derived from the existing field of surveillance research, and prompted by the political problem of the contestation of identity, the problems for governance caused by the proliferation of identities and the effects of surveillance practices and discourses on the construction of identity. These research questions are detailed below. Chapter Three sets out the methodological approach towards answering these questions.

## **Research problem – identity in discourses of surveillance**

The rationale for this topic situates the analysis of identity in discourses of surveillance against the background of governmentality and surveillant responses to a number of dislocatory political trends pertinent to late-modernity. This suggests that political (rather than purely theoretical) contestation over the nature of identity plays an important role in governmentality and that this has implications for a wide range of political projects.

Foucault's concept of *governmentality*, an explicit fusion of government and rationality, refers to the macro-rationality of responses to the problems of government (broadly conceived) that are phrased through discourses that serve to make these responses appear as formally non-political responses to shared problems rather than particularistic agendas.<sup>231</sup> The political rationalities conceptualise and justify political goals, set the limits of acceptable political actions and create institutions. They are not cynical calculations of social control but instead contain a 'utopian element'. Governmentality is closely linked to Foucault's concepts of discourse, biopower, and power/knowledge, and refers to the management of populations.<sup>232</sup>

The problems of government relevant to this thesis are broadly conceived, multi-faceted, and interlinked. There are broad themes, distinct events or series of events, and long term phenomena. Government is an over-determined problem. They can be thought of as the dislocatory forces of contemporary heterogeneous societies as they demonstrate the contingent nature of elements of these societies. Dislocation is a

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<sup>231</sup> Brown, 2006, p.80.

<sup>232</sup> Ransom, 1997, p.61.



concept taken from the discourse theory work of Laclau and Mouffe. It is any force which disrupts the appearance of objectivity and renders visible the contingency of the social. 'Society' is understood in a broad sense that includes, but is not reducible to, the standard political realm, economics, culture, social relations, norms and identities. From the perspective of discourse theory, society is not an objective set of relations. Society does not exist in a realist sense; instead it is an active construction.<sup>233</sup> Despite appearances, no given arrangement of society is objective or essential. Although there are certain features, remarkably resilient and resistant to change, that we might take to be structural, these relations could be otherwise. They are contingent constructions.

The dislocation here is twofold; firstly, it encompasses the breakdown of 'all-encompassing' identity schemes, whilst at the same time:

The Modern era brought an increase in the multiplicity of identity schemes so substantial that it amounted to a qualitative break, albeit one unevenly distributed in time and space. In the modern era, identity is always constructed and situated in a field and amid a flow of contending cultural discourses.<sup>234</sup>

These problems of government are as follows.

- 1) The continuation of what Mouffe, drawing upon Lefort, calls the 'democratic revolution' – the establishment of power as an 'empty place' (unoccupied by a sovereign) and where social structures are exposed to radical

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<sup>233</sup> Laclau, E. & Mouffe, C. (2001) *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. Second Edition*. London & New York: Verso. p.98.

<sup>234</sup> Calhoun, C. (1994) 'Social Theory and the Politics of Identity' in Calhoun, C. (ed) *Social Theory and the Politics of Identity* p.13.

indetermination.<sup>235</sup> The result is a society that it is impossible to universalise.

This is the move from a sovereign or theocracy to a political system with a greater degree of plurality.

- 2) Postmodernity –broadly conceived politically as the destabilisation of established political identities and a development of modernity in culture, theory and technology. This could also be termed *late modernity* or *late capitalism*, but rather than drawing upon a particular theorist of postmodernity, this is used as a shorthand for broader cultural and social factors.
- 3) The processes of globalisation as the mass movement of people and the interaction of cultures. According to Bhabha, this gives rise to new hybrid identities at the intersections of different cultures. Hybridity displaces familiar narratives and creates new political structures.<sup>236</sup> Hybrid identities problematise what were previously thought of as objective social categories. The presence of well-established groups of migrant descent in the UK challenges what it means to be British, and by doing so reveals the contingency of that form of identity previously associated with white skin and a nominal Christianity. Demands for increased (and especially equal) rights for immigrants make claims that the nation state cannot fully accede to without changing its fundamental nature. An increasingly diverse Britain experiences the effects of globalisation with a concurrent fragility of Britishness. The ESRC's *Briton's changing identities* stated 'traditional

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<sup>235</sup> Mouffe, C. (1988) 'Radical democracy: modern or post-modern?' in Mastnak, T. & Riha, R. (eds.) *The Subject in Democracy*. Ljubljana: Institut za maksisticne studije, p.10.

<sup>236</sup> Bhabha, H. (1994) 'How Newness enters the World: Postmodern Space, Postcolonial Times, and the Trials of Cultural Translation' in *The Location of Culture*, London. p.313.

groups have been eroded by a greater degree of 'individualisation' and the need to compile our own narratives of identity.'<sup>237</sup>

- 4) The processes of globalisation, seen as the purported weakening of the nation state in the face of pressures both from above (supranational organisations such as the EU) and below (political devolution or 'localisation') leading to a problematisation of identities based upon national narratives, traditional political identities premised on sovereignty and national political communities, making nationalist discourses less persuasive and more escapable.<sup>238</sup> However, the state is not homogeneous and this weakening affects elements differentially.
- 5) The rise of identity politics and new social movements. Fukuyama argues that identity politics arises from a lacuna in liberal political theory regarding the salience of groups.<sup>239</sup> Modern identity politics revolves around demands for the recognition of group as opposed to universal identities. Fukuyama ignores the role played by the nation state as collective. Identity politics should therefore be understood as the demand for non-state group identities. This contrasts identity politics against nationalism or national self-determination and associates identity politics with the decline of universal ideologies.
- 6) Networked and decentred labour process and social formations. This includes the influence of information technology in speeding up political, social and economic phenomena and the establishment of virtual worlds in online social networks or role-playing games. These problematise bounded physical identities and allow for the re-creation of selves, closer links across national

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<sup>237</sup> Bunting, M. (2007) 'Britain's changing identities' in Britain Today 2007. Swindon, Economic and Social Research Council. pp.47-49.

<sup>238</sup> Poole, R. (2003) 'National Identity and Citizenship' in M. Alcoff and L. Mendieta (eds.) *Identities: Race, Class, Gender and Nationality*. Oxford: Blackwell Publishing.

<sup>239</sup> Fukuyama, F. (2007) 'Identity and Migration.' *Prospect*, 131, February 2007. London. pp.26-31.

boundaries and virtual alter egos. Networked and decentred technology also makes new levels of surveillance technically feasible.

- 7) Threats to the state by non-state actors. Whether terrorists or the global justice movement, they challenge the traditional state monopoly on the use of violence within a territory and create traditional challenges to security. Whilst these movements may not be examples of identity politics in the sense we are most familiar with (for example feminism or gay pride), identity (for example as Muslims) is used as a mobilising factor.

What unites these phenomena is the *proliferation of the contingency of identity* and forms of identities. This thesis argues this is a threat to governance and maps responses to this problem of government.

How does the proliferation of identities produce a problem for government and a governmental response? Government is the technique of managing large and potentially unruly populations and ‘harnessing and organising energies that might otherwise be anarchic, self destructive or simply unproductive.’<sup>240</sup> This process relies on knowledge of the state (literally *statistics* and the contemporary equivalent, knowledge produced through mass dataveillance) to determine the effectiveness of these measures. Foucault’s understanding of modern political rationality is increasing the happiness of citizens in ways that also enhance the competitive power of the state. Power for Foucault is not simply oppressive, but it also serves a generative function in the production of identities. According to Simons, this means that political power is

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<sup>240</sup> Brown, 2006, p.81.

the constitution of subjects and also their regulation.<sup>241</sup> Governmentality is therefore a combination of individualising and totalising poles; pastoral power is individualising, whilst *raison d'état* and statistics are totalising.<sup>242</sup> Ransom mirrors Foucault's cautions against focusing on general processes of 'rationalisation' and instead suggests focusing on the particular process in a number of fields – for example, surveillance.<sup>243</sup> In order for a threat to exist, power cannot be conceived of as total. Foucault is often portrayed as allowing no room for resistance to power in the disciplinary model. However, Ransom suggests that we should not read Foucault as a successor to the 'rationally administered society' model of the Frankfurt School, but instead see how he shows that power is fragile, and that a number of techniques and processes must be actively undertaken in order to maintain power.<sup>244</sup>

The proliferation of identities is a threat to this logic of power on both of these axes. Firstly, proliferation is a threat to the specific constitution of subjects required by the state. New subject positions are made available whilst the contingency of established modes of identity are revealed or brought into question. These subjectivities are politically different. Some are actively hostile and rebellious, ranging from terrorists to anti-capitalists, or potentially so, and some simply 'unproductive', such as the homeless or urban poor.

Secondly it is a threat to *statistics* – the regulation and inclusion of subjectivities. Knowing the population is a prerequisite of governmentality. Filtered through the human sciences, it is necessary in order to determine the most efficient ways to

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<sup>241</sup> Ibid, p.40.

<sup>242</sup> Ransom, 1997, p.73.

<sup>243</sup> Ibid, p.73.

<sup>244</sup> Ibid, p.61.

manipulate relevant variables. Some of these new forms of subjectivity are nomadic, or explicitly anti-territorial. Many of these identities are complex, fitting uneasily into established categories. Statistics is therefore forced to attempt to hit a moving target. Knowledge of the population is made more difficult by the heterogeneity of late modern society.

With regard to both of these forms of threat, a potential objection arises from Žižek's work in *The Ticklish Subject*. Whilst acknowledging that contemporary societies experience a proliferation of identities, in his critique of the transformative potential of identity politics, Žižek claims that the proliferation of subjectivities and identities characteristic of late modernity is in no way a threat to capitalism (and by extension, governmental power).

This struggle for the politicisation and assertion of multiple ethnic, sexual and other identities always took place against the background of an invisible yet all the more forbidding barrier: the global capitalist system was able to incorporate the gains of the post-modern politics of identities to the extent that they did not disturb the smooth circulation of capital – the moment some political intervention poses a serious threat to that, an elaborate set of exclusionary measures quashes it.<sup>245</sup>

Žižek cannot be denying the *potential* dislocatory threat of these multiple identities. The final sentence of the quote talks about the re-cooperative mechanisms for dealing with threats. These cannot be thought of as automatic. Capitalism and government cannot simply get what capitalism wants (there is no mechanism for distinguishing the functional from the dysfunctional). Power is, at least in principle, fragile. As such,

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<sup>245</sup> Žižek, S. (2000) *The Ticklish Subject: The absent centre of political ontology*. London & New York: Verso. pp.216-217.

these ‘measures’ must be thought of as contingent and political. As such, a study of threats/responses is highly appropriate.

The proliferation of identities is a threat to governance. It would be expected therefore that the rationalities of governmentality demand a response to that threat. Following the analytics of governance, one of the most important dimensions of governance is the way in which problems (including threats to governance itself) are actively constructed through discursive methods. The purpose of this thesis is therefore to map one dimension of that response – the articulation of identity in discourses of surveillance. Surveillance is part of modernity and we should see contingency (as uncertainty) and a surveillant response as enmeshed in co-synchronous development. This double model can be further expanded. Both surveillance and individual identity are features of modernity. Laclau argues that modernity is a particularly ‘dislocated’ historical period.<sup>246</sup> Surveillance practices are not the only response, as there is no single all-encompassing rationality but multiple points of application and multiple rationalities. The aim is to trace the rationalities of surveillance. Laclau’s work on the idea of the universal is appropriate here.

The impossibility of a universal ground does not eliminate its need: it just transforms the ground into an empty place which can be partially filled in a number of ways. The strategy of this filling is what politics is about.<sup>247</sup>

This thesis therefore contributes to the analysis of one of the strategies of filling of the empty ground of identity caused by postmodernity and the other factors outlined earlier. Preston’s recent article draws attention to the emergence of an elite sponsored

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<sup>246</sup> Laclau, E. (1990) *New Reflections on the Revolutions of Our Time*. London: Verso.p.39.

<sup>247</sup> Laclau, E. (2007) ‘Subject of Politics, Politics of the Subject’ in *Emancipation(s)*. London & New York: Verso, p.59.

master status in attempts to encourage a sense of national identity in the UK (citizenship tests for immigrants, and valorisation in political discourse).<sup>248</sup> In the face of growing awareness of multiple, non-essentialist identities, he questions why there has been an ‘unexpected, intellectually impoverished and seemingly atavistic reassertion of the enduring value of ‘Britishness’ among sections of the United Kingdom elite.’<sup>249</sup> This ‘elite master status’ is a deliberate attempt to construct a cultural identity. It can be seen as another response to the dislocatory forces of modern society.

Governmentality operates through discourses; it ‘employs and infiltrates a number of discourses ordinarily conceived as unrelated to political power, governance or the state.’<sup>250</sup> Laclau and Mouffe’s discourse theory provides a framework for analysing both of these roles of identity, firstly in terms of subject positions and discourses and secondly in terms of floating signifiers, antagonism, and hegemony. The Laclauian conception of discourse is broad; including practices makes this statement about the operation of governmentality through discourse even more accurate. The state is understood as including ‘para-statist’ and ‘para-legal’ elements in line with the concept of ‘state-thought’ in the work of Giles Deleuze.<sup>251</sup>

How is the state, in an intentional but non-subjective way, attempting to counter the threat of the proliferation of identities? It is possible to identify four potential responses to this threat. These are not mutually exclusive categories and may overlap. These responses may include:

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<sup>248</sup> Preston, P. (2007) ‘Freedom from Britain’: a comment on recent elite-sponsored political cultural identities’. *British Journal of Politics and International Relations* Vol 9. No.1: 158-164.

<sup>249</sup> Ibid, p.158.

<sup>250</sup> Brown, 2006, p.81.

<sup>251</sup> Deleuze & Guattari, 2004, pp.387-467.



1. Limiting the range of potential subject positions available
2. Prioritising a particular subject position (or a small number of them) over other forms of identity
3. Constituting a state-sanctioned identity<sup>252</sup>
4. Reducing the impact of non-state identities.

The articulation of identity becomes prevalent in the discourses that are attempting to create or destroy (in line with the above responses) particular subjectivities. Harper identifies this explicit focus on identity and identification as a novel factor.<sup>253</sup>

‘Identity’ therefore plays a double role in the politics of surveillance discourses:

- 1) Ontological identity, seen as subjectivities or subject positions. From a post-structuralist perspective seen as empty of ‘content’ and without an essential foundation. These subject positions are the product of discourses. Subjectivities are generally the focus of the broader governmentality and critical security studies literature.
- 2) Identity as a floating signifier that is articulated in these discourses in particular ways and therefore a critical point of contestation. In some discourses of surveillance, identity is more floating than in others. In some it has a hegemonic articulation whilst in others it is an active element of discursive contestation and struggle. This is significant from a political

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<sup>252</sup> Constituting a state-sanctioned identity can range from nationalist political projects to more administrative and technical mechanisms. The debate over ‘Britishness’ that occurs in a similar timeframe to the spread of surveillance phenomena is an example of a different type of response mechanism to these dislocatory forces.

<sup>253</sup> Harper, 2006, p.2.

perspective. From an alternate perspective, one could consider identity as a contested linguistic term, or a contested morphological cluster in terms of Freeden's conceptual morphology.<sup>254</sup>

This second role is not particularly theorised in terms of governmentality, where identity *as concept* is often not explicitly articulated in discourses which produce particular identities in the form of subjectivities. The second role of identity is therefore currently missing. This focus on identity is critically apparent in the aspects of governmentality that can be included under the phenomena of surveillance, because identity is a privileged category in surveillance. Surveillance encompasses identity cards, biometrics, identification, personal identifiers, ascription of identities, uniqueness, attribution, differentiation, recognition, tracking and a number of other key concepts that tie into identity. Identity is a core concept in a number of surveillance theories, from Orwell to the panopticon to the surveillant assemblage. It exists in an ambiguous relationship with privacy, and is central to accounts of profiling and social sorting.

The conflict here is over what identity *is*, because in order to limit identities you have to define *non-identities*. To establish one particular form of identity as paramount and others as subordinate involves privileging one definition of identity. You have to define what is meant when we say 'identity'. This will be a hegemonic intervention. Identity is a floating signifier that this governmental discourse attempts to articulate in a specifically delimited and defined way, so as to further the *raison d'état*, effect government and counter the proliferation of identities.

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<sup>254</sup> Freeden, M. (1996) *Ideologies and Political Theory: A Conceptual Approach*. Oxford: Clarendon Press. pp.60-91.

Surveillance re-emerges here. Statistics, or knowledge of populations, is supplemented by the range of new surveillance technologies available as a result of digitalisation; biometrics, networked information technologies and predictive algorithms. Secondly, surveillance can be seen in attempts to fix identities and render them permeable to surveillance techniques. This involves the creation of surveillant data doubles and the discursive privileging of particular forms and understandings of identity over and above competing accounts. Finally, discourses of surveillance might privilege forms of identity which are most permeable to surveillance. A passport number, credit rating, social security number or ID card are all forms of identity permeable to surveillance; one's interior sense of self is not. Given its provenances in technology and bureaucratic systems, this identity is permeable to these technologies and easily interrogated by them. It is also regarded as more authoritative than competing accounts. It can also be hard to change if erroneous. These forms of identity have less room for marginality or hybridity and so thereby their privileging serves as a counter-dislocation strategy. If we take the UK ID card as an example, it privileges a particular understanding of identity throughout both the material processes of registration, issue and the database, and also through the language that surrounds and constructs the political technology. The form of identity privileged by the ID card is one issued by the state, assumed to be totally accurate and 'secure', one that is historically persistent and permeable to surveillance.

Preliminary discourse analysis suggests that identity is going to be articulated and defined in the following ways. This is not a typology, it is not unitary and univocal across all the analysed texts in this thesis, but there exist a number of significant

trends in the articulation of identity. This is a preliminary model, but can act as a guide during discursive text analysis to see to what extent this type of identity is empirically present in various surveillance discourses. It is also important to ask to what extent these elements are present in different discourses. There is some similarity between this model and Marcuse's conception of operational identity and operational thinking (although unlike Marcuse, the account is not totalised across society, but rather tracked across a number of domains if and where it is encountered).

- Univocality – only one identity.
- External – can be ascertained with reference to external characteristics and biometric technology.
- Shallow – a relatively limited set of data concerning specific attributes that are deemed important and ignoring others that are deemed unimportant.
- Permeable to surveillance practices and technology – can be machine readable, digital rather than analogue.
- Behaviouralistic – possibly including probabilistic or actuarial logic.
- Attributed by a trusted source (most likely the state or corporate agencies licensed by the state).
- Unchangeable (in principle, although prone to external change beyond legal mechanisms – hacking of databases, identity fraud etc).
- Historical and continuing.

## **Research questions**

*What discourses of surveillance are identifiable in the contemporary United Kingdom?*

Discourse analysis requires a mapping and definitional exercise, to identify the terrain of the discursive field associated with surveillance in the UK. Discourses of surveillance must be identified. It is likely that a discourse of surveillance can be found running through the discourses of the many groups and institutions discussed above in relation to the multiple sites of governance: government, media and cultural products, resistance movements to surveillance, the private sector, and the full range of sites of surveillance. However, this is neither to assume the false extreme that all these sites share a common discourse of surveillance nor to assume that there are no commonalities and shared aspects. Discourses interact and flow into one another. It is likely that this will be observed for surveillance, given the relatively recent growth of many of these technologies and practices. If the genealogical work of theorists such as Dandeker holds true, many of these practices share similar sites of origins in militaries and bureaucracies. They may therefore bring similar discursive constructions with them from these origins. What are the differences in rationalities and mentalities across differing sites of discourse? An analytical tool for distinguishing between discourses of surveillance is the way that surveillance and surveillant practices are represented and evaluated.

*How is the nature of the problem of governance defined in these discourses?*

Critical to the analytics of government is an understanding of the way problems of government are constructed, debated, contested and become (or fail to become) hegemonic. This occurs through the mechanism of discourse. Traces of these contestations and constructions can therefore be detected in discourses. The way the problem is constructed has effects on the political strategies and tactics of government that come to be defined as appropriate. This has effects on political actions, the adoption of technologies and practices of surveillance. Surveillance is always for some end, the construction of the problem of government, and in combination with the rationalities and mentalities discussed above leads to the particular end pursued. From Ericson and Haggerty we can anticipate the presence of risk discourse given the importance of risk in the politics of surveillance. Theoretically we would anticipate many of the same logics, rationalities and mentalities that emerge from the governmental literature – for example the *raison d'état*, police science, pastoral power, the necessity of knowing the population.

*What roles or subject positions are made available by discourses of surveillance?*

Governmentality and discourse analysis suggest attention to the different subject positions made available through discourses, and the way in which subjects are interpellated by these through the process of subjectification. This research intends to map discourses of surveillance across a number of fields and as part of this process, should pay attention to the roles and subject positions made available by these discourses, as well as those that are denied/excluded or problematised.

The social construction of identities is taken for granted in this research, but this acts as a starting point, rather than an apolitical conclusion. The question then becomes what identities are available, and how are they made so? What is the content of identity?

*How is the idea of individual identity articulated within contemporary discourses of surveillance?*

It has been shown that a missing theoretical dimension in contemporary surveillance research is the focus upon the articulation of identity in differing discourses of surveillance. Therefore a key focus of this thesis is the way that the concept (the form) of individual identity is articulated. Are these articulations relatively consistent across discourses (as would be expected if such an understanding of identity was hegemonic) or are they multiple models of identity at play in discourse of surveillance? As such, a discourse analysis approach must be nuanced enough to detect potentially subtle differences in articulation. What is the form of identity?





## **Chapter Three: Research Design and Methodology – Discourse Theory and Analysis**

### **Introduction**

This chapter sets out the methodological theory and empirical research design of this thesis; a discursive, text analytical investigation of the various concepts of identity in contemporary discourses of surveillance in the United Kingdom, drawing on post-structuralist and post-Marxist approaches in discourse theory and analysis – primarily the discourse theory of Laclau and Mouffe. This chapter provides an overview of discourse analysis before presenting a focused analysis of discourse theory, including the key concepts and models of the theory and a number of criticisms. This is followed by alterations to the theory to address these criticisms, and an evaluation of the applicability of discourse theory as a research methodology. The second part of the chapter deals with the operationalisation of the methodological theory into an empirical research strategy. This addresses issues of sampling and text selection, a defence of the case study approach, and an evaluative schema for qualitative textual analysis research. The chapter concludes with a rearticulation of the project's research questions in light of this chapter.

This research pays close attention to empirical material in the form of texts and documents that make up discourses of surveillance, yet this empirical material is placed firmly within theoretical contexts of both discourse and surveillance. The textual analysis is structured around six surveillance points of reference.

## Discourse analysis

Discourse analysis is a broad church of approaches whose core component is a focus on language and meaning. Philips and Jørgensen present some generally shared assumptions of discourse analysis methodologies: a critical approach to taken-for-granted knowledge, a link between knowledge and social processes, and a link between knowledge and social action.<sup>255</sup> There is a strong focus in discourse analysis approaches upon epistemology. Reality is only accessible through language, and the representations of the world that we make and use are not reflections of an external objective reality, but are products of the way in which we categorise the world. Our representations of the world are products of discourse. Discourse analysis approaches politicise language. For example, Bourdieu states that language rarely acts as a pure instrument of communication:

Utterances are not only (save in exceptional circumstances) signs to be understood and deciphered; they are also signs of wealth, intended to be evaluated and appreciated, and signs of authority, intended to be believed and obeyed.<sup>256</sup>

Added to the realisation that much language is persuasive, commanding, or has other functions than pure communication, is an awareness that meanings are not natural; there is no inevitable connection between signifier and signified. This draws upon Saussure's structuralist distinction between sign and signifier, and understanding of language as a system of differences in which there are no positive terms (things are

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<sup>255</sup> Philips, L. & Jørgensen, M. (2004) *Discourse Analysis as Theory and Method*. London: Sage. p.5-6.

<sup>256</sup> Bourdieu, P. (1999) 'Language and Symbolic Power' in A.Jaworski & N.Coupland (eds) *The Discourse Reader*. London & New York: Routledge. p.502.

understood and defined by what they are *not*, by the meanings they exclude).<sup>257</sup> In poststructuralist theory however, meanings are understood as having no historical and social necessity. Systems of meaning are contingent and multiple. The necessary link (isomorphism) between the signifier and signified is denied and this allows for multiple systems of meaning or discourses. Wittgenstein argued that to think of connections between language and reality, to think of language separate and opposed to reality, is nonsensical. For Wittgenstein we dwell within language and there is no accessible 'outside'.<sup>258</sup> If language is politicised in this way then it becomes possible to examine both language itself and actual existing language use for political insight. We turn now to discourse theory to attempt that.

### **Discourse theory – Laclau and Mouffe**

This section examines the discourse theory of Ernesto Laclau and Chantal Mouffe, providing a summary description, followed by the theory's key concepts. It then examines a number of criticisms, before assessing its suitability for this specific research and any alterations that must be made to the methodology in light of these critiques or the specific demands of the project. Good explanations of discourse theory can be found in Best and Kellner, Howarth, Howarth *et al*, Andersen, Phillips and Jørgensen and Torfing.<sup>259</sup>

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<sup>257</sup> Saussure, F.de. (1960) *Course in General Linguistics*. London: Peter Owen.

<sup>258</sup> Heaton, J. & Groves, J. (1999) *Introducing Wittgenstein*. Cambridge: Icon Books. p.119.

<sup>259</sup> Best, S. & Kellner, D. (1991) *Postmodern Theory: Critical Interrogations*. New York: Guilford Press. Howarth, D. (2000) *Discourse*. Buckingham & Philadelphia: Open University Press; Howarth, D., Norval, A.J. & Stavrakakis, Y. (eds.) (2000) *Discourse Theory and Political Analysis: Identities, Hegemonies & Social Change*. Manchester & New York: Manchester University Press.; Andersen, N.A. (2003) *Discursive Analytical Strategies: Understanding Foucault, Koselleck, Laclau, Luhmann*. Bristol: Policy Press; Philips & Jorgensen, 2004; Torfing, J. (2003) *New Theories of Discourse: Laclau, Mouffe and Žižek*. Oxford: Blackwell.

Discourse theory emerged from the joint work *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics*. This explicitly post-Marxist and post-structuralist work has been described as a ‘novel fusion of recent developments in Marxist, post-structuralist, post-analytical and psychoanalytic theory’.<sup>260</sup> Laclau himself believes discourse theory to be a ‘deconstruction of the Marxist tradition’,<sup>262</sup> Andersen in turn perceives a ‘reworking of Foucault’, a ‘genealogy of hegemony’ and a tension between deconstruction and hegemony as the key logics of the theory.<sup>263</sup>

Discourse theory is a political and social theory as much as a research methodology, therefore using discourse theory in a research project with strong empirical dimensions requires a careful approach to operationalising the key concepts and theoretical insights. Discourse theory cannot be thought of as simply a form of discourse analysis, especially if discourse analysis is falsely reduced to textual analysis. The definition of discourse in their terminology is broader than many discourse analysts’, and expands well beyond the linguistic. Howarth states the following:

With respect to their conception of society...Laclau and Mouffe’s approach depends on the trope of catachresis. That is to say, they ‘creatively misapply’ the concept of discourse so that it can encompass all dimensions of social reality and not just the usual practices of speaking, writing and communication.<sup>264</sup>

The formalisation of language arising from a critique of Saussure’s isomorphism allows Laclau to argue for the expansion of the general principles of linguistic

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<sup>260</sup> Howarth, D. & Stavrakakis, Y. (2000) ‘Introducing Discourse Theory and Political Analysis’ in Howarth *et al* (eds.), p.1.

<sup>262</sup> Laclau, E. (2000) ‘Foreword’ in Howarth *et al* (eds.) p.x.

<sup>263</sup> Andersen, 2003, p.49.

<sup>264</sup> Howarth, 2000, p.116.

analysis to all signifying systems.<sup>265</sup> Unlike Foucault's early work, where discourse is a linguistic region within a wider social structure, Laclau and Mouffe '[interweave] semantic aspects of language with the pragmatic aspects of actions, movements and objects.'<sup>266</sup>

The basic assumptions of discourse theory are that all actions and objects are *meaningful*, that this meaning is conferred by historically specific (and contingent) systems of rules. In other words, meaning is dependent on orders of discourse that constitute identity and significance and that discourses are social and political constructions establishing a system of relations between objects or practices, while providing subject positions with which social agents can identify. It therefore:

Investigates the way in which social practices articulate and contest the discourses that constitute social reality. These practices are possible because systems of meaning are contingent and can never completely exhaust a field of meaning.<sup>267</sup>

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<sup>265</sup> Laclau, E. (1993) 'Discourse' in R. Goodin and P. Pettit. (eds.) *The Blackwell Companion to Contemporary Political Philosophy*. Oxford: Blackwell. P433.

<sup>266</sup> Torfing, 2003, p.93.

<sup>267</sup> Howarth *et al*, 2000, p.3.

## Key concepts

It is appropriate to outline discourse theory through an examination of its key concepts. These are interlinked, and by necessity refer back to each other. This section will examine discourse, articulation (including elements, moments, nodal points, empty and floating signifiers), hegemony, antagonism, the logics of equivalence and difference, the impossibility of the social, and importantly for our purposes here, the role of identity in discourse theory, including a discussion of subject positions and identification, dislocation and ideology.

### *Discourse*

Discourse is described by Laclau and Mouffe as ‘a structured totality resulting from articulatory practice’.<sup>268</sup> Howarth and Stavrakakis add ‘systems of meaningful practices that form the identities of subjects and objects’.<sup>269</sup> If we follow Gee’s distinction between discourse and Discourse (the former limited to linguistic forms of traditional textual and literary analysis) then Laclau and Mouffe’s theory clearly adopts the widest possible definition of Discourse.<sup>270</sup> Discourse is effectively equivalent to ‘the social’; they reject any distinction between discursive and non-discursive practices. All objects are constituted as objects of discourse because their identity and meaning cannot be taken as given or arising from outside a discursive system. Denying any transcendental logic, meanings are necessarily relational. In this way, the identities of objects and subjects (qua objects and subjects) cannot be

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<sup>268</sup> Laclau & Mouffe, 2001. p.105.

<sup>269</sup> Howarth & Stavrakakis, 2000, p.3.

<sup>270</sup> Gee, J.P. (1999) *An Introduction to Discourse Analysis: Theory and Method*. London & New York: Routledge.

considered objective. Because all objects are constituted by discourse, all objects are therefore meaningful. They gain meaning through their position in a system of 'significant differences'. For example, a weed is different from a flower, because of different discursive constructions of what they are, where they are supposed to be, and what they are for.

This does not deny physical reality, but states this reality can only be accessed through discourses, there is therefore no objective knowledge of reality, and there can never be any Archimedean point from which to acquire knowledge. This is based upon a distinction between 'being' and 'existence' drawn from Heidegger.<sup>271</sup> Laclau and Mouffe argue their conception of discourse does not adopt either idealism or realism:

An earthquake or the falling of a brick is an event that certainly exists, in the sense that it occurs here and now, independently of my will. But whether their specificity as objects is constructed in terms of 'natural phenomena' or 'expressions of the wrath of God' depends upon the structuring of a discursive field.<sup>272</sup>

This is a denial of extra-discursive meaning, rather than extra-discursive physical existence. We gain or attribute meaning, or have knowledge of physical phenomena through discourse. From this arises the understanding that discourses are systems of differential relations between objects, and that if supposedly non-discursive or 'behavioural' practices are analysed appropriately then it becomes apparent that they too are composed of:

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<sup>271</sup> Townshend, J. (2003) 'Discourse Theory and Political Analysis: a new paradigm from the Essex School?' *British Journal of Politics and International Relations*. Vol. 5. 129-145. p.131.

<sup>272</sup> Laclau & Mouffe, 2001, p.108.

more or less complex forms of differential positions among objects, which do not arise from a necessity external to the system structuring them and which can only therefore be conceived as discursive articulations.<sup>273</sup>

The statement that ‘it is sufficient that certain regularities establishing differential positions exist for us to be able to speak of a discursive formation’ demonstrates how discourse is far from synonymous with ‘text’ or ‘language’ as in other discourse analytical approaches.<sup>274</sup> A discourse is any network of meaning articulating both linguistic and non-linguistic elements – this also avoids descent into a purely ‘ideological’ mode of analysis, in which discourses are seen as packages of ideas much like ideologies.<sup>275</sup> Drawing on Wittgenstein’s theory of the performative aspects of language games, Laclau and Mouffe affirm the material as opposed to the mental character of discourse. Discourse is not the ‘pure expression of thought’ opposed to a non-discursive objective exterior.<sup>276</sup> Discourse is therefore not superstructural, nor can it be limited purely to the linguistic.

For Laclau and Mouffe there are multiple competing discourses. A single discourse can never establish itself so that it becomes the sole discourse structuring the social. There are always competing discourses at play structuring meaning in different ways. If it appears that a particular discourse is unopposed, then that is the result of a *hegemonic* process. These processes can, however, never be fully completed. This follows from the contingency of meaning and discursive antagonism. There is no

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<sup>273</sup> Ibid, p.107.

<sup>274</sup> Ibid, p.109.

<sup>275</sup> Stavrakakis, Y. (2004) ‘Antimonies of Formalism: Laclau’s theory of Populism and the lessons from Religious Populism in Greece.’ *Journal of Political Ideologies* 9 (3) 253-267.

<sup>276</sup> Laclau & Mouffe, 2001, p.108.



single underlying principle fixing the whole system of differences. For Laclau there is no going beyond the play of differences and no *a priori* prioritising ground.<sup>277</sup>

Related to this is the understanding of the limits of concrete discourses. Laclau and Mouffe follow Foucault in claiming the unity of discourses cannot be understood in terms of reference to the same object, common style, constancy of concepts or reference to a common theme.<sup>278</sup> Foucault argues that the consistency of a discourse is given in the regularity of dispersion.<sup>279</sup> This serves to deconstruct accepted unities in order to enable the search for discursive unities beyond those immediately apparent . As shown in the previous chapter, it is not the intention of this thesis to map a single discourse of surveillance, which would be in contradiction to this theoretical position. Instead, practices of surveillance are used as starting points in a search for discursive regularities in much the same way as Foucault started with the human sciences – surveillance is the ‘point of reference’.<sup>280</sup>

### *Articulation*

For Laclau and Mouffe, an articulation is ‘any practice establishing a relation among elements such that their identity is modified as a result of the articulatory practice.’<sup>281</sup> Articulation is a process that changes relations between objects so that their meaning and identity are changed, and fixed in a particular way. Given the rejection of the discursive/non-discursive distinction, any social practice can be an articulation.

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<sup>277</sup> Laclau, E. (2005) *On Populist Reason*. London & New York: Verso. p.69.

<sup>278</sup> Laclau & Mouffe, 2001, p.105.

<sup>279</sup> Foucault, M (2005) *The Archaeology of Knowledge*. London & New York: Routledge. pp.23-33.

<sup>280</sup> Laclau and Mouffe, 2001, p.116.

<sup>281</sup> Ibid, p.105.

The work of articulation is not therefore, as has sometimes been asserted, merely ‘ideological’ or ‘cultural’, although it has been these things too. It also takes place across material institutions and practices. It is political work in its fullest sense.<sup>282</sup>

The concept of articulation depends on the idea of polysemy, the idea that signs have multiple meanings – potentially infinitely multiple but in practice somewhat more restricted. An articulation is an attempt to fix meaning. This is achieved by constructing ‘nodal points’ which partially fix meaning. Articulations are never complete, as meaning can never be completely fixed, since discourses are always vulnerable to the exterior that they exclude as they attempt to fix meaning. Nodal points are privileged (or master) signifiers, similar to Lacan’s ‘*point de capiton*’, which give meaning to a chain of signifiers by partially fixing meaning within those chains, yet arise from the play of differences instead of being *a priori* privileged. Any centring effects proceed from the interaction of differences. The field of discursivity, the range of all potential meanings from which particular elements are drawn, is infinite, and this infinitude continually intrudes back on any articulation or fixation of meaning within a particular discourse.

Nodal points are not those words most laden with meaning, but are characterised by a ‘certain emptying of their contents which facilitates their structural role.’<sup>283</sup>

When we quilt the floating signifiers through ‘Communism’, for example, ‘class struggle’ confers a precise and fixed signification to all other elements: to democracy (so called ‘real democracy’ as opposed to ‘bourgeois formal democracy’ as a legal form of exploitation); to

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<sup>282</sup> Forgacs, D. (1998) ‘Dethroning the Working Class?’ in S. Sim (ed.) *Post-Marxism: A Reader*. Edinburgh: Edinburgh University Press. p.34.

<sup>283</sup> Torfing, 2003, p.98.

feminism (the exploitation of women as resulting from the class-conditioned division of labour); to ecologism (the destruction of natural resource as a logical consequence of profit-orientated capitalist production); to the peace movement (the principal danger to peace is adventuristic imperialism), and so on.<sup>284</sup>

Elements are differences not currently articulated in a discourse. When articulated in a discourse, arranged in differential relations around a nodal point, elements become *moments*. This transformation is never fully complete, so the categories of elements and moments overlap, and exist primarily as analytical categories. Floating signifiers are signifiers over which no discourse has hegemony and for that reason are the subject of political struggle. They occupy a contested position during periods of social crisis and dislocation. There are some similarities here with the concept of essentially contested concepts – such as freedom, democracy or justice, which different political ideologies attempt to articulate and fix meaning to in different ways. *Empty signifiers* have a meaning sufficiently broad so as to approach (but not reach) the ‘universal’.<sup>285</sup> These empty signifiers act as bearers of universal signification despite their particularity.

This combination of elements, moments and articulation gives discourse theory an understanding of the fundamental contingency of both language and the social. Social identities and meanings are never given nor fundamental; they are historically and socially contingent. Meaning is political, as any articulation involves the exercise of power, and the repression of alternative articulations. Discourse theory also has an understanding of the partial fixation of meaning, of how meaning can be made to appear to be fixed, or to go unquestioned. This allows a negotiation of the relativistic

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<sup>284</sup> Žižek, S. (1989) *The Sublime Object of Ideology*. London: Verso. p.88.

<sup>285</sup> Townshend, 2003, p.132.

aspects of some post-modern approaches. The social is fundamentally contingent; it could have been otherwise, but in localised environments, in given places and times, it can be incredible difficult to change meanings

### *Hegemony*

The universal mechanism of ideological ‘cement’ which binds any social body together, a notion that can analyse all possible socio-political orders from fascism to liberal democracy.”<sup>286</sup>

Laclau and Mouffe’s conception of hegemony emerges from a deconstruction of the Marxist tradition, and specifically the work of Gramsci. They attempt to free the theory from its essentialist and reductionist tendencies. Lenin theorised hegemony as temporary class alliances in the process of revolutionary struggle.<sup>287</sup> Gramsci however, saw hegemony as the process by which the proletariat could become able to represent the interests of a people or nation.<sup>288</sup> Gramsci’s hegemony still relied on a fundamental social class responsible for bringing about social change (the proletariat) and the economy still remained the object of political struggle, ultimately determining the social and political superstructure.<sup>289</sup> Laclau and Mouffe discard these elements and attempt to formulate hegemony in a way compatible with postmodern theories of discourse, such as Wittgenstein or Foucault.<sup>290</sup> Hegemonic struggle therefore becomes political struggle over discourses, hegemonic projects are projects to articulate discourses together to structure and thereby dominate a field of meaning, to create

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<sup>286</sup> Žižek, 2000, p.128.

<sup>287</sup> Lenin, V.I. (1911) ‘Marxism and Nasha Zarya’  
<http://www.marxists.org/archive/lenin/works/1911/jan/22b.htm>.

<sup>288</sup> Gramsci, A. (1971) *Selections from the Prison Notebooks*. London: Lawrence & Wishart. p.181-2.

<sup>289</sup> Howarth, 2000, pp.99-100.

<sup>290</sup> Chouliaraki, L. & Fairclough, N. (1999) *Discourse in Late Modernity: Rethinking Critical Discourse Analysis*. Edinburgh: Edinburgh University Press. p.121.

‘hegemonic formations’ to fix identities and meanings in a particular way to the exclusion of other potential formations. We can draw a distinction between hegemonic practices (practices that articulate differences) and hegemonic formations (the result of these practices). Hegemony involves two regimes:

The hegemonic discourse establishes a truth regime that defines what can be considered as true or false, and a value regime that provides criteria for judging what is good and what is bad.<sup>291</sup>

A necessary precondition of this operation of hegemony is the open and contingent nature of the social. Only because elements have no necessary relation between them can they be re-arranged and placed in different relationships by hegemonic projects.<sup>292</sup> Hegemony also requires antagonistic social forces divided by unstable political frontiers. If the distance between two antagonistic political forces is too great, if there is no discursive overlap and the forces are essentially unable to communicate, then there could not be a hegemonic formation capable of structuring the relationship between the differences.

Laclau and Mouffe view hegemony as the central category of political analysis. They ask ‘how does a relation between entities have to be for a hegemonic relation to become possible?’<sup>293</sup> How does a particular non-universal, historical and contingent social force assume the representation or appear to become a totality or universality which it cannot be, which is ‘radically incommensurable with it’?<sup>294</sup> Because no discourse can entirely structure the social, and completely fix all meaning, this

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<sup>291</sup> Torfing, 2003, p.220.

<sup>292</sup> Norval, A.J. (1996) *Deconstructing Apartheid Discourse*. London & New York: Verso. p.309.

<sup>293</sup> Laclau & Mouffe, 2001, p.x.

<sup>294</sup> Ibid, p.x.

appearance of universality (for example the Enlightenment image of the universal rational human actor) is the only form of universality that can be achieved. This opposes Marxist theories of class determinism as well as models that radically deny any possibility of relations between particularities other than some form of arbitrary *bricolage*. Hegemony is for Laclau and Mouffe, using the Derridian concept of ‘undecidables’, a theory of ‘decisions on undecidable terrain’.<sup>295</sup> This universality is an always reversible ‘contaminated universality’. Torfing’s definition of discourse takes into account the partial fixation of hegemony, and the way it involves the creation of a ‘universal’ horizon.

We can define hegemony as the expansion of a discourse, or set of discourses, into a dominant horizon of social orientation and action by means of articulating unfixed elements into partially fixed moments in a context crisscrossed by antagonistic forces.<sup>296</sup>

The possibility of a fully hegemonic society is problematised, firstly on empirical grounds in that there will always be competing articulations, but secondly due to the lack of perfect unity of the hegemonic force.<sup>297</sup> For example, different conceptions of democracy can be found even within socialist and liberal discourses. This relates well to the understanding of the operation of discourses within regimes of governmentality. Discourses are not unitary and total, but attempt to spread meanings and understandings, in the form of problematisations and appropriate strategies and tactics in response, through the assemblage of governance actors.

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<sup>295</sup> Ibid p.xi.

<sup>296</sup> Torfing, 2003, p.101.

<sup>297</sup> Laclau, 1990, p.28.

Torring presents neo-liberalism as a hegemonic discourse, due to the way it has redefined political debate through attacks on centralist, bureaucratic ‘nanny states’, celebrating entrepreneurship and the market as steering mechanism.<sup>298</sup> The very existence of critique shows the neo-liberal hegemony is not total; however, even oppositional currents such as Marxism have had to engage with neo-liberalism, being changed in the process. Mainstream UK political discourse is highly hegemonised by neo-liberalism. However, even within what can be termed the neo-liberal discourse, there exist divisions, and contested articulations of certain concepts. A discourse cannot be considered as a monolithic totality, but rather *regularity in dispersion*.

### *Logics of equivalence and difference*

Laclau and Mouffe’s logics of equivalence and difference are relations between subject positions and differential terms within a particular discourse. They are ways in which discourses construct relations, and by doing so construct political frontiers in particular ways.

The logic of equivalence consists of ‘the dissolution of the particular identities of subjects within a discourse by the creation of a purely negative identity that is seen to threaten them’.<sup>299</sup> In this way an external identity serves to unite a series of differences. It is associated with the paradigmatic pole of language and reduces the number of positions that can be combined in a discourse. The logic of equivalence is the mechanism through which a notion of the universal is constructed.<sup>300</sup> This

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<sup>298</sup> Torring, 2003, p.102.

<sup>299</sup> Howarth, 2000, p.107.

<sup>300</sup> Gasche, R. (2004) ‘How Empty can Empty be?’ in S. Critchley & O. Marchart (eds.) *Laclau: A Critical Reader*. London & New York: Routledge. p.23.

necessarily involves the construction of a constitutive outside.<sup>301</sup> These ‘paratactical’ divisions of the political space reduces political struggle into an antagonism between the two divided groups.<sup>302</sup> The logic of equivalence is a logic of political simplification, that makes elements more interchangeable and reduces the number of distinct subject positions available.<sup>303</sup> Through this, the establishment of chains of equivalence tends to simplify the social and political space.<sup>304</sup> Relations of equivalence tend to produce metonymical relations, and as these relations become more powerful they lead to the emergence of metaphors – the presence of metonymy and metaphors are a strong signal of the operation of logics of equivalence.<sup>305</sup> Relations of equivalences are precarious and reversible. Equivalence implies some difference, otherwise the related elements would simply be identical, however a relation of equivalence subverts and minimises the differences between the elements.<sup>306</sup> An example is the way in which trade unionist, ecological, fair-trade and anti-capitalist social movements were brought together into a general ‘anti-globalisation’ movement in opposition to global capital and its embodiment in the WTO, during the Seattle 1999 protest. Burgos uses discourse theory to argue that the Mexican revolution was possible because ‘the people’ were able to dissolve their differences and constitute themselves as ‘the oppressed’ in opposition to ‘the oppressors’, a grouping that weakened differences between the government, the president, the church and capital.<sup>307</sup> Torfing argues Jacobin discourse during the French Revolution divided society between the equivalential chain of ‘the people’ and the ‘*ancien regime*’. He compares this with the British Chartists, who despite drawing

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<sup>301</sup> Torfing, 2003, p.97.

<sup>302</sup> Stavrakakis, 2004, p.257.

<sup>303</sup> Andersen, 2003, p.60.

<sup>304</sup> Torfing, 2002, p.97.

<sup>305</sup> Ibid, p.97.

<sup>306</sup> Laclau & Mouffe, 2001, p.128.

<sup>307</sup> Burgos, R.N.B. (2000) ‘The Mexican Revolutionary Mystique’ in Howarth *et al* (eds). p.93.



upon similar discourses, were unable to bring about the splitting of the political space, and experienced a proliferation of the difference.<sup>308</sup> Žižek cites the Polish Solidarity movement as one of the most extensive logics of equivalence in recent politics.<sup>309</sup>

In contrast, the logic of difference is the expansion of a discursive order by breaking down existing chains of equivalence, turning moments into disarticulated elements and then incorporating these elements back into an expanding discursive formation. These are often an attempt to displace and weaken relations of antagonism, serving the function of displacing divisions to the margins of society.<sup>310</sup> The logic of difference is the logic of increasing complexity in the political, and increases the number of available subject positions. The logic of difference tends to dominate in discourses that stress inclusivity and ‘the syntagmatic pole of language’.<sup>311</sup> Unlike equivalence, logics of difference tend not to produce any metaphors or metonyms. The logics are not mutually exclusive and there is always a tension between them in any antagonistic social situation. No society could be structured solely by difference or equivalence. Andersen considers the logics as a deconstruction of the binary difference/equivalence to show the interaction between the two.<sup>312</sup>

The relation between difference and equivalence is undecideable. The discursive identities are inscribed both in signifying chains that stress their differential values, and in signifying chains that emphasise their equivalence. The tension between the differential and equivalential aspects of discursive identities is unresolvable, but political struggles may succeed in emphasising one of the two aspects.<sup>313</sup>

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<sup>308</sup> Torfing, 2003, p.97.

<sup>309</sup> Žižek, 2000, p.178.

<sup>310</sup> Howarth, 2000, p.107.

<sup>311</sup> Stavrakakis, 2004, p.257.

<sup>312</sup> Andersen, 2003, p.60.

<sup>313</sup> Torfing, 2003, p.97.

The tension cannot be resolved, and this tension is, for Laclau and Mouffe, at the core of the impossibility of the ‘fullness’ of the social. Laclau argues that given that identities are purely differential and with no necessary structural centre, social totalities (such as ‘society’) require an outside by which to define themselves. However this ‘other’ providing the constitutive outside is internal to the system of differences. It can only take on the appearance of an outside. It is excluded by the totality to define the totality, to allow the limits of the totality to be grasped. In relation to the excluded identity, all other identities are in a relation of equivalence to each other by their rejection of the excluded element. However, this equivalence subverts difference and identity formation must take place within the tension between equivalence and difference. Ultimately, this is a failed totality. The tension between difference and equivalence cannot be resolved, yet some (precarious) closure is necessary for signification or identity at all. Any identity is therefore precarious.<sup>314</sup>

### *Identity in discourse theory*

Discourse theory has a distinct understanding of identity, and given the focus of this research this is worth exploring in detail. For Laclau, the constitution of a social identity is an act of power and because of this, identity *is* power.<sup>315</sup> As the result of an act of political decision, identity is therefore *ethical*.<sup>316</sup> Norval identifies identity construction as a political process heavily inscribed by power. Drawing on a Foucauldian reading of the productive nature of power, she sees any attempt to impose or form social identities (for example a hegemonic articulation that changes

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<sup>314</sup> Laclau, 2005, p.72.

<sup>315</sup> Laclau, E. (1990) *New Reflections on the Revolution in our Time*, London: Verso. p.37.

<sup>316</sup> Žižek, 2000, p.172.

the available subject positions within a discursive field) as a constitutive act of power that will therefore always experience resistance.<sup>317</sup>

The starting point is the assumption that identities (like all social objects) are discursively constituted, and are thus subject to articulations, antagonisms and hegemony. The model of identity in discourse theory is anti-foundationalist, discursively constructed, multiple and plural, contingent and open to change, vulnerable, and an outcome of processes of power. It is therefore a highly political conception of identity. Because identity is a political construction, it cannot be prior to politics, but is maintained, constructed, transformed through political struggles.<sup>318</sup> All attempts to ground identities are therefore understood as precarious and political attempts to naturalise or objectify politically constructed identities.<sup>319</sup>

Torring argues that a requirement of a systematic approach to discourse analysis is breaking with the Cartesian subject as willing author of all his statements.<sup>320</sup> The model of identity in discourse theory emerges from a post-structuralist critique of Althusser. Althusser holds that ideological language constructs social positions through a process termed interpellation or hailing and they are best understood as positions within discourses.<sup>321</sup> The subject is not sovereign but determined by structural discourse. Despite Althusser's attempt to escape from the economic determinism (and scientism) of Marxism, his theory of 'determinism in the last instance' of 'relatively autonomous' ideology by the economy rapidly collapses to

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<sup>317</sup> Norval, 1996, p.9.

<sup>318</sup> Torring, 2003, p.82.

<sup>319</sup> Ibid, p.63.

<sup>320</sup> Ibid, p.88.

<sup>321</sup> Althusser, L. (1971) 'Ideology and Ideological State Apparatuses' in *Lenin and Philosophy and Other Essays*. Monthly Review Press. p.163.

economic determinism, given no mechanism for identifying ‘the last instance’. For Laclau and Mouffe there is no objective logic (such as class position) that determines identity, but rather identity is created through competing discourses, and identity therefore has no essential character. Althusser’s essentialist understanding of identity reduces the autonomy of social agents to effects of social structures.<sup>322</sup> To avoid this, Laclau and Mouffe distinguish between subject positions and political subjectivity. Subject positions refer to the way subjects are positioned within a discursive order, whilst political subjectivity deals with the question of agency by identifying the action of subjects with the radical contingency of the discursive structures from which they draw their identities.<sup>323</sup> With the death of the subject, there is still a notion of a creative subjectivity; however it is one governed by rules that define what is sayable.<sup>324</sup>

Identities are therefore constructed through discourse in a way that is not deterministic and does not reduce identities to products of economic relations. Identity is changeable, fragmented and decentred.<sup>325</sup> Using the catachretic analogy from the linguistic model, identities are relationally determined; they are given meaning through their positioning vis-à-vis other identities. Identities must always be thought of in the plural, as any given individual can occupy multiple subject positions (for example, being at the same time English, male, student, employee, tenant, friend and partner). There is no necessary relationship between the various discourses that provide the multiple different subject positions. This multiplicity should not be

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<sup>322</sup> Howarth, 2000, p.18.

<sup>323</sup> Howarth & Stavrakakis, 2000, p.13.

<sup>324</sup> Torfing, 2003, p.89.

<sup>325</sup> Phillips & Jørgensen, 2004, p.43.

thought of as coexistence, but rather as a constant, multidirectional subversion.<sup>326</sup>

Identities are contingent and all processes of identification presuppose a moment of exhaustion – a moment in which existing identities are not capable of dealing with a dislocatory situation.

### *Dislocation and ideology*

The two concepts of ideology and dislocation can be thought of as opposites of each other, and are dependent upon the understanding of politics in discourse theory.

Rather than the interaction of pre-constituted individuals with pre-given interests, they assert the primacy of the political over the social – political decisions and struggles shape and reshape social relations. However, political social relations can become *sedimented* into organisational norms, rules and regularities which are then taken for granted. According to Blumenberg, the primacy of politics:

does not consist in the fact that everything is political, but rather in the fact that the determination of what is to be regarded as unpolitical is itself conceived as falling under the competence of the political.<sup>327</sup>

Ideology for Laclau and Mouffe is anything eliding the contingency of the social, for example, a discourse constructing a traditional social arrangement as God-given rather than the product of human agency, and therefore impossible to alter. If from an anti-essentialist discourse perspective everything is contingent and political, then ideology, for Laclau and Mouffe, is any statement or activity that denies this

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<sup>326</sup> Mouffe, C. (2005) *The Return of the Political*. London & New York: Verso. p.77.

<sup>327</sup> Blumenberg, H. (1987) *The Legitimacy of the Modern Age* 4. London: MIT Press. p.91.

contingency. For Laclau, all ideology critique is intra-ideological, with no recourse to notions of truth or falsity. Ideology is a 'constitutive distortion':<sup>328</sup>

Not a distortion of a pre-constituted identity, but rather a discursive operation that constructs a constitutive closure of social and political identities.<sup>329</sup>

Given that identities can never be totally sutured, and are threatened by their constitutive outside, ideology reflects the concealment of this ontological undecidability, and projects onto the discursive identity the closure that it lacks.<sup>330</sup> Ideology therefore has strong similarities with concepts such as reification.

Dislocations, in turn, are processes that make visible the contingency (and therefore the politics) of the social. They are events which bring new social identities into being through crisis, as existing identities and discourses prove incapable of sufficiently suturing the social and articulating the event so that it is understandable within that discourse. Existing identities and discourses are unable to provide answers to political or existential questions raised by the external environment. This external is not extra-discursive but outside of the hegemonic discourse. Norval's study of South Africa's apartheid era discourse examined the dislocatory effects of urbanisation and agricultural capitalism on the emergence of apartheid. She notes the critical importance of examining the way apartheid discourse articulated these dislocations.<sup>331</sup> Dislocation is, for Howarth, a source of agency in discourse theory. The structure fails to provide an identity which compels the subject to act in the face of a literal identity crisis; the subject then has to identify with or create alternate identities, discourses or

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<sup>328</sup> Torfing, 2003, p.216.

<sup>329</sup> Ibid, p.216.

<sup>330</sup> Ibid, p.217.

<sup>331</sup> Ibid, p.5.

political projects.<sup>332</sup> Following this logic, it is consistent to consider discourses themselves as having dislocation effects. They can put hegemonic discourses providing subject positions into crisis through the encounter with alternative articulations. The proliferations of identity discussed in the previous chapter can be thought of as arising from a number of powerful locations. It is therefore reasonable to expect political projects that attempt to suture this dislocation to attempt to provide an encompassing identity.

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<sup>332</sup> Howarth, 2000, p.109.

## Criticisms of discourse theory

The intention of this section is to examine critical perspectives, and whilst there are alterations that could, and in some instances should, be made to discourse theory in the light of these perspectives, the theory is an appropriate basis for conducting political research. Responses to the concerns will be followed by an argument for the suitability of this form of research to the issues of surveillance and individual identity. There exists no one-size-fits-all research methodology and decisions about methods and analytical strategies must be made in the light of empirical and theoretical concerns. We can divide the main criticisms into a number of categories. These are positions which take issue with the idea of catachresis or more specifically with the concept of discourse in discourse theory, questions about the levels of contingency and openness of the social, specifically with regard to the political role of structure, and concerns regarding the empirical applicability of discourse theory.

### *Marxism?*

Discourse theory attracted criticisms upon the publication of *Hegemony and Socialist Strategy*. Some Marxist theorists such as Forgacs and Aronowitz were broadly sympathetic, although sceptical of the possibility of putting the theory into political practice.<sup>333</sup> However more vitriolic criticism came from Geras' reaction to Laclau and Mouffe's reworking of Marxist theory and their genealogy of the Marxist tradition. He argues the history of Marxism presented is an inaccurate caricature that over-exaggerates the essentialism of Marxism, by presenting the economic determinism of

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<sup>333</sup> See Forgacs, D. (1985) 'Dethroning the Working Class', *Marxism Today*, 29 (5) p.43 and Aronowitz, S. (1986/7) 'Theory and Socialist Strategy' *Social Text*. 16. pp.1-16.



the Second International as characteristic of all Marxism, ignoring the complex historical reality. This is, for Geras 'a reduction of the breadth, the panorama, the continent, of Marxist thought'.<sup>334</sup>

Because of the purpose for which discourse theory is utilised in this research, providing a methodology and theoretical structure for the analysis of identity in discourses of surveillance, this usage does not stand or fall on the accuracy of the history of Marxism presented in *Hegemony and Socialist Strategy*, and providing a definitive answer to this question is beyond the bounds of this chapter. Laclau and Mouffe's response argues that Geras mistakes a focus on essentialism for a narrower focus purely on economic determinism, ignoring the fact that they are tracing an intellectual history of the progressive disintegration of essentialism within Marxism (not picking Marxists at random).<sup>335</sup> In turn they accuse Geras of taking for granted the democratic and egalitarian aspects of Marxism even after Stalinism. Regardless of the accuracy of Geras' claims, they have little impact on the research in this thesis. It is possible to separate discourse theory as a positive methodology from the critique of Marxism in *Hegemony and Socialist Strategy*.

#### *Catachresis and the concept of discourse*

Several commentators take issue with the linguistic analogy for society within discourse theory. Laclau and Mouffe 'creatively misapply' the concept of discourse.

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<sup>334</sup> Geras, N. (1987) 'Post Marxism?' *New Left Review*, 163, May/June 1987. pp.40-82

<sup>335</sup> Laclau, E. & Mouffe, C. (1987) 'Post Marxism without Apologies' *New Left Review*, 166 November/December 1987, pp.79-106.

Chouliaraki and Fairclough argue a key problem with the (catachresis) approach of discourse theory is the rejection of the distinction between discursive and non-discursive.<sup>336</sup> Rejecting this distinction supposedly confuses discourse analysis, as ‘the discursive’ should be taken to refer to language and the semiotic rather than to other structural elements of the social. They call for a distinction between discourse (semiosis) and other elements of the social such as physical actions, institutions etc. As we have seen above, Laclau and Mouffe believe that such distinctions inevitably collapse under close examination – given that we only have access and give meaning to the physical world through discourse. Institutions provide a good example of this: a series of buildings in an area with a number of human beings present becomes a university, rather than a factory or concentration camp, through constituting discourses. It becomes hard to draw a distinct line between the semiotic elements of social practices and the social practices themselves. You can separate off a purely physical element perhaps, but again this raises the question of meaning outside of discourses. They instead believe that the existence of relational systems of differences allow us to think in terms of discourse in ways that are analytically productive. If everything is discursive, does the concept inflate to such a degree that it is unable to provide analytical utility, and become a tautology? This would be the case if discourse was the only element of the theory and if there was only one discourse – as in the model of the *episteme*. However, as we have seen, the idea of multiple competing discourses is central to discourse theory. These discourses are competitive and attempt alternate hegemonic articulations. The concepts of hegemony and antagonism, as well as various logics of the social do significant analytical work in the theory.

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<sup>336</sup> Chouliarakai & Fairclough, 1999, p.126.

A wide conception of discourse is a necessary component of the theoretical framework set out by Laclau and Mouffe, however there are suggestions for ways in which to address some of the problems caused by a wide conception whilst still remaining compatible with the other theoretical assumptions. Phillips & Jørgensen suggest potential confusion arises from the concept of the ‘field of discursivity’, the discursive exterior of any utterance or statement (or indeed, any articulation) which contains all other potential meanings and against which the articulation is defined; the ‘surplus meaning’.<sup>337</sup> They suggest a distinction between the entire field of meaning, and those meanings that are actively competing in a specific articulation.

Their example of discursive contestation involves medicine. Elements from ‘science’ compete with elements from ‘alternative therapies’ to be included in the discourses of medicine. Elements from discourses of football rarely do. To provide analytical clarity Phillips & Jørgensen borrow the concept of ‘order of discourse’ to describe a limited range of discourses that struggle in the same terrain.<sup>338</sup> Adapted from Foucault and defined by Fairclough as ‘a network of social practices in its language aspect’ and ‘the socially ordered set of genres and discourses associated with a particular social field, characterised in terms of the shifting boundaries and flows between them’, orders of discourse are an intermediary distinction between specific features of language (semeiosis) and the discursive as such.<sup>339</sup> The order of discourse is distinct from the total field of discursivity, which is infinite. Whilst it may seem common sense we can use the concept of orders of discourse to exclude articulations of identity that are not competing within the social field of surveillance, for example the concept of identity in the mathematical-geometrical sense. It therefore suggests that one

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<sup>337</sup> Phillips & Jørgensen, 2004, p.26.

<sup>338</sup> Ibid, p.27.

<sup>339</sup> Fairclough, N. (2003) *Analysing Discourse: Textual Analysis for Social Research*. London & New York: Routledge. p.24 and Chouliaraki & Fairclough, 1999, p.58.

should not go looking for surveillance and identity in all texts or all discourses, but only those operating within the order of discourse associated with surveillant social practices, those that are struggling within the same discursive terrain.

This concept is compatible with discourse theory because it draws on similar foundations, and does not demand pre-given social divisions between particular social fields, allowing them contingency and flow, whilst at the same time allowing for some precarious fixity based on the actual social context (and emerging from actually existing differential relations). The addition of this concept is advantageous because it increases analytical clarity, aids in developing categories of discourses for selection and gathering of empirical material and helps us to focus on actively competing discourses. It could be argued that it is not a necessary addition to discourse theory, and that this work could be done without the addition of an extra intermediary layer, however it is likely to be a productive addition, especially with regard to analytic division of the discursive for empirical research. However, Phillips & Jørgensen concede in footnotes that the term ‘order of discourse’ has much the same meaning as Foucault’s term ‘Discursive formation’ – ‘the different and potentially conflicting discourse that operate in the same terrain’.<sup>340</sup> Given the Foucauldian origin of the Governmentality approach against which the use of discourse theory is contextualised, the term ‘discursive formation’ will be used rather than ‘order of discourse’.

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<sup>340</sup> Phillips & Jørgensen, 2004, p.58.

### *Contingency and structure*

A point of confrontation between discourse theory and its critics is the perceived belief in the unconditional openness of the social; discourse comprising nothing but ‘chaotic flux’.<sup>341</sup>

Laclau and Mouffe’s one-sided focus on the contingency of the social depends upon how persons and practices are positioned within social structures. We argue [that] positioning in terms of gender, class, race and age relations affect the contingency of the semiotic in particular.<sup>342</sup>

Chouliaraki and Fairclough argue that regarding the social as contingent ignores the structural permanence and fixity of certain social relations, and these structures play a strong role in determining the degree of contingency that any given actor can experience.<sup>343</sup> People are conceived of as in different relations to discourse dependent on class, gender, race, generation and other social structures. This is a common critique of post-modernist approaches in general, especially theorists focusing on play, indeterminacy and the creative construction of meaning such as Baudrillard and Lyotard, and often falsely extended to theorists such as Foucault. Torfing traces the origin of this critique to Derrida’s comments on the infinite extension of the play of meaning in the absence of a transcendental signifier.<sup>344</sup> The political argument is that whilst this may hold true for some people, many people are not in such a post-modern condition and their lives are strongly dictated by structures such as class, race, gender

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<sup>341</sup> Torfing, 2003, p.95.

<sup>342</sup> Chouliarakai & Fairclough, 1999, p.125.

<sup>343</sup> Ibid, p.125.

<sup>344</sup> Torfing, 2003, p.95.

or sexuality. They reject the fundamental fragility and instability of hegemonic articulations.<sup>345</sup>

The argument is expressed in a similar but stronger form by Geras.<sup>346</sup> He argues that:

Out of fear of 'essentialism' Laclau and Mouffe do not raise the problem of whether some articulatory agents or practices might be more central than others in attaining political hegemony and achieving a socialist transformation of capitalist society.<sup>347</sup>

Fairclough's critique speaks to the use of discourse as an analytical tool. Philips and Jørgensen agree that is important to identify a structural domain where structures are socially constituted but are inert and difficult (if not impossible) for dominated groups to alter or overturn.<sup>348</sup> Both Fairclough's and Geras' critiques explicitly raise issues about the implications of discourse theory for emancipatory politics. The concern is that in the effort to decentre the proletariat in a post-Marxist manoeuvre - abandoning any claims about the centrality of a particular social actor or class as the motor of historical necessity - Laclau and Mouffe 'level political forces so that everything has equal weight.'<sup>349</sup> They are seen as promoting an, 'anarcho-voluntarist fantasy' in which 'every link in a political chain is, in every place and time, equally weak, equally appropriate as a point of application for one's critical energies.'<sup>350</sup>

Responding to this requires a certain degree of empiricism in locating weak links in political chains, rather than wishing for them to be determined *a priori*. Concepts such

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<sup>345</sup> Žižek, 2000, p.173.

<sup>346</sup> Geras, N. (1988) 'Ex-Marxism without Substance: Being a Real Reply to Laclau and Mouffe' in *New Left Review*, no. 169 May/June. 40-82. p.39.

<sup>347</sup> Best & Kellner, 1991, p.202.

<sup>348</sup> Philips & Jørgensen, 2004, p.55.

<sup>349</sup> Best & Kellner, 1991, p.202.

<sup>350</sup> Mouzelis, A. (1990) *Post Marxist Alternatives: The Construction of Social Orders*. Basingstoke: Macmillan.

as classes, genders etc may have some utility here, but must be considered internal to discourse. The response to Geras is that whilst some social groups may be more politically effective than others, this is the result of political and historical contingency rather than some fundamental essence.

However, Laclau and Mouffe, whilst maintaining the contingency of the social, do not state that any social actor can simply change the social, which would be both idealism and Idealism (and voluntarism).<sup>351</sup> Whilst in theory, language and other social formations are contingent; in many, if not most practical situations they are relatively fixed. The persistence of racism, sexism, classes *et al*, is explained in terms of hegemony. This rearticulated Gramscian concept at the heart of discourse theory is an account of fixity. Successful hegemonic articulations establish (sediment) concepts and social practices as ‘common sense’, established in relatively stable chains of meaning. This contingency can be seen as fundamental ‘undecidability’ which refers to a determinate openness which permeates every concrete discourse, and involves the play between pragmatically determined possibilities.<sup>352</sup> Importantly, the repressed contingency can be ‘re-activated’ by discourse and processes that put the social institution or ‘structure’ into question.<sup>353</sup> It is useful to make a distinction between contingency and probability. Just because a social object or identity is contingent, does not mean that it is likely to suddenly disappear. This is a distinction between ontological possibility and ontic probability.

The point made by critics such as Geras and Fairclough is that the focus on contingency could be taken to imply a lack of attention to structure, but the argument

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<sup>351</sup> Torfing, 2003, p.70.

<sup>352</sup> Ibid, p.96.

<sup>353</sup> Ibid, p.70.

must be made in the context of a critique of structural Marxism and as part of an anti-essentialist project. Ontologically, the subject is decentred, multiple and non-essential. However it will often *appear* to have an essence, or be ascribed an essence by particular discourses (for example the dominant notion of the Enlightenment universal reflexive subject). In the context of social structures, these structures appear to be fixed, persistent and inaccessible to discursive strategy, but in truth they are constituted by discursive practices that support this interpretation, attempt to position social institutions as common sense and to normalise their existence. Fairclough is a strong critic of normalising operations of language in contemporary political discourses, but perhaps does not go far enough, and accepts some of the common sense position of the essential stability of certain social formations (sex, class etc). Laclau and Mouffe teasingly refer to this as the ‘objective’ – the field of sedimented discourse.<sup>354</sup> Structure becomes reduced to stability in chains of signification. These stable chains of meaning elide their contingent possibility; contingent possibility is necessary for theorising social change over time.

The theories of hegemony and objectivity go a long way to explain structural effects, as does the theory of subject positions. It is worth making a conscious decision to hold this in mind whilst conducting analysis of empirical material and developing substantive findings. Rather than a radical alteration of discourse theory, this is a reminder to take seriously the Critical Discourse Analysis point about the limitations on semeiotic flexibility by divisions such as class, race, and gender, whilst at the same time still considering them as contingent discursive social constructions and associated discursive practices. In a sense we should perhaps consider the concepts

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<sup>354</sup> Philips & Jorgensen, 2004, p.55



under erasure in a Derridian sense, written crossed through to represent how they are constructed, but still retain social force. ~~Class, gender, race~~ and other social divisions have what we might tentatively call *structural effects* on discourses and the subjects of discourses, but they are not external to the discursive.

### *Empirical concerns*

Andersen notes that Laclau has conducted relatively little empirical work using the discourse theory framework.<sup>355</sup> Whilst this is to a certain extent true, and Laclau's published work has largely been theoretical, developing discourse theory, the theory of hegemony, and investigating the roles of the universal within political theory, his most recent work *On Popular Reason* draws on empirical material from numerous historical and geographical sources.<sup>356</sup> Additionally, empirical work by other researchers makes use of the discourse theory model to good effect, for example Norval's work on the discourses of apartheid South Africa.<sup>357</sup> There is a variety of research from the Essex School, ranging from inter-war French fascism, homosexual political identities in Hong Kong, Romanian social democracy and the emergence of a green political ideology, collected in Howarth *et al.*<sup>358</sup> These are strong examples of a productive research methodology that makes use of the ontological categories and concepts of discourse theory in the 'ontic' analysis of specific political discourses.<sup>359</sup>

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<sup>355</sup> Andersen, 2003, p.49.

<sup>356</sup> Laclau, 2005.

<sup>357</sup> Norval, 1996.

<sup>358</sup> Bastow, S. (2000) 'Inter-war French fascism and the neo-socialism of Marcel Deat: the Emergence of the 'Third way'; Ho, P.S.Y & Tsang, A.K.T (2000) 'Beyond being Gay: The proliferation of political identities in colonial Hong Kong'; Adamson, K. (2000) 'The Construction of Romanian Social Democracy (1989-1996); Stavrakakis, Y (2000) 'On the emergence of Green Ideology: The dislocation factor in Green Politics', all in Howarth *et al* (eds.)

<sup>359</sup> Townshend, 2003, p.132.

## **Applicability of discourse theory as methodology**

This section argues for the applicability of discourse theory to investigation of the specific research questions of this thesis. It will highlight the strengths of discourse theory as a research methodology. Before this it must answer a challenge from another area of discourse analysis: The level of importance given to the work of Foucault.

### *Foucauldian discourse theory*

Foucault's work has made a major contribution to the field of discourse analysis. His work investigated the structures of differing regimes of knowledge. Most discourse analysis approaches follow Foucault's conception of discourses as limited, rule-bound sets of statements, limiting what can be said, or accepted as meaningful.<sup>360</sup> Foucault's work on subjectivity is also foundational to discourse analysis. The subject is created through discourses, undermining the idea of the fully self-aware, rational actor as intentional author of his own statements. Foucault also challenges the conception of knowledge as neutral by showing how the humanities and social sciences establish regulatory regimes of truth and knowledge.<sup>361</sup>

Laclau and Mouffe build upon Foucault's work, accepting his model of discourse, his concept of power as a constitutive force, and following Foucault's problematisation of regimes of truth and falsity, making use of a concept of ideology stripped of much of

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<sup>360</sup> Philips & Jorgensen, 2004, p.13.

<sup>361</sup> Andersen, 2003, p.3.

its content.<sup>362</sup> Both analytics share the same focus upon subjectivation, power and politics.<sup>363</sup> However, they reject Foucault's identification of only one knowledge regime (*episteme* or *dispositif*) in each historical period. Instead, Laclau and Mouffe provide a model with multiple, competing discourses in competition with each other through the model of antagonism and hegemony.<sup>364</sup> Foucault's early work also maintains a distinction between discursive and non-discursive which becomes problematic to maintain, and which Laclau and Mouffe reject.

This raises the question: in a research project drawing heavily upon governmentality, a school of thought with its origins in Foucault's work on liberalism, territory, security and population, would it not be most appropriate to make use of a straightforwardly Foucauldian form of discourse analysis rather than a form of discourse theory which draws upon, but presumably moves away from, Foucault's own theories and understandings? Or in similar terms, why not attempt to develop the theory of language in Deleuze and Guattari's *A Thousand Plateaus* as part of supplementing the surveillant assemblage with its assemblage of enunciation?

This assumes a true Foucault extractable from the voluminous literature of Foucault studies and that the theories of this true Foucault are firstly consistent, and secondly more appropriate for the research questions. It is argued here that neither of these conditions holds. Foucault himself problematised the very concept of the holistic authorial voice and the oeuvre. Dividing Foucault's work into four modes: archaeology, genealogy, self-technology analysis and *dispositif* analysis (governmentality is missing); Andersen argues that Foucault's work was not

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<sup>362</sup> Philips & Jorgensen, 2004, pp.14-18.

<sup>363</sup> Torfing, 2003, p.89.

<sup>364</sup> Philips & Jorgensen, 2004, p.13.

systematic. Foucault was explicitly not engaged in school building.<sup>365</sup> His work was instead seemingly motivated by problems and specific research questions rather than systematic theory building. The result of this is the difficulty (Andersen suggests the impossibility) of drawing out a coherent discourse theory.

His analytics is simply too consciously unsystematic for it to develop into an actual *theory*; he himself does not even cohere to the more programmatic proposals which nevertheless exist. It is primarily a particular analytics, a practice which beckons meditation and imitation without possible repetition.<sup>366</sup>

There has however been a definite attempt to develop a systematic approach to discourse theory by the University of Essex's graduate programme in Ideology and Discourse Analysis. Laclau argues for the increasing precision and detail given to the categories and systems originally articulated in *Hegemony and Socialist Strategy*.<sup>367</sup> Discourse theory therefore is arguably in a stronger position to be used in a research strategy than an artificially purist Foucauldian approach.

An automatic presumption in favour of a Foucauldian discourse theory assumes the earlier, more archaeological form of Foucault's explicitly discursive work is more compatible with governmentality than the developed Discourse Theory model. There are substantial changes between Foucault's earlier and later work, given the different targets of inquiry. Dyrberg suggests the similarities between the analytics of Foucault's later work and that of Laclau and Mouffe mean they could be considered

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<sup>365</sup> Andersen, 2003, p.1.

<sup>366</sup> Schmidt, L.H & Kristensen J.E. (1985) *Foucaults Blik*, Aarhus: Modtryk, translated and quoted in Andersen, 2003, p.2.

<sup>367</sup> Laclau, (2000) 'Foreword' in Howarth *et al* (eds).

as one and the same analytic.<sup>368</sup> This suggests few, if any, compatibility problems between the analytics of governance and Laclau and Mouffe's discourse theory. If the most relevant 'Foucault' for this research is the Foucault of *Security, Territory, Population*,<sup>369</sup> and there is not significant difference between this perspective, and that of Discourse theory, then it is possible to combine insights from discourse theory with those of governance theory.

Similarly, Deleuze and Guattari deny the possibility of individual enunciation – language is a collective and politicised activity.<sup>370</sup> As they explore in 'Postulates of Linguistics' in *A Thousand Plateaus*, language is not about communication, or representation, but primarily composed of order words.<sup>371</sup> Deleuze and Guattari critique linguistic determinism, whilst understanding the integration and interpenetration of language and the social.<sup>372</sup> Because of these underlying assumptions, discourse theory is compatible with the linguistic theory of Deleuze and Guattari, and as such is capable of being mobilised as a way to analyse the discursive component of the surveillant assemblage model.

### *Strengths of discourse theory*

Discourse theory has a number of strengths rendering it appropriate for answering the specific research questions of this thesis, above and beyond its compatibility with governmentality. These can be summarised under four aspects: the focus on identity,

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<sup>368</sup> Dyrberg, T.B. (1997) *The Circular Structure of Power: Politics, Identity, Community*. London: Verso. Quoted in Torfing, 2003, p.89.

<sup>369</sup> Foucault, 2007.

<sup>370</sup> Lambert, G. (2005) 'Expression' in C.J. Stivale, *Gilles Deleuze: Key Concepts*. Chesham: Acumen. p.35.

<sup>371</sup> Deleuze, G & Guattari, F. (2004) *A Thousand Plateaus*. London & New York: Continuum p.84.

<sup>372</sup> Colebrook, C. (2006) *Deleuze: a Guide for the Perplexed*. London & New York: Continuum. p.154.

the focus on the political, the access to empirical material and the level of analysis.

The combination of these aspects suggests that a discourse theoretical approach is an appropriate way to explore the politics of this issue.

As seen, discourse theory has a strong focus on issues of identity. Surveillant social practices often (although not always) involve identity in some manner. The core hypothesis of this research is that concepts of identity, different models and meanings of the concept are being contested in surveillance politics. Discourse theory does not take identity for granted as there is no *a priori* ground for identity and it is a product of differential relations between elements with no essential, positive content. This non-essentialist identity perspective allows for the examination and theorisation of change, conflict and contestation. Related to this is the sensitivity of discourse theory to issues of power and struggle. This particular understanding of political identity makes discourse theory well suited to analysing the role of individual identity in surveillance politics. Specifically, the dual role of identity as ontological philosophical category, and as politically contested concept can be examined using discourse theory concepts of hegemony, articulation and antagonism. Identity as an element of discourse becomes articulated by a number of discourses in differing ways. Certain discourses, and articulations of identity, are likely to become hegemonic, eclipsing other alternate meanings and understandings of identity.

Discourse theory also has a strong focus on the political – this is a discourse analysis grounded in politics and political theory. It operates with an active conception of politics which is flexible and can be adapted to a wide range of political research topics. The models of both identity and politics in discourse theory have a keen

awareness of power in the productive, Foucauldian sense. Language is explicitly politicised and distinctly non-neutral. Discourse theory allows for multiple discourses and interdiscursivity. Meanings, objectivity and identity are all explicitly politicised, mirroring developments in surveillance practices. Again, this explicit politicisation talks to the political nature of surveillance practices – for example what they exclude or include, and the repercussions of these divisions and categorisations.

Discourse theory provides a method of addressing empirical material. There is no possibility of theory independent observation and a purely inductive approach runs the risk of reproducing unconscious categorisations and division of the world. The concepts and tropes offered by discourse theory allow for a theorised way of examining the social and political world, a set of theoretical lenses through which to examine surveillance politics. As such there already exists a body of research making use of this research methodology and producing valid and informative results. This allows discourse theory to provide a model for a research design.

The analytic focus of discourse theory operates at a level that allows for a relatively wide-ranging scope of analysis in comparison with some other discursive approaches (conversation analysis for example). Incorporating the concept of discursive formations allows us to examine the range of discourses operating within a political field, in this case the wide-ranging spread of surveillant social practices. Whilst surveillance theory has sympathy with micro-political analysis, The hypothesis here is that there is something more widespread about surveillance practices and the specific role of identity in these practices that would benefit from a macro-scale analysis, whilst still making use of concrete empirical material. Discourse theory's somewhat

‘depersonalised’ discourses suit this role and fits well with the non-intentional, inter-subjective perspective of the analytics of governmentality.<sup>373</sup>

### **Operationalising the theory – textual analysis**

This section addresses the requirements of turning this methodological theory into an operational research programme through textual analysis. Therefore this section provides an overview of textual analysis, and a summary of its strengths and suitability for this research, before examining practical issues involved with text selection and text analysis.

Discourse is not simply language, but also includes material practices. Discourses are systems of meaningful practices and differential relations that form the identities of objects and subjects. This is an ontological understanding. Practically, these discourses (understood as sets of differential relations that partially fix the structure of society) will have physical manifestations, and will leave traces in physical artefacts which include texts. For McKee ‘texts are the material traces that are left of the practice of sense-making.’<sup>374</sup> Translating this into discourse theoretical terms, discourses are already considered material, so texts become traces left by the practices of discursive articulation, antagonisms, hegemonic formations and operations and the logics of equivalence and difference. For Norval, linguistic changes in texts show the impacts of contesting discourses.<sup>375</sup> Texts allow access and recovery of discursive politics in an empirical form, in a manner not dissimilar to forensics. From a post-structural perspective, the definition of text is broad, and cannot be limited to familiar

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<sup>373</sup> Philips & Jørgensen, 2004, p.20.

<sup>374</sup> McKee, 2003, p.15.

<sup>375</sup> Norval, 1996. p.8.



books or speeches; however these do make up a significant population of texts.

Almost anything can be read as a text, as demonstrated by Barthes in *Mythologies* where he provides ‘readings’ of, amongst other things, wrestling, children’s toys, and steak and chips.<sup>376</sup> However, traditional texts still exist as part of this universe of readable things and are available for empirical analysis. Their selection is an analytic and pragmatic one rather than an ontologically privileged one. A source of empirical evidence would be selected in any empirically-focused research project, even if that project were not driven by discourse theory. It is argued below that textual analysis is an appropriate choice.

Textual analysis is a strong method for social and political research for a number of reasons. Firstly, texts are sensitive barometers of movement and diversity; they are good indicators of social change and provide evidence of ongoing processes – in this case the reconstruction and rearticulation of social identities.<sup>377</sup> Texts can be thought of as frozen moments of discourse, thus enabling the analysis of discourses over time. A second strength of textual analysis is the availability and accessibility of texts, especially compared with interviewees. This is especially true for political research that looks at the discourses that structure society in a broad sense. Given the nature of discourses across texts, intertextuality, and the presence of multiple discourses within texts, discursive textual analysis does not prioritise the necessity of access to specific documents, in the way that a documentary policy analysis might. Discourses at the level of discourse theory, upon which many social actors draw subject positions and are involved in hegemonic contestations, are likely to be found across multiple texts (otherwise they are statements rather than discourses), a range of which will be

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<sup>376</sup> Barthes, R. (1993) *Mythologies*. London: Vintage.

<sup>377</sup> Fairclough, 1999, pp.204-5.

accessible. Additionally, preliminary analysis identified a significant population of publicly available texts dealing with issues identified as surveillance by the variety of surveillance research detailed in Chapter One. Access to sufficient textual material therefore does not pose a problem for a discourse theory based, textual analysis methodology. The research questions of this thesis focus on active public discourses rather than uncovering hidden (elite) discourses. Texts are therefore publicly available and in the realm of politics, and the establishment of hegemonic and counter-hegemonic articulations. Texts are themselves social actions; Fairclough argues that it is increasingly through texts that social control and social domination are exercised.<sup>378</sup> This raises the importance of textual analysis for critical research. It should be understood that many of the links in surveillant assemblage of enunciation are textual. The analytics of government likewise has an orientation towards the communicative acts (both internal and external) of governance structures:

The ways in which those who would exercise rule have posed to themselves the question of the reasons, justifications, means and ends of rule, and the problems goals or ambitions that should animate it.<sup>379</sup>

Finally, research often makes use of textual evidence even if the research is not explicitly textual and texts are created during the research process.

Textual analysis should not, and indeed cannot, be simply inductive.<sup>380</sup> Descriptive tools do not provide privileged access to the text, but if brought to the text with contextual knowledge (in this case provided from existing surveillance research) and

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<sup>378</sup> Fairclough, 1999, p.205.

<sup>379</sup> Rose, 1999, p.3.

<sup>380</sup> For an example of a model that is simply inductive, and provides no theoretical structure for 'discourse analysis' which seems to simply be close reading and the noting of recurring patterns, see Hoey, 2001.

a theoretical framework (in this case the combination of discourse theory and the analytics of government) then linguistic textual analysis becomes a ‘means of getting some purchase on the significance [...] assigned heuristically to the text.’<sup>381</sup> Discourse analysis should not presume privileged access to hidden realities at a level deeper than the text, thereby accessing the Truth of text. This is compatible with the governance insight into the need to analyse the strategies and tactics of governance in their own terms:

The kind of empirical analysis that is involved here is not hermeneutic. It is not a question of decoding or interpreting a particular strategy to discover hidden motives, of critiquing a particular alignment of forces to identity class interests, or of interpreting a particular ideology to discover the real objectives that lie behind it.<sup>382</sup>

A textual approach to discourse analysis should follow Fairclough in involving:

A transdisciplinary process in which perspective and categories from outside textual analysis or discourse analysis can be operationalised as ways of analysing texts which enhance insight into the textual aspect of the social practices, processes, and relations which are the focus of a particular research project.<sup>383</sup>

Discourse theory serves as the theoretical framework through which textual material will be analysed in order to provide answers to the research questions articulated in Chapter One, and drawn from surveillance theory and governmentality.

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<sup>381</sup> Fowler, N. (1996) ‘On Critical Linguistics’ in C.Caldas Coulthard & M.Coulthard (eds) p.9.

<sup>382</sup> Rose, 1999, p.56.

<sup>383</sup> Fairclough, 2003, p.16.

## **Text selection**

Of critical importance in any research design that involves textual analysis is the question; which texts? Or, more accurately, the question of how texts to be analysed will be selected. This section elucidates the limitations and criteria for text selection in this thesis.

### *Sampling*

An ideal research project would be able to assess and analyse the entire population of legitimate texts. This is clearly not practicable in any realisable, real-world research project. The size of the potential universe of texts is unknown, yet likely extremely large and heterogeneous. Given this limitation, some form of sampling is required. Random sampling is intended to eliminate selection bias and provide a sample that is truly representative of the population. However, random sampling would be impossible for textual analysis. The supposed benefits of random sampling methods rely on assumptions about the relationship between sample and population. These do not hold true for the population of texts and the techniques of discourse analysis. A sample constructed randomly from an extremely heterogeneous population is likely to be highly unrepresentative, even if it was possible to construct a valid sampling frame. This is especially true given the requirement for small  $n$  samples in discourse analysis due to the resource requirements of close reading of textual material. Equally, given the presence of discourses in multiple, heterogeneous texts, not every text will be equally revealing, nor speak towards the research questions with the same level of productivity. Whilst it could be possible to read a discourse of surveillance from an

individual's shopping list (part of the universe of potential texts, and actually a material trace of the recording of commercial transactions – which might raise questions about how that text was anticipated, predicted or represented in market research databases imperceptible to the consumer) it is likely more productive to analyse the contents of a report on identity cards produced by the Office of the Information Commissioner. The model of sampling in this research must therefore be conceptually driven. Texts must be selected that are most illustrative of wider trends rather than statistically representative of their proportion of the population. Therefore, it is necessary to provide conceptual and contextual justification for the inclusion of texts or group of texts – based upon the research questions and surveillance theory. This justification is set against criteria that necessarily limit the free play of selection based upon pragmatic grounds and in order to ensure research consistency and validity.

### *Case study approach*

Philips and Jorgensen argued for the need in conducting discursive analysis:

To make a strategic selection, likely discourse and orders of discourse need to be identified through an initial survey of relevant texts, including research on the topic.<sup>384</sup>

This is part of a response to the question posed by Foucault regarding the appropriate units of analysis for discursive research.

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<sup>384</sup> Philips & Jørgenson, 2004, p.147.

A provisional division must be adopted as an initial approximation: an initial region the analysis will subsequently demolish and, if necessary, reorganise. But how is such a region to be circumscribed? On the one hand, we must choose, empirically, a field in which the relations are likely to be numerous, dense, and relatively easy to describe... On the other hand, what better way of grasping in a statement, not the moment of its formal structure and laws of construction but that of its existence and the rules that govern its appearance, if not by dealing with the relatively unformalised groups of discourses, in which the statements do not seem necessarily to be built on the rules of pure syntax?<sup>385</sup>

The discursive textual analysis in this research project is structured around five *reference points* which will define a discursive area, or discursive formation/order of discourse. These reference points should be regarded as contingent, provisional analytic divisions of the field of surveillance discourse. They arise from an examination of the scope of surveillance research combined with assessments as to the level of likely productivity. These reference points are not isolated from each other, and are not studied in isolation. They act as a starting point whilst analysis attempts to identify any cross field regularities or internal discontinuities in order to deconstruct these contingent categories. As a result, after Chapter Four, the subsequent two chapters use structures derived from the empirical material. This division pays attention to the multiple discourses that structure any social field, as well as the numerous sites of surveillance in contemporary UK society. It follows suggestions from surveillance theory to examine specific sites of surveillance and avoids making generalisation across the totality of society.<sup>386</sup> It is guided by the model of the surveillant assemblage, enhanced by re-introducing language, and the analytics of governance to examine surveillance practices beyond the traditional model of the state and government.<sup>387</sup> Drawing on discourse theory, it also allows for

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<sup>385</sup> Foucault, 2005, pp.32-3.

<sup>386</sup> Lyon, 2007, p.25.

<sup>387</sup> Haggerty & Ericson, 2000.

the examination of antagonistic conflict, hopefully with productive insights into the discursive antagonisms constructed through opposing discourses. The range of reference points allows the inclusion of technologies and practices, the public and private sectors, central government and NGOs, direct action and pressure groups, actors responsible for the mediation and reinforcement of discourses, the creators of surveillance systems, and to engage with a large potential range of articulations of identity. The reference points for discursive formations are as follows.

- **Government discourse**

As the theoretical underpinning of this study acknowledges the importance of government as a site of governance (without overly privileging it), government produced discourse must be examined. An analytic focus on identity cards allows the examination of the predominant sites of identity rearticulation where identity is contested and in play.

Identity cards are one of the most contested practices of surveillance in the United Kingdom. With the passing of the 2006 Act they are a contemporary phenomenon. Identity cards can themselves be understood in discourse theoretical terms as an articulation of identity. The introduction and future use of identity cards is a practical action that rearticulates what identity is in UK society. Identity cards are (unsurprisingly) fundamentally about identity. It would be impossible to ignore identity card discourses in a study of the articulation of identity in discourses of surveillance. Many of the themes and regularities found in other discursive areas are strongly represented in identity card discourses and many even find their point of

origin near to identity cards. To not include identity cards in an analysis of discourses of surveillance in the United Kingdom would be to risk obscuring a significant element of those discourses.

- **Opposition to ID cards discourse**

As a contested surveillance practice, there is a distinct discourse of opposition to identity cards. This often attempts to rearticulate government statements and contest its definitions. Examining both sides of the conflict is holistic and allows for examination of the nature of that conflict.

A large number of arguments have been mobilised against the government's proposals. The government's discursive articulations have responded to this oppositional discourse and have developed over time. This is an area of conflict and contestation in the politics of surveillance in the United Kingdom. It therefore produces more concrete articulations as positions are attacked and defended, rather than silently accepted. Both hegemonic and counter-hegemonic projects are at work in this discursive field.

- **Information Commissioner's Office discourse**

The Office of the Information Commissioner, created by the Data Protection Act 1998, superseded the Data Protection Registrar set up by the Data Protection Act 1984. The role and profile of the Information Commissioner increased substantially with the passing of the *Freedom of Information Act 2005*. The office has two main



responsibilities, data protection and freedom of information. The ICO holds statutory and regulatory powers but it is not a government ministry or department. It is in this direction that we are led by an analytics of governance, to agencies of government broadly conceived.

ICO is active in UK surveillance politics. Therefore to not include such an actor would be remiss. ICO has also been heavily involved in efforts to combat identity theft, often through public education efforts. This has resulted in a significant degree of media attention directed at the office. ICO has an active press office and a substantial catalogue of press releases.

ICO appears to have (and express) a nuanced view on surveillance. Whilst surveillance is critically evaluated, it is not totally discredited or evaluated in pejorative terms. ICO therefore occupies a position between an unquestioning acceptance of surveillance practices (perhaps in pursuit of other objectives such as crime prevention) and a blanket opposition to all surveillance practices. ICO therefore is an appropriate point of reference due to its position in relation to other points.

- **Media discourses**

Mass media is a site where battles over identity, distribution and social control are fought out.<sup>388</sup> Mass media institutions are socially significant actors. The news media frequently feature accounts of surveillance technologies and practices in areas of news, comment and features. Both surveillance and identity are active concepts in

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<sup>388</sup> Kellner, D. (1995) *Media Culture: cultural studies, identity and politics between the modern and the postmodern*. London: Routledge.

news media discourse. The perspective of the news media is not unitary, as is expected from a site of political contestation.

Mass media helps to establish and maintain the hegemony of specific social groups by producing and promulgating social myths and imaginaries, but they also provide the means and material for resistance and counter-hegemonic struggle.<sup>389</sup> The mass media provides some of the interpretative reservoirs of discursive participants and of the general public; these are used to make sense of surveillance processes. Various actors and institutions also attempt to make use of the news media to broadcast their message, with varying degrees of both success and sophistication.

Mass media (re)produces and sustains hegemonic representations of surveillance. The discourse is highly inter-textual and draws upon other discourses of surveillance. This is never a completely transparent automatic process, and as such it is important to pay attention to the ways in which media discourses of surveillance and identity can reinterpret or rearticulate material drawn from other discursive sources.

- **Banking and financial discourses**

Banking and financial services and regulatory bodies serve as a reference point for examining private sector surveillance activity and the accompanying discourses of surveillance. The activity of the credit reference agencies in establishing the credit ratings of individuals is a significant example of the operation of social sorting. Significant identification activity occurs in banking and finance, involving ways of

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<sup>389</sup> Torfing, 2003, p.211.

proving and validating the identity of individuals and organisations. Thirdly, the discourse around this reference point also speaks to criminal surveillance, the monitoring and information gathering by ‘identity thieves’ who are themselves silent, but represented in this field of discourse. Within the banking and financial sector there is currently a prominent discourse of identity, providing the opportunity for a significant number of selectable and analysable texts. These debates arise from the importance of identification practices required by legislation as well as the apparently growing threat of identity fraud. The sector is part of governance broadly understood. The discourses of identity at play here link into the ID card debate and also the protection of personal identity espoused by the Information Commissioner. An active role is ascribed to actors in this field in dealing with the problem of identity. The banking and financial sector can be understood as forming an important part of the surveillant assemblage.

#### *Positive text selection*

Moving from these reference points there is a requirement for positive guidelines for selection – these include references to what should be included, and what it is (provisionally) assumed would be productive with regard to producing valid answers to the specific research questions of this project. It should be possible to show that such texts are illustrative of trends common to that type of text, whilst using contextual knowledge to determine outlying occurrences or misspeaking. The criteria for text selection are primarily concerned with determining the extent to which any given text is about surveillance (in its specific manifestation in that discursive formation). It will not do to simply search for the signifier *surveillance* in the text and

a more nuanced approach must be taken. Due to the negative connotations of the word surveillance, which conjures up images of spies and espionage, many texts which are clearly about surveillance practices do not use the word itself.<sup>390</sup> Whilst placeholders could be determined (observation, measurement, or perhaps research) this highlights a lack of nuance in the approach. The *about* part of the requirement is simple enough – A text is considered about surveillance if it depicts, describes, argues for or against, debates, critiques, legitimises, questions, contemplates or provides an account of surveillance. This is not an exclusive list but it provides examples of the type of relationship a text must have to surveillance to be justified for inclusion. With regard to surveillance, we draw from surveillance theory a picture that the text performs these activities relating to practices that involve surveillance, supervision, identification, data gathering on individuals or populations, categorisation, social sorting, panopticism, dataveillance, purposive information gathering, or any practices identified as such using the theories of surveillance as depicted in the previous chapter. Whilst it is somewhat abstract in relation to this wealth of practices, it is worth restating Lyon's definition of surveillance: 'focused, systematic and routine attention to personal details for the purpose of influence, management, protection or direction.'<sup>391</sup> In summary, in looking for discourses of surveillance the search is for documents that refer to, articulate or orient towards practices identified as surveillant or including significant surveillance dimensions.

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<sup>390</sup> Ball, K & Haggerty, K. (2005) 'Editorial: Doing Surveillance Studies' *Surveillance and Society* 2(2/3) 129-38.

<sup>391</sup> Lyon, 2007. p.14.

### *Limitations on text selection*

The following criteria act as limitations on the populations of texts from research design and validity perspectives. They serve to reduce the population of texts, prior to the selection of specific texts within that universe for further analysis.

- The text must have an identifiable source, even if that source is an institution or organisation rather than a single named author. Pseudonyms are also acceptable as long as there is signification of origin. The author is a concept placed under question by poststructuralism, but the knowledge of the producer is necessary for classification, and post-hoc external verification of the research. It also filters out orphan texts produced through search engines. Whilst these may contain elements of identifiable discourse they cannot be located within the analytic framework.
- Given the concentration of this research on the UK, they will be produced in the UK or refer to the United Kingdom. Discourses rarely strictly follow national boundaries, especially in the contemporary globalised world, but this restriction performs some narrowing of focus.
- Texts must be publicly available. This is an issue of practical access and allowing assessment of the validity of the research, whilst the theoretical focus is on public discourses that are struggling to suture the social, provide subject positions etc.

### *Locating texts*

The previous criteria limiting texts available to select would be sufficient if combined with complete knowledge about the universe of texts, including what is contained in texts and where they can be located. However as we have seen, this is impossible. If achieved, discourse analysis would be rendered redundant. This leads to a requirement for a mechanism by which texts can be *found* before they can be selected or deselected.

The five case study reference points act as starting points for locating texts. This process is driven primarily through an understanding of the field of surveillance politics, supplemented by a contextual knowledge of the United Kingdom, and preliminary research activity suggesting the potential locations of illustrative texts. Many of the sectors involved in this research openly and publicly publish texts and documents. This holds especially true for government and governance institutions, social movements and media (by definition). This is where the intertextual aspect of discourse analysis emerges. Intertextuality is the understanding that every text is dialogical: it gains meaning in relation to other texts (which have come before, and will come after it).<sup>392</sup> Texts are riddled with the presence of other texts. For example footnotes and references in this chapter signal intertextual relations to numerous other texts, in fields of political theory, discourse and textual analysis, which in turn will have their own array of intertextual relations. It is possible to trace relationships between texts in this manner in a similar way to snowball sampling methods in interview research. The advantage of this in textual analysis is that it is much easier

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<sup>392</sup> Solin, A. (2004) 'Intertextuality as mediation: on the analysis of intertextual relations in public discourse' in *Text: an Interdisciplinary journal for the study of discourse*. Vol 24-2.

given the pervasive nature of textual material in contemporary society to find entry points should intertextual chains run dry. Additionally, these chains and contextual knowledge can lead to texts that *should* talk about surveillance but do not. Absences, what is not said, are as important as what is said to discourse analysis.

## **Evaluation of Research**

Any research design must provide a justification for its analytical choices, and attempt to provide criteria through which those choices and justifications might be evaluated. This section deals with the evaluation of this research design and consequentially any findings arising from this research. Due to the post-structuralist underpinnings and politicisation of language there are limits to the knowledge claims that can be made. Every analysis of a text or discourse is an interpretation; closely involved with the ‘language-plus-situation’ that is the focus of analysis.<sup>393</sup> It is not quantifiable, nor perfectly repeatable, nor about the relationships between variables.<sup>394</sup> Fairclough argues that;

We should assume that no analysis of a text can tell us all there is to be said about it – there is no such thing as a complete and definitive analysis of a text. That does not mean that they are unknowable – social scientific knowledge of them is possible and real enough and hopefully increasing, but still inevitably partial.<sup>395</sup>

This is far from advocating an anything-goes approach to research. Whilst discourse analysis may be more of an ‘art or skill’ rather than a ‘rigid procedure’, there are still

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<sup>393</sup> Gee, 1999, p.94.

<sup>394</sup> McKee, A. (2003) *Textual Analysis: A Beginner's Guide*. London, Thousand Oaks & New Delhi: Sage. p.64 & p.100.

<sup>395</sup> Fairclough, 2003, p.14.

criteria by which we can assess the validity of conclusions.<sup>396</sup> The post-positivist perspective is that we must be careful about the breadth of our conclusions and that discourse analysis is thickly descriptive, uses small samples, and involves discovering as many possible explanations as possible. The objective Archimedean position is not available and as such, the findings of discourse analysis are by their very nature partial and provisional. This is not a deficiency of the approach, but rather the recognition is an advance over positivist approaches which elide their own partiality to claim objectivity. This reflexivity leads to a need to explicitly consider the effects of subjectivity upon any substantive findings. Various writers suggest a number of criteria for the evaluation of work within this paradigm, which are adopted here:

- A valid analysis is an analysis that explains social phenomena in a way that any serious investigation into the same social phenomena will have to take seriously into account.<sup>397</sup> In a similar vein, Howarth argues that some discursive analysis accounts will simply be more persuasive than other accounts.<sup>398</sup> Johnstone argues that there must be a search for a convincing argument (or plausible narrative) rather than a final authoritative 'Truth'.<sup>399</sup> Pierce writes about the necessity of appeal to a 'critical community' when operating from anti-foundationalist assumptions.<sup>400</sup>
- Discourse analysis is systematic, to the extent that multiple interpretations are produced from textual material, before a single one is argued for.<sup>401</sup>

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<sup>396</sup> Johnstone, 2002, p.235.

<sup>397</sup> Ibid, p.95.

<sup>398</sup> Howarth, 2000, p.115.

<sup>399</sup> Johnstone, 2002, p.238.

<sup>400</sup> Bernstein, R.J. (2003) 'Anti-Foundationalism' in G. Delanty & P. Strydom (eds) *Philosophies of Social Science: The Classic and Contemporary Readings*. Maidenhead & Philadelphia: Open University Press.

<sup>401</sup> Johnstone, 2002, p.238.



- The theoretical tools used in analysis must not prejudge, *a priori*, what is to be found in the analysis.<sup>402</sup>
- The analyst must conduct his/her analysis in 'good faith'.<sup>403</sup> As a result the onus is on the researcher to make his/her interpretation and analysis as explicit as possible in the development of the argument.<sup>404</sup>
- If there is convergence and coherence between various elements of the analysis.
- Source material is retained; texts and other sources of discursive material are available for alternative interpretations.<sup>405</sup> This is most important if the research draws on interviews or data produced by the researcher during the research. If the textual material is publicly available, then this need not be retained by the researcher, but material drawn upon must be made clear. Different researchers bring different perspectives to bear upon the material, and disagreement is inevitable. If however, the interpretation presented is considered plausible, this enhances the validity of the research.

Additionally, the limitation of knowledge claims, and the partial and provisional nature of knowledge claims that can be produced by discourse analysis place limits upon how far one can generalise from any findings to other external cases. Given that discourse analysis is interpretative, it can make knowledge claims only about the discourses that it has analysed. To this end this research speaks to particular discourses of surveillance with the politically and geographically delineated environment of the United Kingdom in the early 21<sup>st</sup> century. Whilst it could be

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<sup>402</sup> Norval, 1996, p.2.

<sup>403</sup> Johnstone, p.238.

<sup>404</sup> Devine, F. (2002) 'Qualitative Methods' in D. Marsh & G. Stoker (eds) *Theory and Methods in Political Science (second edition)*. Basingstoke: Palgrave. p.206.

<sup>405</sup> Johnstone, 2002, p.238.

argued that discourses of surveillance display great similarity between the United Kingdom and similar English-speaking, neo-liberal countries (specifically the United States, Canada and Australia), and that some conclusions of this research could hold true in those countries or even further beyond, it would require additional empirical research into existing discourses in those countries to verify this. At this stage it remains in the realm of conjecture or a direction for further research. Nor does this research make claims about all discourses of surveillance, but only about those discourses featured in the empirical material, with the qualifier that these areas have been selected on the basis of the strongest theories of surveillance available.

### **‘Rearticulated’ research questions**

This section takes the research questions extracted from surveillance research and governmentality and expands the research questions with insights from discourse theory. This therefore performs an operationalisation of the concepts and questions into a form that can guide empirical textual analysis.

*What discourses of surveillance are identifiable in the contemporary United Kingdom?*

The discourses of surveillance in the UK are understood as discursive regularities, as differential relationships between objects. There will not be one totalised discourse of surveillance, but multiple discourses with surveillance as their object. *Discourse of surveillance* is an analytic strategy rather than an ontological category. These discourses can be distinguished by regularities in the way they arrange and constitute

objects. There is no necessity to these discourses, and their development and separation will be the result of political contingency and decision. Discourses with a surveillant dimension will be in antagonistic conflict with other discourses, and the contours of these conflicts will determine the shape of the surveillance discourse. There may be discourses that appear to be hegemonic, to the point they appear as objective social facts. However, these hegemonies will never be total, and will always be vulnerable to the rearticulation of their component elements by their constitutive outside.

Discourses are not purely linguistic, and included practices as well as language. However, fruitful research can be conducted on the basis of the traces left by discourses in texts. This research question involves a mapping exercise, the contours of differing discourses explored with reference to particular chains of equivalence and nodal points. Attention should be paid to how the discursive field is structured. The concepts of nodal points, floating signifiers, and chains of signification are important for this. What are the regularities across discourses? How do discourses cohere or conflict? What are the tensions and dissonances within discourses? Do discourses of surveillance simplify or increase the complexity of the social space? The mapping of discourses of surveillance in the UK starts from a number of points of reference with the intention of deconstructing these and searching for regularities and dissonances across discourses.

*What rationalities are at play in these discourses of surveillance?*

Rationalities and logics map onto a number of concepts in discourse theory. They can be associated with the way concepts, identities and objects are articulated. Logics can be derived from the chains of signification formed by discourses. It is in relation to rationalities and logics of discourses of surveillance that the discourse theory logics of difference and equivalence become relevant. Rationalities and logics are also signified closely by the way that particular objects, concepts and identities are evaluated, privileged or occluded, problematised or normalised, included or excluded.

*What roles or subject positions are made available by discourses of surveillance?*

Subject positions are explicitly conceptualised in discourse theory, drawing upon the post-structuralist understanding of the *non-essential* subject as constituted through multiple competing discourses.<sup>406</sup> Subject positions will therefore be *multiple*.

Discourses provide a number of subject positions, which act as constraints on the available identities. These subject positions may be incompatible with each other, and social antagonisms play important roles in the constitution and limits of particular identities. The formation of social identities involves the suppression of alternatives. Subject positions are relational and attention should therefore be paid to the ways that subject positions are linked or contrasted through relations of equivalence or difference. Textually, attention should be paid to the representation of social actors, the ways that different subject positions are privileged, negatively evaluated or occluded. How are identities positioned in relation to each other? Which subject

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<sup>406</sup> Phillips & Jørgensen, 2004, p.43.

positions are capable of coexisting and which are antagonistic, negating the other's identity? Are identities understood in terms of groups or individually? Some subject positions will be the constitutive outsides of various discourse – how are these excluded identities constituted – are they positioned as enemies or adversaries?

With regard to surveillance, the asymmetries of power associated with many surveillance practices suggest that ascribed identities can be particularly powerful. Many surveillance practices appear to involve the ascription of identity as part of their enunciative element. For example, a biometric access system differentiates between included member and unknown stranger denied access. In this manner, technologies as well as linguistic practices can produce subject positions. These subject positions are never total however, and these gaps allow for resistance to the identity ascription of surveillance practices. Discourse theory draws attention to the political dimension of the production of subject positions, regarding identity as the effects of a political act, and therefore as an inherently ethical (or unethical) act.

*How is the idea of individual identity articulated within contemporary discourses of surveillance?*

As well as playing an ontological role as subject positions, identity must also be understood as an *element* that discourses will attempt to articulate as a moment in chains of signification with other moments.

It is possible, but not necessary, that identity may serve the function of an *empty signifier* in some discourses of surveillance. The discourse of the Enlightenment

articulates identity differently to the discourse of post-structuralism. The articulation of identity in discourses of surveillance is likely to be different to both of these. It is the specificity of this articulation in actually existing political discourse which is of most interest in this thesis. Identity may be a floating signifier, an element over which no discourse has hegemony in a particular field, in which case the potential hegemonic articulations should be examined and analysed. Identity may also appear to be unquestioned or missing from a discourse but a particular understanding may have achieved partial fixation and hegemony, its meaning becoming sedimented and apparently objective. All attempts to ground identities are therefore to be understood as precarious and political attempts to naturalise or objectify politically constructed identities.<sup>407</sup> Is there therefore an *ideology of identity* in attempts to articulate authoritative, essential forms of identity, which elide the contingent nature of social identities?

*How is the nature of the governmentality problem defined in these discourses?*

In addition to the operation of hegemonic articulations of governmental problems, the definition of the problem of governmentality can be also be associated with discourse theory's dislocations of the social. Dislocations can arise from sources which can also be considered as problems of governance. If governmentality *pre-problem* is understood as a hegemonic discourse within government (broadly conceived) then dislocation can arise from problems of government understood as counter-hegemonic articulations, which must be discursively constructed as problems and responded to.<sup>408</sup> Governmentality also requires the constitution of specific types of subjectivities,

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<sup>407</sup> Torfing, 2003, p.63.

<sup>408</sup> Rose, 1999, p.3.

limiting the range of acceptable subject positions available in governmental discourses. For example, the failure or inability of a government to provide security in a territory problematises the hegemonic understanding of the role of governance, and requires a response to re-establish that hegemonic understanding. Problems of governance will be articulated in discourses, most likely in relation to particular logics and rationalities of discourses of surveillance.

As we can see, discourse theory provides a number of theoretical concepts, categories and models which allow the refinement of the research questions produced by surveillance theory and the analytics of governance. This allows a finer definition of discourses and a closer level of analysis. Discourse theory highlights a number of features to which attention should be paid in empirical analysis.





## **Chapter Four: Representation of Surveillant Social Practices**

This chapter examines the five areas of discourse structured around the five reference points: ICO, government, opposition, financial, and media discourses. It examines the representation and evaluation of surveillance practices, including data protection principles, debates over national identity cards, and the phenomenon of identity theft. This chapter presents the first results of the analysis of the empirical textual material, providing answers to the first two research questions. This chapter also contextualises surveillance discourses enabling closer analysis of specific features in the following two chapters. This chapter maps the lines of conflict over surveillance practices in contemporary UK society.

Referenced texts were not the only texts analysed, but they are representative and illustrative of the regularities, rationalities and logics of these discourses. Elements in **bold** are added for emphasis.

### **ICO discourses**

The field of discourse surrounding the Information Commissioner's Office represents surveillant social practices in various ways. Surveillance practices can be harmful, in quantifiable or intangible ways. Surveillance has the potential to invade privacy. However, surveillant social practices are normalised and their contingency reduced; they can be mitigated, but not removed from social life. Surveillant social practices are normatively evaluated through the categories of necessity, appropriateness,

legitimacy and consent. Firstly, the potential harm of surveillant social practices: potentially highly damaging, but hard to objectively assess:

Disclosure of even apparently innocuous personal information – such as an address – **can be highly damaging** in some circumstances, and in virtually all cases individuals experience distress when their privacy is breached without their consent.<sup>409</sup>

Such **individual harm** can present itself in different ways. Sometimes it will be tangible and quantifiable, for example the loss of a job. At other times it will be less defined, for example damage to personal relationships and social standing arising from disclosure of financial circumstances. Sometimes harm might still be real even if it is intangible.<sup>410</sup>

There is also harm which goes beyond the immediate impact on individuals. The harm arising from improper use of personal information may – at least initially – be imperceptible or inconsequential to individuals, but **cumulative and substantial in its impact on society**. This societal harm might for example arise through the development of a surveillance society. Societal harm can have multiple causes but improper use of personal information could be a significant factor in:

- excessive intrusion into private life which is widely seen as unacceptable;
- loss of personal autonomy or dignity;
- arbitrary decision-making about individuals, or their stigmatisation or exclusion;
- the growth of excessive organisational power;
- a climate of fear, suspicion or lack of trust.<sup>411</sup>

Judgements especially about seriousness are not always easy. **Loss of privacy can qualify as a harm in its own right**, but there are difficult issues of objectivity and subjectivity. Some individuals value their privacy more than others. Our approach will be as objective as possible.<sup>412</sup>

An ICO leaflet demonstrates the confusion that can result from errors in information processing or records. In this leaflet *Information held about you may be wrong* a child has a sign on her back that reads ‘£20,000 IN DEBT’ whilst a young man bears a sign

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<sup>409</sup> Information Commissioner’s Office. (2006) *What Price Privacy? The Unlawful trade in confidential personal information*. London: The Stationery Office. p.5.

<sup>410</sup> Information Commissioner’s Office. (June 2007) *Data Protection Strategy: Consultation Draft*. Wilmslow: Information Commissioner’s Office. p.7.

<sup>411</sup> Ibid, p.8.

<sup>412</sup> Ibid, p.9.

that reads ‘6 MONTHS PREGNANT’. This represents the fairly obvious cases of incorrect data, which could be fairly easy to correct. ICO produced a number of short films with a similar message:

Films featuring an old lady labelled as a pole dancer and a toddler in court for being £2000 in debt will warn shoppers in some of the UK’s biggest malls what could happen if they become a victim of mistaken identity because their personal information is stolen or inaccurately held.<sup>413</sup>

Despite the potential harm of such practices, surveillance practices are represented as inevitable. Practices such as the sharing and aggregation of personal data will be conducted by organisations. At best what might be possible is mitigation of the worst effects. ICO discourse does not construct a vision of the world in which it is possible to do away with or prevent these practices, likely a result of their legal responsibility and status.

Today, **like it or not**, our personal information is held by many public and private organisations.<sup>414</sup>

We will also seek to **mitigate the negative effects of surveillance** by promoting privacy friendly approaches, influencing stakeholders, developing relevant tools and increasing the confidence of individuals in exercising their data protection rights.<sup>415</sup>

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<sup>413</sup> Information Commissioner’s Office (14/6/07) *Pole Dancers to remind shoppers to protect against Identity Theft*.

<sup>414</sup> Information Commissioner’s Office. (2007) *Personal Information Toolkit*. Wilmslow: Information Commissioner’s Office. p.2.

<sup>415</sup> Information Commissioner’s Office (2008) *Data Protection – Protecting People: A Data Protection Strategy for the Information Commissioner’s Office*. Wilmslow: ICO. p.20.

### *Normative evaluation of surveillant social practices*

The discourse provides four main criteria for the normative evaluation of surveillant social practices; necessity, legitimacy, appropriateness and consent. These are derived from data protection principles enshrined in legislation. The use of surveillance must be justified. These principles are summarised as:

The eight principles of good practice: anyone processing personal information must comply with eight enforceable principles of good information handling practice. The data must be:

- fairly and lawfully processed;
- processed for limited purposes;
- adequate, relevant and not excessive;
- accurate and up to date;
- not kept longer than necessary;
- processed in accordance with the individual's rights;
- secure;
- not transferred to countries outside the European Economic Area, unless there is adequate protection.<sup>416</sup>

### *Necessity*

In this discourse deeming a practice unnecessary is a strong negative evaluation.

Necessity is an empty signifier; with a range of meaning so broad it has the potential to be universal.<sup>417</sup> It is left unfilled in this discourse, open to a wide range of strategies of filling based on 'objectives' and aims.

You must not share information if **it is not necessary to do so**. It is good practice to periodically review the information sharing and to check that

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<sup>416</sup> Information Commissioner's Office. (2006) *Protecting Privacy – Promoting Openness*. Wilmslow, Information Commissioner's Office. p.17.

<sup>417</sup> Townshend, 2003, p.132.

all the information being shared **is necessary to achieving your objective**. Any **unnecessary sharing of information should cease**.<sup>418</sup>

Personal information shall not be kept for longer than is **necessary**.<sup>419</sup>

The measures in the Bill go well beyond establishing a secure, reliable and trustworthy ID card. The measures in relation to the National Identity Register and data trail of identity checks on individuals risk an **unnecessary** and disproportionate intrusion into individuals' privacy. They are not easily reconciled with fundamental data protection safeguards such as fair processing and **deleting unnecessary personal information**.<sup>420</sup>

### *Appropriateness*

Closely linked to necessity is the evaluation of how appropriate (or not) a surveillance technology or practice is. This is again linked to the functional aims of the surveillance practice, making the argument that a technology must be appropriate to the stated purposes to which it is put. This is exemplified in ICO's CCTV data protection guidance.<sup>421</sup> This document asks what problems CCTV is meant to address and if other non-privacy-invasive technologies might not achieve the same objectives. A surveillant, privacy-invading practice or technology is inappropriate if not installed for specific purposes, if the technology is not an effective way to meet those purposes, or if a less privacy-invasive approach could be used instead to the same efficacy. Similarly to the contents of necessity, the purposes of surveillance are not detailed. A particular purpose must be held in mind (presumably by the installer and future operator, defined as the 'data controller' in data protection discourse). ICO discourse

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<sup>418</sup> Information Commissioner's Office. (undated) *Framework Code of Practice for Sharing Personal Information: Consultation Draft*. p.9.

<sup>419</sup> *Ibid*, p.10.

<sup>420</sup> Information Commissioner's Office. (June 2005) *The Identity Cards Bill – The Information Commissioner's Concerns*.

<sup>421</sup> Information Commissioner's Office. (August 2007) *CCTV Data Protection Code of Practice: Consultation Draft*. Wilmslow: The Information Commissioner's Office.

prioritises ‘fair processing’ of personal data and collection rather than a universal diminution in the collection of personal data.

### *Legitimacy*

A distinction is drawn between actors who can legitimately access personal data, or perform surveillant social practices, and those who cannot. This distinction is largely made on the basis of formal legality rather than normative underpinning. Legitimate surveillance actors include banks, credit reference agencies and financial services, ‘organisations we deal with in our daily lives’, utility and telecommunications companies, transport operators, schools, hospitals, internet service providers, local councils and public services. Illegitimate surveillance actors include criminals, ‘blaggers’, some private detectives, personal information ‘middlemen’ and identity thieves as well as otherwise legitimate actors failing their obligations. Some methods are evaluated as illegitimate simply because of the actors which make use of them.

However laudable the aim, we need to make sure that increasing access to government held information for those with **a legitimate need to know** does not also open the door to those who seek to buy, beguile or barter their way to information that is **rightly denied to them in law**.<sup>422</sup>

**Criminals can use a number of methods** to find out your personal information and will then use it to open bank accounts, take out credit cards and apply for state benefits in your name.<sup>423</sup>

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<sup>422</sup> Information Commissioner’s Office, 2006, p.3.

<sup>423</sup> Information Commissioner’s Office, 2007, p.30.

## *Consent*

The concept of consent is highly evaluated in this discourse. Surveillance practices are evaluated as acceptable and legitimate if they are conducted overtly rather than covertly, and if the subject of surveillance is both aware of the surveillance and consents to its occurrence. Consenting to surveillance, and the valorisation of choice override privacy (privacy rights are not absolute or inalienable) and limitations on personal data collection. Therefore, the guidance from ICO to surveillance actors consists of exhortations to inform the subjects of surveillance to the fact that they are under surveillance, and the extent and nature of that surveillance.

**You must let people know** that they are in an area where CCTV surveillance is being carried out. The most effective way of doing this is by using prominently placed signs.<sup>424</sup>

For example, if a supermarket wanted to record information about individual customers' purchases using RFID tags on products, they would **have to tell their customers why they were doing so.**<sup>425</sup>

The second stage of validation of surveillance occurs with the granting of consent to surveillance on the part of the informed subject. This is constructed as an active, agentic choice on the part of the surveillance subject.

If organisations want to share sensitive or confidential information, they are **more likely to need your consent.** For example, if information about your health is to be shared.<sup>426</sup>

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<sup>424</sup> Information Commissioner's Office, August 2007, p.12.

<sup>425</sup> Information Commissioner's Office. (undated) *It's your information: Radio Frequency Identification Tags.*

<sup>426</sup> Information Commissioner's Office. (22/06/07) *It's Your Information: Sharing Information About You.*

The High Court ruling confirmed that it was unlawful to sell copies of the electoral register to private businesses **without giving people a choice** not to have their information used in this way.<sup>427</sup>

Individuals may divulge such information to others, **but unless the law compels them** to do so **the choice is theirs**.<sup>428</sup>

Given that consensual surveillance practices are often linked to access (for example to services or to credit), this construction of consent becomes problematic. If a service is a necessity, and consenting to surveillance is made as a requirement for that service, to what extent can this be authentic consent? The discourse does engage with this concern.

If you are asked to consent to information sharing, you should have a **genuine free choice**. Consent shouldn't be used as the basis for sharing information if, in reality, you have little or no choice.<sup>429</sup>

However, to the extent that massive scale dataveillance is endemic to contemporary society, and crosses national jurisdictional boundaries, the extent of this choice is limited. The ICO website states 'there is no right to credit' suggesting that if you want or need access to credit, you will have to disclose the personal information requested by the banks, even if you would not normally 'consent' to do so.

If surveillance practices are necessary, appropriate and legitimate, and consent has been obtained, then the practices should receive public approval.

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<sup>427</sup> The Information Commissioner. (17/5/2007) *It's your Information: Your Personal Information and the Electoral Register*.

<sup>428</sup> Information Commissioner's Office, 2006.

<sup>429</sup> Information Commissioner's Office. (17/5/2007) *It's your Information: Your Personal Information and the Electoral Register*.



This should engender the trust of the public and ensure that they **understand, and participate in**, your information sharing initiatives.<sup>430</sup>

If businesses take up the challenge of presenting shorter and clearer information, it will mean **a better understanding for individuals** and less bureaucracy for organisations – **a win-win situation**.<sup>431</sup>

## **Government discourses of surveillance.**

### *Identity cards*

The National Identity Scheme is an easy-to-use and extremely secure system of personal identification for adults living in the UK.<sup>432</sup>

Governmental discourse articulates the identity scheme in a number of positively evaluated ways. Many of these are counter-articulations responding to oppositional discourses in public debates over identity cards. The discourse here is reactive and shifting. Shifts in the discursive prominence of various aspects of the scheme over the past five years, include the motivations of the scheme and its benefits for society and individuals.<sup>433</sup> This section examines the representation of the functioning of the scheme, its benefits and projected motivations, and finally the relationship between the card scheme and surveillance, civil liberties and privacy.

Identity cards are not represented in government discourse as surveillance. This is unsurprising given the negative connotations of the term surveillance in common

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<sup>430</sup> Information Commissioner's Office. (undated) *Framework Code of Practice for Sharing Personal Information: Consultation Draft*.

<sup>431</sup> Information Commissioner's Office. (2005) *Press Release: UK Businesses urged to end Data Protection Jargon*. p.1.

<sup>432</sup> [www.identitycards.gov.uk/scheme-what.asp](http://www.identitycards.gov.uk/scheme-what.asp).

<sup>433</sup> Wills, 2008. pp.173-6.

use.<sup>434</sup> It occurs in counter-articulations attempting to deny opposing constructions of the ID card scheme as a surveillance tool. Surveillance is generally associated with the discursive trope of Big Brother drawn from the Orwellian model of surveillance. If ID is not Big Brother, then it cannot be surveillance.

The Government's plans for a national, compulsory ID cards scheme will create a practical, simple and secure way for ordinary citizens to protect and prove their identity – **not a Big Brother-style surveillance tool**, the Home Secretary, David Blunkett promised today.<sup>435</sup>

**Suggestions of Big Brother-style surveillance are ludicrous.** For the 85 per cent of UK households who hold at least one store loyalty card, a far greater and growing database of personal information will already be held by private industry.<sup>436</sup>

The identity card system is articulated as fundamentally secure, robust and reliable. It is presented as a distinct improvement on the security of previous (document-based) identity systems. It makes use of modern 'cutting edge' technology.

The ID card will be **the most secure and reliable form of verifiable identification** issued by the Government. It will be designed to be verifiable in a way that is not possible with current forms of ID such as passports and driving licences.<sup>437</sup>

The National Identity Scheme is designed to be **far more secure than anything we use at present**.<sup>438</sup>

The link between secure biometric cards and the new secure register will bring a **new level of protection against forgery of ID cards** and other identity documents.<sup>439</sup>

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<sup>434</sup> Ball & Haggerty, 2005, pp.129-38.

<sup>435</sup> Home Office. (17<sup>th</sup> November 2004) *Press Release: Blunkett: ID cards will protect Civil liberties*.

<sup>436</sup> Ibid.

<sup>437</sup> Home Office. (25<sup>th</sup> May 2005) *Identity Cards Bill Introduced to House of Commons on 25<sup>th</sup> May 2005 Regulatory Impact Assessment*. p.22.

<sup>438</sup> [www.identitycards.gov.uk/benefits-society-idtheft.asp](http://www.identitycards.gov.uk/benefits-society-idtheft.asp).

<sup>439</sup> Secretary of State for the Home Department. (July 2004) *The Home Office Strategic Plan 2004-08* p.111.

Identity cards are represented as beneficial for the individual user. It is a tool for the individual to use when he or she wishes to voluntarily prove his or her identity. It allows this to happen quickly, easily and with the minimum of fuss or embarrassment. The most frequently articulated benefit is the protection and securitisation of identity.

In summary, the scheme will **simplify the process of proving your identity**, making day-to-day **transactions easier and safer**. It will also **make your identity more secure** and help to reduce levels of identity fraud throughout society.<sup>440</sup>

This technology **brings many benefits**, including increased protection against identity theft or fraud.<sup>441</sup>

A secure national identity cards scheme would **protect everyone's identity** and help prepare the UK for the challenges of the 21<sup>st</sup> century. Across the world there is a drive to increase the security of identity documents, to safeguard borders and reduce threats from overseas. The plans set out today will ensure the UK is at the forefront of that drive and making the most of the benefits for our citizens.<sup>442</sup>

ID cards will also help transform the delivery of public services to the citizen, making interactions **swifter, more reliable and more secure** and helping to reduce costs by eliminating wasteful duplication of effort.<sup>443</sup>

The National Identity Scheme will place a publicly accountable **power to protect identity in the hands of citizens** - an essential defence against challenges created by revolutions in technology, travel and society, Home Office minister Liam Byrne told a Chatham House conference today.<sup>444</sup>

The system is articulated as necessary. This arises from a number of sources. Firstly, the vulnerability of identity, explored in detail in Chapter Six. Secondly, the need to introduce an identity card system arising from international obligations on passport

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<sup>440</sup> [www.identitycards.gov.uk/how-idcard.asp](http://www.identitycards.gov.uk/how-idcard.asp).

<sup>441</sup> [www.identitycards.gov.uk/scheme-what.asp](http://www.identitycards.gov.uk/scheme-what.asp).

<sup>442</sup> Home Office. (25<sup>th</sup> May 2005) *Safeguarding our Identities: Government reintroduces the ID cards bill*.

<sup>443</sup> [www.identitycards.gov.uk/press-2006-10-09.asp](http://www.identitycards.gov.uk/press-2006-10-09.asp).

<sup>444</sup> Home Office. (19<sup>th</sup> June 2007) Press Release 'securing our identity: a 21<sup>st</sup> Century public good'. [www.identitycards.gov.uk/press-2007-06-19.asp](http://www.identitycards.gov.uk/press-2007-06-19.asp).

standards. The government argues that given the requirements of these obligations, the majority of the identity card scheme would already be required. The identity card is therefore articulated as taking advantage of otherwise wasted infrastructure. This articulation elides governmental agency in introducing the scheme, and normalises the scheme by drawing a relationship of equivalence with other national identity cards. These obligations are constructed as mandatory and unavoidable. Additionally, there is a strong discourse of international competition in the following extracts, where the UK government cannot allow the UK to fall behind and issue ‘second class’ passports.

The **EU has mandated** biometric passports, incorporating the recording of fingerprints as a Schengen building measure. The costs of recording biometric information and issuing more secure identity documents (in the form of biometric passports) will become **unavoidable**.<sup>445</sup>

Biometric technology is increasingly being used to all over the world to combat fraud. The first biometric ePassport, containing a facial biometric, will be introduced here from early 2006. **The Government does not want British citizens to have ‘second class’ passports** and we will be moving towards fingerprint as well as facial image data in passports in the future to keep in step with our European partners.<sup>446</sup>

The drive towards secure identity is, of course, **happening all over the world**.<sup>447</sup>

Not only are the benefits we have listed above economically tangible, but it is also important to realise that much of the cost of what we are doing would be **incurred regardless of the Scheme**. Specifically, biometric passports will soon be **required** in almost all of the largest passport-issuing countries. Around 70 per cent of the cost of the combined passport and ID card will be required to keep our passports up to **international standards**.<sup>448</sup>

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<sup>445</sup> Home Office, 25<sup>th</sup> May 2005, p.5.

<sup>446</sup> <http://www.identitycards.gov.uk/press-archive-2005-09-12.asp>.

<sup>447</sup> Home Office. (20<sup>th</sup> December 2004) *press release: Boosting Security, Protecting Liberties*.

<sup>448</sup> Home Office. (December 2006) *Strategic Action Plan for the National Identity Card Scheme: Safeguarding your Identity*. p.2.

Additional sources of necessity are the ‘challenges of the twenty-first century’ including globalisation, migration, organised crime and terrorism. These are presented as environmental problems, which the country, and individuals within it, are exposed to without the identification of any agent.

Our plans to bring in a national ID card scheme lie at the heart of our work to ensure that the UK can **meet the challenges of a changing world**<sup>449</sup>

The Government is acting now to **prepare the UK for 21<sup>st</sup> century challenges** such as crime, security, the speed and nature of communication and international travel, and the number of sophisticated and complex transactions that we as individuals need to do effectively and securely.<sup>450</sup>

The scheme will ensure that the UK can **meet the challenges of the 21<sup>st</sup> century**, helping protect against terrorism, organised crime, identity theft, illegal immigration and illegal working.<sup>451</sup>

Preventing terrorism was articulated as a motivation for the introduction of entitlement cards after 9/11. It rapidly diminished in discursive importance. Terrorism was repositioned as a social problem that identity cards could contribute towards solving.

The National Identity Scheme will **disrupt the use of false identities by terrorist organisations**, for example in money laundering and organised crime. We know that terrorist suspects make use of false identities. The scheme would also be a useful tool in helping to maintain and disrupt the activities of terrorist networks.<sup>452</sup>

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<sup>449</sup> Home Office. (27<sup>th</sup> October 2004) *Press Release: Home Secretary sets out next steps on ID cards* [http://press.homeoffice.gov.uk/press-releases/Home\\_Secretary\\_Sets\\_Out\\_Next\\_Ste](http://press.homeoffice.gov.uk/press-releases/Home_Secretary_Sets_Out_Next_Ste).

<sup>450</sup> Home Office. (30<sup>th</sup> July 2004) *Press Release: Response to the Home Affairs Select Committee Report on Identity Cards*. [http://press.homeoffice.gov.uk/press-releases/Response\\_To\\_Home\\_Affairs\\_Select\\_](http://press.homeoffice.gov.uk/press-releases/Response_To_Home_Affairs_Select_).

<sup>451</sup> Home Office. (20 December 2004) *Press Release: Boosting Security, Protecting Liberties*.

<sup>452</sup> [www.identitycards.gov.uk](http://www.identitycards.gov.uk).

**No-one has ever claimed ID cards are a panacea for global terrorism or crime.** But we do know they will make a **contribution** to tackling crimes such as illegal working, money laundering and benefit fraud, which are enabled by the possession of multiple identities. **Terrorists are known to use multiple identities** to avoid detection and hide their activities. ID cards will make it much harder for criminals to build up multiple fraudulent identities by securely linking one person's identity with one set of unique biometrics.<sup>453</sup>

Stalder and Lyon argue that in security climates influenced by 9/11 identity cards are frequently presented as part of (necessary) binary trade offs between civil liberties and national security.<sup>454</sup> However, in UK government discourse civil liberties and national security are not presented as mutually exclusive and in opposition, but instead rearticulated as mutually supporting. Civil liberties are equated with the protection of personal identities and access to public services. These are constructed as threatened by subject positions external to society. The state and government play an enabling role in protecting civil liberties and freedom.

At the heart of the scheme, a secure national database linking basic personal details to unique biometric information will **strengthen, not erode, civil liberties** by protecting individual identities.<sup>455</sup>

**Liberties will be strengthened**, not weakened, through an ID cards scheme which will help everyone protect their own identities and access the public services to which they are entitled.<sup>456</sup>

We need to have the **freedom** to live without being exploited, to prove quickly and decisively who we are and to travel freely. And we need to

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<sup>453</sup> [www.identitycards.gov.uk/myths.asp](http://www.identitycards.gov.uk/myths.asp).

<sup>454</sup> Stalder, F. & Lyon, D. (2003) 'Electronic identity cards and social classification' in D. Lyon (ed) *Surveillance as Social Sorting: Privacy, Risk and Digital Discrimination*. London & New York, Routledge.

<sup>455</sup> [www.identitycards.gov.uk/press-2006-03-30.asp](http://www.identitycards.gov.uk/press-2006-03-30.asp).

<sup>456</sup> Home Office. (17<sup>th</sup> November 2004).

ensure the security of our country and make sure that our public services are only used by those who are entitled to them.<sup>457</sup>

Similarly, the identity card scheme is constructed as protecting the privacy of individuals. Privacy is equated with security of personal information.

The National Identity Scheme has been designed with **your privacy** in mind.<sup>458</sup>

**Safeguards to ensure protection of privacy** are a critical part of the national identity cards scheme and I would not be prepared to let the scheme go forward if I were not convinced that we have a level of protection which ensures personal information is secure.<sup>459</sup>

Critics of the national ID cards scheme who suggest that it would threaten our **privacy** should be reassured that under the proposed scheme only very basic personal details such as name, address, date and place of birth will be held.....The extent of the **information held will be strictly limited** and subject to **tight controls**.<sup>460</sup>

Those who are concerned about civil liberties should be reassured by the strict **safeguards in the Bill to ensure protection of privacy**.<sup>461</sup>

Identity cards are articulated as having widespread public support both for the general principle of identity cards and the government's specific proposals. An antagonism is created between the public and critics of the proposals. Special attention is given to the opinions of minority groups, articulated by some opposition to ID cards as in a vulnerable position vis-à-vis the proposals. The construction of support normalises and reinforces the arguments.

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<sup>457</sup> Home Office. (30<sup>th</sup> July 2004) *Press Release: Response to the Home Affairs Select Committee Report on Identity Cards*. [http://press.homeoffice.gov.uk/press-releases/Response\\_To\\_Home\\_Affairs\\_Select\\_](http://press.homeoffice.gov.uk/press-releases/Response_To_Home_Affairs_Select_).

<sup>458</sup> [www.identitycards.gov.uk/benefits-individual-british.asp#loved](http://www.identitycards.gov.uk/benefits-individual-british.asp#loved).

<sup>459</sup> Home Office. (17<sup>th</sup> November 2004).

<sup>460</sup> Ibid.

<sup>461</sup> Home Office. (20<sup>th</sup> December 2004).

The Government also carried out an extensive programme of research into public attitudes towards identity cards. This showed an **overall level of support at 79%** (with 13% opposed and 8% unsure).<sup>462</sup>

Mr Blunkett used a speech to the Institute of Public Policy Research to restate the case in favour of a secure national ID cards scheme, **which four out of five citizens support**.<sup>463</sup>

A sample taken from four ethnic minority groups was also asked about their overall support for the scheme. There was a **clear majority in favour** in all groups – especially with Chinese respondents (84 per cent). **Support for ID cards had increased** among all four groups since 2003.<sup>464</sup>

Related to this construction of public support is the argument made that the introduction of national identity cards would contribute towards a shared sense of national identity.

**Our national ID card scheme will also help to develop a sense of identity and entitlement** among those who have settled legally in this country.<sup>465</sup>

Ceremonies and classes for those taking British nationality together with support and empowerment for local communities **and the introduction of our ID card scheme will help to reinforce a sense of citizenship and identity**.<sup>466</sup>

This equivalence between an entry on a national identity register with an identity card and a sense of ‘Britishness’ was articulated by David Blunkett in 2004. It has since dropped away, replaced in 2007 by a notion of the identity system as a ‘21st century

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<sup>462</sup> Secretary of State for the Home Department (October 2004) *Identity Cards: A summary of findings from the Consultation on Legislation on Identity Cards*. p.5.

<sup>463</sup> Home Office. (17<sup>th</sup> November 2004).

<sup>464</sup> Home Office. (27<sup>th</sup> October 2004) *Press Release: Home Secretary sets out next steps on ID cards*. [http://press.homeoffice.gov.uk/press-releases/Home\\_Secretary\\_Sets\\_Out\\_Next\\_Ste](http://press.homeoffice.gov.uk/press-releases/Home_Secretary_Sets_Out_Next_Ste).

<sup>465</sup> Secretary of State for the Home Department. (July 2004) *The Home Office Strategic Plan 2004-08* p.22.

<sup>466</sup> Home Office. (19<sup>th</sup> July 2004) *Press Release: Confident communities in a secure Britain: Home Office publishes Strategic Plan*.



public good'. Liam Byrne draws equivalence between the identity system and public infrastructure.

The scheme is a **21<sup>st</sup> century public good**.<sup>467</sup>

Like the railways in the 19th century and the national grid in the 20th century, I think there are strong arguments for thinking of the National Identity System as a **modern day public good** - that very quickly becomes part and parcel of everyday life in Britain.<sup>468</sup>

This normalises a scheme that could be articulated as highly novel. A distinction is drawn between the national identity card scheme and 'laissez faire identity'. If the government does not act, it risks a 'proliferation of plastic, passwords, and PINs'. In contrast to this, the identity card is constructed as regulated, safe and reliable. This is contextualised against an image of the historical role of the Labour party and constructs opposition to the identity card scheme as support for unaccountable power and inequality.

The great **risk of laissez-faire identity systems** is the risk that they could exclude people deliberately – or price them out of secure access to things.<sup>469</sup>

But if we persist with this public and private laissez-faire, it is frankly easy to see how, before long in Britain, the day will come when we have a mish-mash of **unregulated, potentially unsafe** systems, mushrooming in growth and size in a way that is just uneconomic.<sup>470</sup>

My party has always been suspicious of growth in **unregulated and unaccountable power** and the **risk of new inequalities**. That is why we

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<sup>467</sup> Home Office. (19<sup>th</sup> June 2007) 'securing our identity: a 21<sup>st</sup> Century public good'. [www.identitycards.gov.uk/press-2007-06-19.asp](http://www.identitycards.gov.uk/press-2007-06-19.asp).

<sup>468</sup> Byrne, L. (19<sup>th</sup> June 2007) *Securing Our Identity: a 21<sup>st</sup> Century Public Good: Speech by Liam Byrne MP, the Minister of State for Immigration, Citizenship & Nationality, to Chatham House*. <http://press.homeoffice.gov.uk/Speeches/sc-identity-21st-century>.

<sup>469</sup> Ibid.

<sup>470</sup> Ibid.

advocate a **publicly accountable, national solution**. Something that becomes, in time, another part of our **critical national infrastructure**.<sup>471</sup>

### *Non-identity card surveillant social practices*

Given the disassociation of identity cards from surveillance practices, it is not surprising that surveillance is not heavily represented in this discourse. When surveillant social practices are found in government discourse, surveillance is associated simply with the police, visual surveillance and wire-taps rather than dataveillance. There is a significant distinction drawn between identity cards and practices explicitly defined as surveillance. Identity cards are contrasted with surveillant practices from the private sector. The argument is if we consent to these information gathering practices, therefore we should consent to the government's ID card scheme.

The Home Secretary also drew a **contrast** between the basic information that would be held on individuals, backed by strict privacy safeguards and the **far more detailed personal information people volunteer**, often without realising it, through supermarket loyalty or credit cards.<sup>472</sup>

Suggestions of Big Brother-style surveillance are ludicrous. For the 85 per cent of UK households who hold at least one store loyalty card, **a far greater and growing database of personal information will already be held by private industry**.<sup>473</sup>

If you do hold a store loyalty card – and the odds are that you do – you have already consented to **all this information** being repeatedly shared with other companies without any requirement to ask again for your approval.<sup>474</sup>

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<sup>471</sup> Ibid.

<sup>472</sup> Home Office. (17<sup>th</sup> November 2004).

<sup>473</sup> Ibid.

<sup>474</sup> Ibid.

This articulation normalises the surveillant activities of the private sector and reduces the many differences between the state and the private sector. A relation of equivalence subverts the differences between the two terms. Similarly, the data gathering and analysis practices of private sector financial organisations are held up as good practice to be emulated, whilst private databases are seen as source of identity verification. This normalises the surveillant practice of the personal data gathering by financial organisations.

This **methodology is tried and tested by the private sector**, where any organisation wishing to give credit relies on the ability of credit reference agencies to **draw together information from different sources** to authenticate a customer's identity and develop a measure of their credit-worthiness.<sup>475</sup>

Supplementing existing systems with **private sector-style checks against “biographical” evidence of identity from government or private sector databases (or both)**, making changes to the legal gateways for data-sharing where required. This would enable more identity fraudsters to be detected and would effectively offer a sophisticated way of risk profiling.<sup>476</sup>

The only other surveillance practices positioned close to the identity card reference point come from the Home Office Strategic Plan. Here ID cards are articulated as equivalent to other contemporary policing ‘tools’.

We will give police officers the tools they need to do their job effectively and to combat modern criminals. This will mean harnessing the technology on offer through DNA, biometric ID cards, joined-up computer systems and satellite tracking of offenders.<sup>477</sup>

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<sup>475</sup> Cabinet Office. (July 2002) *Identity Fraud: A Study*, p.49.

<sup>476</sup> Ibid., p.46.

<sup>477</sup> Home Office, 19<sup>th</sup> July 2004.

## *Identity theft*

Identity theft and identity fraud are constructed as highly dangerous, both to the individual and to society as a whole. Identity theft is a ‘harrowing’ experience.<sup>478</sup> The discourse uses the image of a criminal assuming the identity of a dead child, tapping into a strand of visceral horror. Identity theft distorts the individual’s relationship with the world.<sup>479</sup>

Criminals can use stolen personal details to open bank accounts, obtain credit cards, loans, state benefits and other documents in your name - and **if your identity is stolen** it can take a long time to put your records and your life straight.<sup>480</sup>

Most distressing are “Day of the Jackal” frauds, where a criminal **assumes the identity of a dead infant**. Parents may be contacted by the police to answer for crimes allegedly committed by someone who in fact died in infancy.<sup>481</sup>

Moreover, the offences commonly used to prosecute identity fraud-related crimes do not sufficiently take into account the **serious damage and harrowing experience of individual victims of identity theft**. Such offences are often prosecuted as conspiracy under the Theft Act. This takes account only of the financial loss, not the personal injury involved.<sup>482</sup>

Identity fraud is constructed as socially problematic. It is associated with criminals, terrorists, illegal immigrants and other socially undesirable actors. It is also constructed as costing the country large amounts of money and putting undue pressure on social welfare institutions. Identity fraud is perceived as a modern problem, one that is intrinsically difficult to measure, but is significant and is assumed to be

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<sup>478</sup> Cabinet Office, July 2002, p.7.

<sup>479</sup> Ibid., p.7.

<sup>480</sup> Home Office. (7<sup>th</sup> September 2005) *Press Release: Shredding the Risk of ID fraud*.

<sup>481</sup> Cabinet Office, July 2002, p.7.

<sup>482</sup> Ibid., p.68.

growing. The construction of this governance problem supports moves towards identity verification practices.

Strong evidence that **identity fraud is a growing problem** comes from CIFAS ... CIFAS figures showed an increase in identity fraud of 462% in 2000 compared with the previous year, followed by a further increase of 122% in 2001, although some of the increase in 2000 is accounted for by changes in their systems/growth in membership.<sup>483</sup>

**More than 100,000 people are affected** by this crime every year in the UK. It occurs when personal information is obtained by someone else without the owner's knowledge. It may **support criminal activity** including fraud, deception, or obtaining benefits and services in the victim's name.<sup>484</sup>

The UKPS has a lead role in the fight on identity fraud, one of Britain's **fastest growing crimes**. Identity crime **costs the UK £1.3 billion a year**, facilitates other crimes such as **terrorism, illegal immigration and organised crime**, and creates personal misery as well as major expense and inconvenience. It can take some victims up to 300 hours to put their records and their lives straight.<sup>485</sup>

For the state, theft and fabrication of identity is **linked to organised crime** in a variety of ways.<sup>486</sup>

**Identity theft is difficult to measure**, because there is no set offence of identity fraud (until the 2006 act) and so it is not measured. It is also difficult to separate from other types of fraud, and it can be perpetrated in a number of ways.<sup>487</sup>

**It is not easy to gauge the extent and nature of identity fraud:**

- proper measurement would need to take account both of obtaining genuine documentation under false pretences and of theft and counterfeiting;
- what is measured is **only detected** identity fraud.<sup>488</sup>

Detected fraudulent applications for passports or driving licences form an **unknown percentage** of the totality of fraudulent applications.<sup>489</sup>

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<sup>483</sup> Ibid., p.11.

<sup>484</sup> Home Office. (7<sup>th</sup> September 2005).

<sup>485</sup> Home Office. (24<sup>th</sup> March 2005) *Press Release: UK Passport Service: Improving Passport Security and Tackling ID fraud*.

<sup>486</sup> Cabinet Office, July 2002, p.7.

<sup>487</sup> Ibid., p.11.

<sup>488</sup> Ibid., p.9.

<sup>489</sup> Ibid, p.11.

In many cases the costs and benefits associated with tackling identity fraud, though large, are **unquantifiable** – for example, the cost of a passport in the hands of a terrorist, the cost of a paedophile continuing to work with children or the cost of an election result won on the basis of fraudulent (“personated”) voters.<sup>490</sup>

The combination of the uncertainty with regard to the scale of identity fraud, with assertions that whilst not completely known, that scale is large, and the negative effects of identity fraud constructs a significant social problematic. Given that the exact level of risk is unknown, following a precautionary principle, action must be taken against the highest possible levels of risk. This discourse deals primarily with appropriate reactions to this growth rather than any assessment of the reasons for this growth beyond identity theft being a modern problem or a ‘challenge of the 21<sup>st</sup> century.’

## **Oppositional discourses of surveillance**

### *Representation of surveillant social practices*

Non-ID card surveillant practices are represented in the discourse of opposition to ID cards. Some texts construct identity cards as part of a broader range of phenomena. Britain is identified as the most highly surveilled nation in the world, with substantial CCTV coverage and a number of significant government projects with surveillance capacity. There is explicit concern that the country may be heading towards a ‘surveillance society’. Identity cards are contextualised against a background of

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<sup>490</sup> Ibid, p.11.

surveillance practices and are understood as inseparable from wider trends.

Surveillance is predominantly pejoratively evaluated; there is very little positive surveillance.

Britain is already the most highly surveilled nation on the planet.”<sup>491</sup>

The Government knows we will be keeping an eye on their scheme. We will also investigate commercial companies’ involvement; they may find that people won’t do business with a firm busy helping the **Government build a surveillance society**.<sup>492</sup>

The creation of this detailed data trail of individuals’ activities is particularly worrying and **cannot be viewed in isolation** from other initiatives which serve to build a detailed picture of peoples lives such as **CCTV surveillance** (with automatic facial recognition), use of automatic **number plate recognition** recording vehicle movements for law enforcement and congestion charging and the recent proposals to introduce **satellite tracking of vehicles** for road use charging purposes. The Information Commissioner is concerned that **each development puts in place another component in the infrastructure of a ‘surveillance society’**.<sup>493</sup>

Bearing in mind the expanding definition of crime is fast becoming ‘what small minded petty middle class folk don't like’ the scope for an ID scheme seems limitless. It **appears to tie in nicely with the huge number of CCTV cameras in this country** (the most in Europe if not the planet) and anti-social behaviour orders (ASBOs), dispersal orders and the other new powers given to police and courts to penalise people without even the already dubious ‘due process’ of the law.<sup>494</sup>

The vast majority of surveillant social phenomena represented in the discourse are state driven, and surveillance is predominantly understood as a government activity.

There is however some acknowledgement of the surveillance activities of the private sector. These are not as negatively evaluated as the surveillance activities of

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<sup>491</sup> NO2ID. (2005) *Identity Cards Bill 2005: Briefing Notes*. p.9.

<sup>492</sup> Liberty. (Summer 2006) *Liberty Newsletter: We need ID cards like a Hamster needs a Surfboard* p.4.

<sup>493</sup> Information Commissioner’s Office. (June 2005) *The Identity Cards Bill – The Information Commissioner’s Concerns*. Wilmslow: Information Commissioner’s Office. p.2.

<sup>494</sup> Anarchist Federation. (April 2006) *Defending Anonymity: Thoughts for the Struggle against Identity Cards*. p.14.

government which may be associated with the ability to consent, which is not possible with state systems.

Big Business. They long for all ‘consumers’ to be logged, filed and classed according to demographics and spending profiles. **This is not a sinister motive.** It merely increases their profits as they can more carefully and cost-effectively target their marketing.<sup>495</sup>

Every day you **choose** who to share personal information with. You may give your supermarket limited information in return for cheaper shopping; but you have the right to prevent them from passing your information to anyone else. Under the ID card scheme, you won’t have a say about who has access to your details, or what details are stored. The range of information will grow, as will the list of those who can access it.<sup>496</sup>

### *Representation of the ID card scheme*

In discourses of opposition to the national identity card and register, the scheme is represented as changing the nature of the relationship between the state and the individual, discriminatory and burdensome on vulnerable groups, unreliable and insecure due to the government’s poor IT record. The system is also represented as invasive of privacy, unnecessary, disproportionate, out of the control of the individual, a waste of money, incomparable to ID systems in other countries, and unlikely to achieve any of the objectives set out for it by government, unwanted and unsupported by the general public, a distraction from other solutions to social problems, a tool of social control, and compulsory not voluntary. The discourse also deconstructs the separation of the card from the register, de-emphasising the physical

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<sup>495</sup> NO2ID. (20<sup>th</sup> December 2004) *NO2ID How to Win the Fight against the National Identity Card and the Associated National Identity Register: A guide to countering pro-ID questions and arguments from friends, family, colleagues, media and the government.* p.8.

<sup>496</sup> Liberty. (undated) *Prevent the Death of Privacy.* p.2.



card, and highlights the agency and drive for the card provided by government. The representation of the ID card system allows an evaluative framework to be drawn out.

The identity card scheme is frequently and consistently constructed as being invasive of privacy. Privacy is not constructed as an absolute but the identity system is constructed as an *excessive* invasion of privacy.

The measures in relation to the National Identity Register and data trail of identity checks on individuals **risk an unnecessary and disproportionate intrusion into individuals' privacy**. They are not easily reconciled with fundamental data protection safeguards such as fair processing and deleting unnecessary personal information.<sup>497</sup>

The bringing together of separate information centres as proposed, creates a **major privacy vulnerability** and has extremely profound **implications for the protection of our right to privacy**.<sup>498</sup>

The Law Society agrees there should be an audit trail, but has reservations because this will provide **“an enormous amount of very privacy sensitive and valuable information** about a person's activities and their interaction with public services.<sup>499</sup>

The identity system is constructed as not solving any of the problems the government argues it will. This works in three ways: universal scepticism (ID will not solve any problems), particular objections (ID will not solve problem X) and minor exceptions (ID card will only solve problem Y, but problem Y is trivial). Scepticism is directed at the validity of some of the stated motivations.

ID cards seem **unlikely to meet many** of the aims for which they are being introduced.<sup>500</sup>

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<sup>497</sup> Information Commissioner's Office, June 2005, p.3.

<sup>498</sup> Secretary of State for the Home Department, October 2004, p.17.

<sup>499</sup> Ibid, p.49.

<sup>500</sup> Ibid, p.52.

Equally, there is no evidence to suggest the claim that an identity scheme will address the problem of benefit fraud. The government's figures show that **around five per cent of fraud relates to identity**. The vast majority of cases of benefit fraud involve lying about circumstances by, for example, claiming state benefit and working cash in hand.<sup>501</sup>

Those of us charged with looking at whether the proposals are proportionate to the problems individuals and society face, find it impossible to come to such a judgement and are left with severe reservations about the other potential uses, **many of which appear to be almost makeweights**.<sup>502</sup>

The government has stated that the identity scheme has high levels of public support.

The opposition discourse attempts to deconstruct this claim and show that this level of support is substantially lower, or is falling in response to greater public knowledge about the costs and risks of the scheme.

All polling data shows that the popularity of the scheme drops away when the costs are considered.<sup>503</sup>

As the true details of the proposed identity card scheme and national identity register have become clearer, public support has fallen.<sup>504</sup>

While polls do show a majority in favour, the commonly used figure of 80% support was based on proposals for a voluntary identity card. Polls that factor in financial implications of the scheme show greatly diminished enthusiasm. Similarly, support falls when people realise the lack of evidence to support claims that identity cards will tackle terrorism, crime and illegal immigration.<sup>505</sup>

ID is constructed as a significant waste of money and resources (including parliamentary time) better spent elsewhere. The government's insistence on its

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<sup>501</sup> Liberty. (December 2004) *ID Cards Bill: Liberty's briefing for the Second Reading in the House of Commons*. p.8.

<sup>502</sup> Thomas, R. (30<sup>th</sup> January 2003) *Entitlement Cards and Identity Fraud: The Information Commissioner's Response to the Government's Consultation paper*. p.3.

<sup>503</sup> NO2ID. (2005) *Identity Cards Bill 2005: Briefing Notes*. p.3.

<sup>504</sup> <http://www.no2id.net/IDSchemes/opinionPolls.php>.

<sup>505</sup> Liberty, December 2004, p.4.

specific model prevents assessment of alternative approaches that could be less expensive and less privacy-invasive.

As well as being a tremendous **waste of public money**, the scheme will cost us personally, both financially and in terms of our privacy and relationship with the state.<sup>506</sup>

We do not believe that the scheme has been accurately costed; this bill effectively presents **a blank cheque of taxpayers' money to the Home Office.**<sup>507</sup>

Why is the government intending to spend a *minimum* of 5.5 BILLION pounds on an ID card system, **instead of using that money on schooling, housing or urgent infrastructure improvement?**<sup>508</sup>

We are not happy with the compulsory card and if you have got three billion to spend on this, I think we **could find other ways of spending it: social services and housing.**<sup>509</sup>

The Government has not even tried to show that national ID management will be more cost-effective than less spectacular alternative, targeted, solutions to the same problems (whether tried and tested or novel). We are to trust to luck that it is.<sup>510</sup>

The system is represented as a novel and untried system based on new and untried technology. Existing ID cards accepted in countries with similar politics are dissimilar and do not provide evidence for the appropriateness of this system. The lack of evidence undermines technological reliability.<sup>511</sup>

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<sup>506</sup> Liberty. (Summer 2006) *Liberty Newsletter: We need ID cards like a Hamster needs a Surfboard.* p.4.

<sup>507</sup> NO2ID, 2005, p.3.

<sup>508</sup> NO2ID. (20<sup>th</sup> December 2004) *NO2ID How to Win the Fight against the National Identity Card and the Associated National Identity Register: A guide to countering pro-ID questions and arguments from friends, family, colleagues, media and the government.* p.11.

<sup>509</sup> Mason, S. (2004) 'Is there a need for Identity Cards' *Computer Fraud and Security.* p.11.

<sup>510</sup> NO2ID. (2005a) *NO2ID Summary Briefing.* p.2.

<sup>511</sup> Corporate Watch (January 2006) *Corporate Identity: A Critical Analysis of Private Companies Engagement with the Identity Cards Scheme.* p.10.

The card system envisioned by the Home Office in 2001 is **substantially different in nature than anything that had been previously proposed.**<sup>512</sup>

The government is quick to point out that various governments in Europe have registration schemes in place, some of which date back to the fascist dictators of the twentieth century. However, **the central database proposed by the UK Government is not comparable with similar systems operated by governments in Europe.**<sup>513</sup>

The identity card is de-emphasised compared to the NIR. The register is invasive of privacy and will create a record of daily lives. The government is represented as trying to deflect attention from the register.

**It's the database which is the danger, not the card.** So try always to lead with the dangers of the National Identity Register, not the card itself. The dangers are having a file held on each citizen with ever increasing amounts of personal data being added and an increasing army of 'authorised users' having access to such data.<sup>514</sup>

The Identity Cards Bill is not just about the introduction of ID cards for individuals, it will establish **a whole system of identity verification** with the recording of information about individuals on a government controlled central register with a record being kept of when it is checked by both public and private sector organisations.<sup>515</sup>

## **Banking and financial discourses**

There are four forms of surveillance represented in this discourse: the practice of identification by banks and providers of financial services, the compiling of credit records by the credit reference agencies, identity theft and the environment of the personal information economy. These will be addressed in turn.

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<sup>512</sup> Privacy International (April 2004) *Mistaken Identity; Exploring the Relationship Between National Identity Cards & the Prevention of Terrorism*. London: Privacy International. p.3.

<sup>513</sup> Mason, 2004, p.10.

<sup>514</sup> NO2ID, 20<sup>th</sup> December 2004, p.4.

<sup>515</sup> Information Commissioner's Office, June 2005, p.1.

## *Identification*

*Identification* is the term used in this discourse for an individual proving their identity, as a precursor to establishing a business relationship with a bank or financial institution. The discourse has strong levels of agreement on what this entails, often derived from legal statutes and guidance issues by industry regulators. The core concepts with identification are proof, identity and reasonable satisfaction.

ID involves obtaining identity information from a customer and verifying that information, as necessary, in order to enable the firm to be reasonably satisfied, as required by the law, that the customer is who they claim to be (and to meet the firm's own business needs).<sup>516</sup>

Identification is constructed as a legal necessity due to anti-money laundering legislation. Banks and financial service providers have a legal obligation to perform identification so that they are reasonably satisfied as to the identity of their potential client.

First, **identification is and will remain a legal obligation and international standard**. It has been an obligation on Member States since the first EU Directive was adopted in June 1991. It has been an obligation in UK law since 1 April 1994. It is part of the revised FATF 40 Recommendations.<sup>517</sup>

Please remember though, **the law requires** your financial services provider to verify your identity.<sup>518</sup>

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<sup>516</sup> Financial Services Authority, October 2004, p.14.

<sup>517</sup> Ibid, p.20.

<sup>518</sup> HM Treasury, National Criminal Intelligence Service & FSA. (undated leaflet) *Fighting Crime and Terrorism: We need your help*.

Identification involves evidence and proof of identity. This articulates identity as something provable; this is explored in more detail in Chapter Six.

Acceptable sources of identity proof are primarily documentary sources. These tokens are represented as readily available, and normally possessed by most people accessing financial services. These identity documents are understood as offering more reliable verification of an individual's identity than any statement provided by the individual. They allow organisations to know the person is who they say they are. The explicit hierarchy of acceptable documents is based on security, authority, accuracy and difficulty of fraudulently acquiring or forging such documents. Government issued documents incorporating a photograph – such as passport or driving license - are at the top of this hierarchy. At the bottom are ad-hoc documents generated if more trusted documents are not available. Whilst there are distinctions between documents, it is fundamentally accepted that identity is something that can be proven, and that this proof can originate in documents.

We need to check that you are who you say you are.<sup>519</sup>

Evidence of identity can take a number of forms. In respect of individuals, much weight is placed on so-called 'identity documents', such as passports and photocard driving licences, and these are often the easiest way of being reasonably satisfied as to someone's identity. It is, however, possible to be reasonably satisfied as to a customer's identity based on other forms of confirmation, including, in appropriate circumstances, written or otherwise documented assurances from persons or organisations that have dealt with the customer for some time.<sup>520</sup>

Documentation purporting to offer evidence of identity may emanate from a number of sources. These documents differ in their integrity, reliability and independence. Some are issued after due diligence on an individual's

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<sup>519</sup> British Banking Association. (May 2005) *Proving Your Identity: How money laundering prevention affects opening an account*. London: BBA.

<sup>520</sup> Joint Money Laundering Steering Group, January 2006. p.53.

identity has been undertaken; others are issued on request, without any such checks being carried out. There is a broad hierarchy of documents:

- certain documents issued by government departments and agencies, or by a court; then
- certain documents issued by other public sector bodies or local authorities; then
- certain documents issued by regulated firms in the financial services sector; then
- those issued by other firms subject to the ML Regulations, or to comparable legislation; then
- those issued by other organisations.<sup>521</sup>

However, documents are not unproblematic. There are varying levels of scepticism regarding the integrity of documentary proofs of identity. Scepticism increases down the hierarchy, but even documents issued by government departments attract questions.<sup>522</sup> The use of utility bills attracts the most opposition as they are considered easy to forge or acquire under false identities.<sup>523</sup> Documents are presented as threatened by fraudsters using false documentation, who undermine the use of documentation to prove identity. This scepticism even extends to questioning the practice of identification.

The top three false or stolen documents used by fraudsters to attempt identity fraud in 2006 were utility bills, passports and bank statements.<sup>524</sup>

As well as the use of fraudulently obtained card details, criminals will use fictitious identity documents in order to travel. Identifying such documents is key to fighting fraud. For further assistance on the identification of fictitious identity documents visit **[www.idfraudpreventiontraining.com](http://www.idfraudpreventiontraining.com)**.<sup>525</sup>

One source of scepticism about the value of ID is the widely-expressed view that forgeries of official documents on which the ID regime depends, such as passports and driving licences, are readily available.<sup>526</sup>

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<sup>521</sup> Ibid, p.54.

<sup>522</sup> Financial Services Authority, October 2004, p.16.

<sup>523</sup> Ibid., p.14.

<sup>524</sup> Fafinski, S. (2007) *UK Cybercrime Report*. Garlik. p.8.

<sup>525</sup> APACS. (July 2007) *Spot & Stop Card not Present Fraud*. London: APACS. p.26.

<sup>526</sup> Financial Services Authority, October 2004, p.16.

An alternative to documentary proof of identity evaluated positively in this discourse is the practice of electronic identity verification, carried out online against a wide range of information sources and databases. This is constructed as quicker, easier, and cheaper; taking advantage of modern technology and available data to provide proof of identity that is more reliable, less easily forged, and therefore more authoritative than traditional documents. These checks can be made without the assistance of the individual whose identity is being verified and can assist with risk management practices.<sup>527</sup>

Historically, ID has relied on the customer providing documents. In the case of personal customers, these are passports, driving and other licences, utility bills, letters from care home managers etc. This documentary approach will continue for some customers. However, the industry now makes increasing use of ‘electronic verification’, particularly for UK-based personal customers. This involves confirming identity - either alone or in conjunction with documentary methods - via a credit reference agency (CRA) (or one of the non-CRA service providers that are now also entering the market).<sup>528</sup>

Electronic delivery does not in itself make verification more robust. But electronic verification can have significant advantages:

- for firms, it can be a straightforward way of accessing several corroborative sources (because CRAs draw on multiple data sources, including individuals’ credit history);
- customers do not need to provide documents, unless the firm considers that further corroboration is required in the circumstances;
- record-keeping is easier and cheaper;
- in non-face-to-face business it reduces the need for customers to send important personal documents by post, with risk of loss and inconvenience;
- it can be cheaper than obtaining paper documents;
- it can be delivered in the broader context of other related checks (e.g. checks against terrorist sanctions lists or credit history checks).<sup>529</sup>

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<sup>527</sup> British Banking Association, May 2005.

<sup>528</sup> Financial Services Authority, October 2004, pp.10-11.

<sup>529</sup> Ibid, p.11.



The identification services articulate perspectives on their own data surveillance activities. Whilst caution must be exercised as the following texts are addressed to potential clients rather than the general public, the aims and objectives are telling. These services make use of massive databases to authoritatively associate an individual with a financial identity and to provide a profile of an individual, allowing for detailed risk analysis. The services are articulated as a response to the problem of accurately and reliably identifying individuals.

Equifax Identity Verification Solutions are designed to confirm the existence of an identity and confirm that the applicant owns the identity. Additionally the solution will highlight detrimental data relating to an identity by screening negative data sources such as deceased lists, forwarding address databases, sanctions lists and politically exposed peoples lists.<sup>530</sup>

The Equifax database includes information on 45 million consumers and 4 million businesses, derived from the most extensive range of public and closed user group data sources currently available. Our innovative and flexible products and services can meet a variety of industry needs. We host a range of powerful data sources that you can cross reference applicant supplied information against, a variety of delivery options.<sup>531</sup>

Callcredit has been at the forefront of the initiative to establish electronic solutions as the **most comprehensive and secure way of establishing identity**.<sup>532</sup>

Identification is constructed as aiding in the prevention of crime and terrorism. Anti-money laundering measures are represented as essential to fighting terrorism by providing useful information to law enforcement. This message explicitly needs to be received by the general public if they are to accept identification.

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<sup>530</sup> Equifax. (undated 'factsheet') *Equifax ID verification & Fraud prevention*. p.1.

<sup>531</sup> Ibid, pp.1-2.

<sup>532</sup> <http://www.callcredit.co.uk/business/products/verification-and-ID-solutions>.

Making sure that people are who they say they are is essential in the fight against crime and terrorism.<sup>533</sup>

We need to get one important message across to the Consumer. By providing ID, they are helping in the fight against financial crime and terrorist finance. Nowadays, no one minds the inconvenience of security when boarding an aircraft, because they see the benefit to themselves and the other passengers of tight security. Being prepared to provide ID in financial transactions has the same benefit.<sup>534</sup>

Current identification practices are equated with fighting terrorism. This hides other potential motivations for conducting identification, for example connection to a profit motive or to risk management. Additionally, by stating that ‘nobody minds’ this paragraph elides the critics who have questioned the scale, necessity or discriminatory effects of contemporary security regimes. This discourse uncritically accepts the link between security processes and individual safety.

After all, society suffers from crime and terror and we are all part of society. We must all be prepared to provide valid ID, so that those who do not wish to do so can be more readily identified. After all, would you go on a plane if some of the passengers had refused to go through the metal detector but were still allowed to board the flight?<sup>535</sup>

The assumption is that declining to provide identification is automatically a signal of criminality. This statement does not suggest why individuals providing ID makes identification of those who *do not* easier. It also attempts to create an equivalence between financial and airline security, drawing upon evocative imagery of airline hijacking, despite differential implications of security lapses.

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<sup>533</sup> HM Treasury, National Criminal Intelligence Service & FSA. (undated leaflet) *Fighting Crime and Terrorism: We need your help*.

<sup>534</sup> Financial Services Authority, October 2004, p.21.

<sup>535</sup> *Ibid*, p.21.

Identification is constructed as potentially problematic, even with the banking and finance discourse because of costs and customer dissatisfaction.<sup>536</sup> Despite these problems, identification is represented as generally accepted and understood by the public. This serves a normalising discursive function. Most people are constructed as being able to fulfil and comply with identification without any significant problem. A distinction between levels of support from young and old people reflects an assumption that all people will come to accept and understand identification in time.<sup>537</sup> The problem is difficulty in provision not unwillingness to provide.

In the banks' perspective, **most individuals now understand the need for firms to do ID, take ID for granted and can readily satisfy firms' standard ID requirements.** Instead, the banks see the issue as primarily about individuals who cannot produce the standard ID tokens.<sup>538</sup>

The discourse constructs the need for the public to accept and understand identification more than at present. This is to be accomplished through the active communication to customers of the motivations behind identification and the necessity of conducting it. The discourse suggests that with understanding comes acceptance. The constructions of motivations and necessity are re-used and communicated in public-facing texts addressed to a mass audience. This communication process is understood as a continuing exercise.

There also needs to be effective communication of the reasons for ID and what it normally involves. There has been some progress in recent years.

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<sup>536</sup> Ibid, p.4.

<sup>537</sup> Ibid, p.6.

<sup>538</sup> Ibid, p.6.

Increasingly, firms include material on the reasons for ID in their own application packs.<sup>539</sup>

Provide for active education of customers in the reasons for ID and what may be expected of them. AML is for the benefit of consumers as citizens and as potential victims of identity theft or fraud.<sup>540</sup>

Identification is a widespread, normalised process. The public-facing aspect of this discourse constructs identification as a normal, everyday process, undertaken by all manner of organisations; it is therefore non-political and unproblematic.

ID is not just a financial sector practice - it is pervasive in modern society. For example, it is used to prevent fraud by mobile phone companies, video rental stores, and retail stores issuing store-cards. The drinks industry asks young customers for ID to check that they are not under-age. Under the Money Laundering Regulations 2003, a range of non-financial sectors (e.g. solicitors, accountants, casinos, estate agents) are now required to do ID.<sup>541</sup>

Identification acts as a gatekeeper process, restricting access to financial services for those without the appropriate proof of identity. What counts as proof of identity is a limited range of accepted sources; however, even these are subject to some levels of doubt about their accuracy and reliability. The scepticism about current methods of checking identity, combined with a legal necessity to perform identity checks, drives a search for alternative mechanisms which currently present three options. Firstly, the strengthening of authoritative identity documents (including the introduction of a government identity card), secondly, greater reliance upon identity checking performed by other, trusted

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<sup>539</sup> Ibid, p.11.

<sup>540</sup> Ibid, p.21.

<sup>541</sup> Ibid, p.5.

institutions, and thirdly, greater use of database surveillance as identity verification.

### *Credit ratings*

Credit ratings, the process of their production, and their mechanisms of disclosure are actively normalised in this discourse. Data is publicly available, and therefore can be freely drawn upon to support decision-making. Credit ratings are framed as relating to individuals as customers, reflecting a particular type of voluntary relationship with organisations. The existence of credit blacklists is explicitly denied. The possibility that organisational thresholds are likely to converge is unexplored. Profiles are articulated as authoritative, factual, complete and objective.

Information held by a credit reference agency and displayed on a consumer credit report includes data available in the public domain such as Electoral Roll Information, Bankruptcies, Insolvencies and County Court Judgments. Most lenders also share some, or all of their customer data with credit reference agencies. A consumer credit report from a credit reference agency may also contain a consumer's present credit commitments and their credit history, plus any previous credit searches that have been conducted with the credit reference agency using your information.<sup>542</sup>

A UK credit reference agency collates and stores financial and publicly available information about UK consumers. This information is then supplied by the credit reference agency to lenders and other relevant organisations to assist them in establishing an individual's identity, credit standing and ongoing credit commitments. The information provided by credit reference agencies helps lenders to make credit-granting decisions and prevent identity theft.<sup>543</sup>

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<sup>542</sup> <http://www.callcredit.co.uk/consumer/order-your-report>

<sup>543</sup> Ibid.

Regular self-monitoring of an individual's credit report provided by the credit reference agencies is articulated as a key defence against identity theft. In this way, the individual is encouraged to maintain self-surveillance, and what could be understood as mechanism of financial surveillance is instead rearticulated as a tool for the individual. This tool comes with responsibility; if this monitoring fails, and the individual is a victim of identity theft, this is constructed as having serious and damaging repercussions for the credit rating of the individual, with implications for future financial dealings.

**Regularly checking your credit report is the best way to spot identity fraud early.** Your credit report includes details of the electoral roll, court judgments, bankruptcies and your current and past credit commitments, as well as recent credit applications.<sup>544</sup>

**Identity fraud can significantly damage your credit history**, and victims can have terrible trouble getting a mortgage, a credit card or a bank loan until the matter has been cleared up.<sup>545</sup>

Refusal of credit is presented as a warning of identity theft. The critical distinction is between unexpected and expected refusal. Given that decision-making practices of financial institutions are opaque to the individual, the likely outcome of application for credit can only be inferred from what the individual perceives as their financial status. Refusal of credit may signify the individual's identity is less credit-worthy than they estimated.

The following are common signs that someone is using your identity:  
Your credit report includes entries you do not recognise  
**You are unexpectedly refused credit.**<sup>546</sup>

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<sup>544</sup> Experian. (August 2006) *Identity Fraud Explained: How to Protect Your Identity*. Nottingham: Experian. p.7.

<sup>545</sup> Experian. (17<sup>th</sup> November 2005) 'Public ignore warnings around identity theft and continue to put themselves at risk'.

## *Identity theft*

Identity theft is the negatively evaluated surveillance activity in this discourse.

Identity theft and identity fraud are consistently distinguished in a number of ways.

Identity theft is narrowed to a limited range of actions and broken up into component practices such as ‘application fraud’ and ‘account take-over fraud’.<sup>547</sup>

In essence, identity theft is the assumption of the identity of another person, living or dead, irrespective of the motivation underlying this course of action. For example, taking on the identity of a dead person and living life as them, having abandoned one’s own identity.<sup>548</sup>

Identity theft and identity fraud are parallel concepts. As activities are articulated as identity fraud, the concept of identity theft is emptied out. *In extremis*, ‘identity theft’ becomes the illegitimate possession of the personal data of another. This raises questions about the organisations and individuals articulated as having *legitimate* possession. The distinguishing criterion is permission and consent on the part of the data subject, and the intent of the possessors of that data. Identity thieves acquire personal data to commit identity fraud; banks and credit reference agencies acquire personal data to assist decision-making or to protect the identity of individuals.

**Identity theft is when someone gets hold of your personal information without your permission.** This can include your name, mother’s maiden name, date of birth, current and previous addresses, phone number, bank account details and credit card or debit card PIN. **Identity fraud is when someone uses your identity to commit a crime**, usually by getting goods or services fraudulently. This may involve using stolen or forged identity

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<sup>546</sup> Experian. (April 2007) *Victims of Fraud Dossier: Part II*. Nottingham: Experian. p.15.

<sup>547</sup> [http://www.apacs.org.uk/payments\\_industry/payment\\_fraud\\_4.html](http://www.apacs.org.uk/payments_industry/payment_fraud_4.html).

<sup>548</sup> Fafinski, 2007, p.4.

documents, such as your driving licence, or just a few pieces of your personal information.<sup>549</sup>

Most identity thieves not only steal your identity, but they also steal money from financial companies by impersonating their victims – this is known as **identity fraud**.<sup>550</sup>

By contrast, **identity fraud is the transient or partial assumption of another's identity**. This involves the fraudster retaining his own identity for most purposes but (mis)using the identity of another for some particular purpose.<sup>551</sup>

Identity theft is represented as a hidden threat, the true extent of which is hidden from victims and unknown to society:

When it strikes, the effects can be devastating. What's more, because it frequently involves no physical theft, **identity theft may not be noticed by its victims until significant damage has been done** – often, several months and thousands of pounds later.<sup>552</sup>

92 per cent of identity frauds are not reported to the police.<sup>553</sup>

In relation to identity fraud, this view is echoed by the Home Office who admit that there is '**no comprehensive measure of the extent** of identity fraud since different sources measure it in different ways.'<sup>554</sup>

Whilst the extent of identity theft may be problematic to measure, it is constructed as becoming more frequent. A wider range of people are vulnerable. This increase in frequency is associated with the construction of identity theft as conducted by organised crime, and as a response to increased security efforts in other areas.<sup>555</sup>

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<sup>549</sup> Experian, August 2006, p.4.

<sup>550</sup> <http://www.callcredit.co.uk/consumer/hot-topics/identity-theft>

<sup>551</sup> Fafinski, 2007, p.5.

<sup>552</sup> [https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb\\_elearning\\_idtheft1](https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb_elearning_idtheft1)

<sup>553</sup> Experian. (April 2007) *Victims of Fraud Dossier: Part II*. Nottingham: Experian. p.11.

<sup>554</sup> Fafinski, 2007, p.18.

<sup>555</sup> [http://www.apacs.org.uk/payments\\_industry/payment\\_fraud\\_4.html](http://www.apacs.org.uk/payments_industry/payment_fraud_4.html)



The spread of identity fraud means that **all UK residents are more at risk than ever before.**<sup>556</sup>

2,124 victims contacted Experian's Victims of Fraud team for the first time in the second half of 2006. **This represents a 69 per cent year-on-year increase in identity fraud** activity reported to Experian.<sup>557</sup>

According to recent research, the number of crimes involving criminals using other people's financial details **doubled last year.**<sup>558</sup>

Identity theft and identity fraud are constructed as dangerous, increasing, and highly damaging to individuals. Identity theft is a driver for the wide range of security responses and strategies. These weigh most heavily upon the individual, advised to undertake a wide range of actions in order to protect themselves against the threat. Almost every text that articulates identity theft provides a range of strategies in response to the danger. There is remarkable level of consistency in this advice, constructing a hegemonic articulation within this field of discourse of what is appropriate conduct and behaviour with regard to personal information. ICO provide very similar guidance and 'counter-surveillance' techniques.

10 ways to keep your personal information secure:

- Don't let your cards or your card details out of sight when making a transaction.
- Do not keep your passwords, login details and PINs written down.
- Destroy, preferably shred, any documents or receipts that contain personal financial information when you dispose of them.
- Do not disclose PINs, login details or passwords in response to unsolicited emails claiming to be from your bank or police.
- When entering your PIN in a shop or a cash machine use your spare hand to shield the number from prying eyes or hidden cameras.
- Only divulge your card details in a telephone transaction when you have instigated the call and are familiar with the company.

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<sup>556</sup> Experian, April 2007, p.3.

<sup>557</sup> Ibid, p.3.

<sup>558</sup> Building Societies Association & British Bankers Association. (June 2002) *Protecting your Financial Details*. London: BBA.

- Make sure your computer has up-to-date anti-virus software and a firewall installed.
- Use secure websites by ensuring that the security icon (locked padlock or unbroken key symbol) is showing at the bottom of your browser window.
- Access internet banking or shopping sites by typing the address into your web browser. Never go to websites from a link an email then enter personal details.<sup>559</sup>

If you have already received a copy of your credit report, look for:

- Accounts in your name that you do not recognise;
- Credit applications in your name that you have not made;
- Previous searches made by companies that you have no knowledge of;
- Linked addresses that you have had no connection with.<sup>560</sup>

**Be careful about giving out personal information.** Whether on the phone, by mail, or on the internet, never give anyone your credit card number, or other personal information for a purpose you don't understand. Ask to use other types of identifiers when possible.<sup>561</sup>

**Pay attention to billing cycles.** Contact creditors immediately if your bills arrive late. A missing bill could mean an identity thief has taken over your credit card account and changed your billing address.<sup>562</sup>

**Find out who has access to your information at work.** Be sure to verify that records are kept in a secure location, and are accessible only to employees who have a legitimate reason to access it.<sup>563</sup>

**Don't advertise your personal information online** - From social networks to blogs and forums, don't put details such as your email or home address online for anyone to see. Details of your employer, team you play in, colleges you attend, can also be misused by cyberstalkers and other online criminals, so keep control of all aspects of your personal data wherever possible.<sup>564</sup>

This advice constructs an image of perpetual, environmental threat to personal information. Employers, tenants, flatmates, neighbours, the general public may all be

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<sup>559</sup> CardWatch. (undated poster) *Personal Information: Shield it from prying eye.*

<sup>560</sup> [www.uk.experian.com](http://www.uk.experian.com)

<sup>561</sup> [https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb\\_elearning\\_idtheft2](https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb_elearning_idtheft2)

<sup>562</sup> Ibid.

<sup>563</sup> Ibid.

<sup>564</sup> <https://www.garlik.com/index1.php?page=cybercrime>

potential identity thieves.<sup>565</sup> The individual is constructed as personally responsible for risk management, control of their personal details and self-surveillance as the individual is advised to carefully and regularly monitor themselves in order to guard against threats to their financial integrity. The discourse also provides explanations as to why individuals must adopt these precautionary strategies. These strategies are constructed as necessary in order to convince the relevant financial service provider that the individual is not liable for any financial losses. The individual may be liable for losses if they are deemed to have acted negligently. The definition of negligent is drawn from the extensive list of strategies to avoid identity theft. If the individual has not followed the appropriate conduct (they wrote down passwords, or did not report suspicions rapidly), then they have left themselves open to identity theft. The definition of negligent shifts as these strategies are put into the public domain. If these strategies are assumed to be common and necessary behaviour, normalised as part of everyday life, then deviation from them becomes more and more problematic for the individual. Regardless of personal perception of the risk of identity fraud, if one wishes not to be liable for losses to financial institutions, one has to adopt these strategies of identity management, devoting appropriate resources to buying a shredder, anti-virus and firewall software, learning how to use them, and frequent, regular self-monitoring through credit reports.

It was clear that the fraudster had stolen the card and the PIN from Mr B's post. **Once the bank was satisfied** that Mr B was not trying to commit fraud himself, it wrote off the loss.<sup>566</sup>

Identity fraud can have serious consequences – although you are **rarely financially liable unless you have been negligent in taking care of your details**, it can take a long time and a lot of effort to rectify the situation.<sup>567</sup>

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<sup>565</sup> Experian. (18<sup>th</sup> October 2006) 'Wealthiest and renters most at risk of ID fraud, survey of victims reveals'.

<sup>566</sup> Experian, August 2006, p.8.

Writing down computer passwords and PIN numbers, even in code, can be **risky** and might mean that if a crime did take place, you could be **responsible** for any money that was spent or withdrawn in your name.<sup>568</sup>

In practice your card company will usually refund the full amount lost. But **if you are found to have acted fraudulently or without reasonable care**, for example, by keeping your PIN written down with your card, you would have to meet all the losses yourself.<sup>569</sup>

This provision of response strategies is accompanied by an uncertainty as to how effectively these strategies have been communicated to the general public. Whilst some texts suggest that ‘consumers’ are aware of the risks of information disclosure, they also suggest that individuals are not adopting enough of these strategies and taking appropriate responsibility for the management of their personal information. This is highly negatively evaluated by the discourse of banking and finance.

Consumers are **more aware than ever of the risks** of disposing of sensitive information and are increasingly shredding important documents.<sup>570</sup>

Consumer **awareness of identity fraud has never been higher** and sensible organisations, wide awake to the reputation damage a breach could cause, have taken steps to maximise their data protection systems.<sup>571</sup>

Because **many of us don’t take simple steps to protect ourselves** (by keeping our identities safe and by looking out for signs of fraud), identity fraud typically takes 15 months to discover.<sup>572</sup>

APACS research shows that:

- One in eight online shoppers have failed to log out when shopping online, leaving their financial details available to others

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<sup>567</sup> APACS. (undated) *Payment Facts – Helpful information from the UK’s Payments association: Fraud*. London: APACS. p.2.

<sup>568</sup> Building Societies Association & British Bankers Association, June 2002.

<sup>569</sup> APACS. (2007a) *Personal Security Plan: best ways to minimise your chances of become a victim of fraud*. London: APACS. p.7.

<sup>570</sup> Experian. (April 2007) *Victims of Fraud Dossier: Part II*. Nottingham: Experian. p.13

<sup>571</sup> Ibid., p.14.

<sup>572</sup> Experian. (August 2006) *Identity Fraud Explained: How to Protect Your Identity*. Nottingham: Experian. p.4.

- One in four online shoppers do not check whether a website is safe and secure.<sup>573</sup>
- Almost two-thirds (63 per cent) failed to ensure their dustbin was emptied and two-thirds (65 per cent) did not lock away key documents.<sup>574</sup>

The public is continuing to dispose of their personal information **irresponsibly, regardless of numerous reminders**, potentially **putting their identity at risk**. At the start of National Identity Fraud Prevention Week, Experian, the UK's largest credit reference agency, has issued a stark warning to consumers that **they are not doing enough to protect themselves**.<sup>575</sup>

New research conducted by Fellowes for National Identity Fraud Prevention Week has shown that similar numbers of people are still **carelessly** throwing away information that has a high value to fraudsters. What is most alarming is that the numbers of households who are disposing of personal information in an **unsafe manner** have in many cases actually increased. For instance, the number of bins containing bank account numbers and sort codes has risen by a massive 20 per cent.<sup>576</sup>

Inappropriate conduct prompts communication strategies by business, finance and government to educate consumers in appropriate conduct with regard to personal information and identity management.

Experian works on a range of initiatives, through its long-running consumer education programme, to help consumers understand and look after their credit reports. Experian's credit report monitoring service CreditExpert also does much to highlight the importance of regularly checking your credit report.<sup>577</sup>

Banks have a significant amount of experience and some expertise in delivering education, information and advice to a vast range of consumers.<sup>578</sup>

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<sup>573</sup> APACS, 2007a, p.12.

<sup>574</sup> Experian Press Release. (undated) 'Brits fail to add their identity to their holiday protection checklist' [www.uk.experian.com](http://www.uk.experian.com).

<sup>575</sup> Experian. (17<sup>th</sup> November 2005) 'Public ignore warnings around identity theft and continue to put themselves at risk'.

<sup>576</sup> Ibid.

<sup>577</sup> Experian, April 2007, p.5.

<sup>578</sup> British Banking Association. (2004) *A UK Retail Banking Manifesto: addressing the challenges that lie ahead for the industry and its stakeholders*. London: BBA. p.8.

"The starting point is to **make people aware**," says Ilube. "We want to help them understand why this information is there, what practical steps they can take, and provide an easy way to **keep monitoring** it."<sup>579</sup>

### *The personal information economy*

The discourse of banking and financial services makes use of a concept found in surveillance theory, the data double, to articulate the way that personal information flows through organisations and is aggregated together to compile detailed images of individuals.<sup>580</sup> Most online and many offline activities contribute to this data image.<sup>581</sup> The 'digital profile' is presented as non-contingent; it is a fact of life that cannot be voluntarily discarded. Agency, other than that of the individual producing their data profile, is elided. The actors responsible for the storage, sharing and aggregation of data are hidden as are their motives for doing so. This data profile is never explicitly linked to the credit profile compiled by credit reference agencies from just such personal information, arguably one of the most significant elements of the data double. The individual is actively encouraged to take control of their digital representation, to make sure that it presents the best possible image of them in order to experience favourable treatment from organisations. The potential effects of this digital profiling are extended to all people and all areas of social and economic life. In this element of the discourse the individual is constructed as vulnerable subject of surveillance processes. Organisations exist that can provide services to assist the individual with the management of his or her data profile. DataPatrol advanced from web security company Garlick goes even further than simply financial image and

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<sup>579</sup> [http://techdigest.tv/2006/11/master\\_criminal.html](http://techdigest.tv/2006/11/master_criminal.html)

<sup>580</sup> Haggerty & Ericson, 2000, p.613.

<sup>581</sup> <https://www.garlick.com/index1.php?page=personal>

draws on concepts similar to the data double to bring an individual face to face with their digital reflection, showing them the amount of information available about them online, and advising them on how best to manage that information so as to present the best possible image.

These days **everyone has a digital profile**. If you've ever paid a bill, shopped online or signed up for an internet service then your details will be stored somewhere online.<sup>582</sup>

You might be amazed to learn how much of **your information** is kept at places like the department store where you bought your last sofa. Not to mention a whole host of marketing lists that catalogue your buying habits, income, education, and much much more.<sup>583</sup>

Incredibly, outside parties can often access this information easily. Because of the growing concern and incidence of identity theft, recent legislation has stepped up efforts to protect consumer information from being viewed by outside sources. But for now, **you are vulnerable to a wide range of prying eyes**.<sup>584</sup>

In recent years, there has been an explosion of ways to collect, store, share – even steal – personal information about you. **Your information has become big business**, and it's available to many people and organisations. They can look at it when it's time to evaluate you for a credit card, a mortgage, a car loan or life insurance, and when you are applying to rent a house, a flat, or even getting a job!

You can **take control of your personal information** by understanding how it is gathered and used. This helps ensure that your information is only used in lawful ways, is accurate, and **reflects positively** on you.<sup>585</sup>

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<sup>582</sup> <https://www.garlik.com/index1.php?page=personal>

<sup>583</sup> [https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb\\_learning\\_privacy1](https://www.econsumer.equifax.co.uk/consumer/uk/sitepage.ehtml?forward=gb_learning_privacy1)

<sup>584</sup> Ibid.

<sup>585</sup> Ibid.

## News media discourses.

### *Dominant media frames*

Representations of surveillant practices in the media discourses of surveillance are bifurcated between two evaluative schemas. These two schemas are associated with a discourse of appropriate surveillance, which draws upon discourses of crime, terrorism and national security, and a discourse of inappropriate surveillance which draws upon discourses of privacy, Big Brother, and personal liberty. Whilst these both draw upon shared discursive sources, the extent to which they do so varies. There is substantial consistency of representation across different surveillance technologies.

Neuman *et al* argue that five key frames dominate news reporting; economic themes; divisions of protagonists into ‘them’ and ‘us’; perceptions of control by powerful others; the human impact of issues; and the application of moral values.<sup>586</sup> According to Negrine, several of these frames can be in use in the same representation.<sup>587</sup> The model of frames can be translated into discourse theory terms through the use of hegemonic articulations. It is possible to identify the strong role these hegemonic articulations play in media discourses of surveillance. Accounts of surveillant social practices frequently invoke such frames. The choice of frame makes a significant difference to the way that a surveillant practice is negatively or positively evaluated. Whilst these frames can be articulated in support or condemnation of a surveillant practice, the way they are filled in with particular content is distinct. These regularities are explored below.

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<sup>586</sup> Neuman, R. Just, M. & Crigler, A. (1992) *Common Knowledge*. Chicago: University of Chicago Press. p.62.

<sup>587</sup> Negrine, R. (1996) *The Communication of Politics*. London: Sage. p.142.



### *Economic themes*

The economic cost of surveillance is a frequent trope in representations of surveillance, especially of high technology variants associated with high costs. In discourses supportive of surveillance, cost is interpreted as a sign of investment or attention to the problem the technology is constructed as solving.

One of the reasons Liverpool has invested in its new security camera system is that the images of Child A and Child B in the Bulger case were so indistinct.<sup>588</sup>

However, in discourses that negatively evaluate surveillance, cost is problematised – perhaps this money is being wasted, going to the wrong beneficiaries, could be better spent on other things or perhaps the cost is being carried by the wrong people.

Far from costing individuals no more than the government's estimate of £110, the LSE study released yesterday put the minimum cost of an ID card at £170 and a medium estimate of £230.<sup>589</sup>

A second way that surveillance issues are framed in terms of economics is the growing awareness of the existence of a 'surveillance industry'. Where positively evaluated, this is a sign of success or growth. However it is more frequently associated with anti-capitalist discourses operating with similar structures to those focused on the arms trade. The industry is seen as being significant in size, international and expanding, with numerous actors involved.

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<sup>588</sup> Burne, J. (16<sup>th</sup> July 1994) 'Caught in the act?' *The Times*. London.

<sup>589</sup> The Guardian. (28<sup>th</sup> June 2005) 'Leading Article: ID cards: Surveillance creep' *The Guardian*. London.

One striking measure of the burgeoning of surveillance is the growth of the industry that provides it: in the three years to 2006 the top 100 US surveillance companies had doubled in value to \$400bn. Surveillance is big business.<sup>590</sup>

*Divisions of protagonists into 'them' and 'us'*

The divisions of protagonists into 'them' and 'us' is in discourse theory a logic of equivalence, linking signifiers ('us') through the act of exclusion of negatively valued signifier ('them') which serves to provide a shared identity for the equivalences.<sup>591</sup>

This is common in accounts that focus upon the function of surveillance technology and practices in dealing with criminals, terrorists, or those behaving in 'anti-social' ways. This frame incorporates the core point of antagonistic constitution of subject positions in these discourses.

Where surveillance activity is positively evaluated, it is constructed in terms of efforts to provide safety and security. In this way the successes of surveillance practices are emphasised as in tracing of the movements of the 7<sup>th</sup> July London bombers, or the Soho pub bomber in 1999.<sup>592</sup> Safety and security involve the prophylactic protection of 'us' from the threat created and represented by a hostile, external 'them'. In this positive evaluation associated with security, surveillance as a signifier is strongly associated with the police and the intelligence services. This involves the watching of individuals by individuals also known as covert policing. Representations of this form include large scale operations by police in the context of organised crime or terror investigations. This is surveillance conducted against potential terrorists who are

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<sup>590</sup> Caulkin, S. (19<sup>th</sup> August 2007) 'Watch it, or surveillance will take over our lives' *The Observer*.

<sup>591</sup> Howarth, 2000, p.107.

<sup>592</sup> Irving, R. (8<sup>th</sup> August 2005) 'Obsolete CCTV units 'put London in Danger'.' *The Times*. London.

constructed as actively resisting the surveillance and skilled in doing so.<sup>593</sup> Positive representations of surveillance as safety and security support this construction by drawing upon accounts of the success of surveillance systems in reducing crime, or enabling criminal prosecutions.

In council car parks in King's Lynn, thefts dropped from 207 in 1991 to none in 1994, post-CCTV. In Newcastle, the installation of a 16-camera system brought incidents of assault and wounding down by 20 per cent in three months. In Sutton, street crime was cut by almost 80 per cent upon introduction of CCTV. In Newcastle, there have been 800 arrests as a direct result of the city centre's 4-year-old CCTV scheme. And similar successes have been claimed for roadside cameras: though it is as yet unclear whether crimes are displaced elsewhere.<sup>594</sup>

Since John Smith, then local MP and Labour leader, opened Airdrie's closed-circuit television system on 7 November 1992, the success stories have been legion. The original plan was to cut crime by 17 per cent and increase the detection rate by a similar amount. But police claim crime has plummeted by 74 per cent and the number of detections almost trebled.<sup>595</sup>

The representation of surveillance as security limits the questions that can legitimately be asked about surveillance practices. Questions become limited to effectiveness of surveillance; does it go far enough in order to achieve the goals of crime prevention and security? However, a particular episode of surveillance can be rearticulated within a discourse more broadly supportive of surveillance, when that surveillance is not effective.

Negative evaluations of surveillance also draw upon 'them' and 'us' constructions of society. For surveillance to be positively evaluated in media discourse, it must be

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<sup>593</sup> *Independent on Sunday*. (20<sup>th</sup> August 2006) 'Surveillance UK' *Independent on Sunday* London.

<sup>594</sup> Bennett, O. (3<sup>rd</sup> December 1995) 'Here's looking at you: Closed-Circuit TV is now part of the street furniture. The police (and the pornographers) are watching your every move. In our surveillance culture, is nothing private?' *The Independent*. London.

<sup>595</sup> Greengrass, P. (6<sup>th</sup> July 1994) 'Long lens of the law; Big Brother is watching you. It started in a small Scottish Town.' *The Independent*. London.

targeted at the appropriate subject positions. Whilst ‘yobs’, ‘troublemakers’, ‘criminals’, ‘persistent criminals’, ‘paedophiles’, ‘litterbugs’, ‘benefit cheats’ and ‘insurance fraudsters’ might all be appropriate subjects of surveillance,<sup>596</sup> ‘You’, ‘your family’ and especially ‘your teenage daughter’ are not.<sup>597</sup> A distinct division is drawn between criminals and innocent citizens. The identity of ‘citizen’ is constructed through the radical exclusion of the criminal.

Electronic tags belong on the ankles of criminals, not in the pockets of innocent citizens.<sup>598</sup>

This provides the core point of distinction between an appropriate and inappropriate surveillance activity shared between both of these discourses, and drawing upon similar discursive foundations.

Surveillance is negatively evaluated when it is constructed as constant and as mass rather than targeted surveillance. This form of surveillance also draws upon ‘them’ and ‘us’ distinctions, but focuses on the way that surveillance technologies can break down appropriate distinctions and place ‘innocent’ people under surveillance who should not be so. There should be a difference between different groups in society. Some individuals are criminals, others are not. It is acceptable to put criminals under surveillance but not non-criminals. A reason for the negative evaluation of mass surveillance is that these technologies ignore this distinction. The technology is therefore understood as creating equivalence between criminals and ‘the innocent’.

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<sup>596</sup> Charter, D. (31<sup>st</sup> March, 2004) ‘Phone taps may catch 5,000 worst tearaways’ *TheTimes*. London, O’Neill, S. (23rd June 2007) ‘Police use anti-terror Surveillance methods to track paedophiles’ *The Times*. London. Iredale, W (4th March 2007) ‘Oy! Big Brother is talking to you’ *The Times*. London

<sup>597</sup> Lott, T. (14<sup>th</sup> May 2005) ‘Every move you make’ *The Times*. London.

<sup>598</sup> Roberts, B. (27<sup>th</sup> January 2006) ‘Spy-D cards: Protestors say radio chip could be used to track the innocent.’ *The Mirror*.

Mass surveillance is considered equivalent to putting the wrong people under surveillance through mistaken targeting.

Police will then remove a DNA sample, which stays on a database, regardless of whether the person is charged or not. Tens of thousands of innocent people's DNA is retained as standard procedure.<sup>599</sup>

The Government is creating a system of 'mass public surveillance' capable of tracking every adult in Britain without their consent, MPs say. They warn that people who have never committed a crime can be 'electronically monitored' without their knowledge.<sup>600</sup>

A second form of this construction in negative discourses occurs when the social 'us' that is constructed, is created through the exclusion of a powerful surveillant actor, such as the government, or a corporation. The relation of equivalence changes to a more dystopian tone. A collective identity is still threatened by an excluded signifier, but instead of this constitutive outside being criminals or terrorists, it is the surveillance actor that is the threat. This construction is very strongly linked to the following frame. Both involve an excluded outside – they differ in the perception of the source of significant threat.

### *Perceptions of control by powerful others*

The frame of perception of control by a powerful other is most strongly exhibited in the trope of 'Big Brother'. The use of the trope of Big Brother, and a number of variants (Orwellian, 1984, etc) are ubiquitous in media discourse of surveillance. It is

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<sup>599</sup> Porter, H. (3<sup>rd</sup> November 2006) 'We are already at the gates of the surveillance society: Parliament must act to halt the spread of powers of intrusion and control in the hand of the state and private corporations' *The Guardian*. London.

<sup>600</sup> Woolf, M. (18<sup>th</sup> August 2005) 'ID cards could be used for Mass Surveillance system' *The Independent*. London.

the predominant representation of surveillance across a wide range of news media sources. It is possible to consider the trope as having spread so widely that it has become a dominant media frame even for non-surveillance issues. This framing is actively contested by attempt to rearticulate the equivalence between contemporary society and totalitarian surveillance. Even supporters of specific surveillance practices engage with the metaphor in attempts to disarm its critical potential.

Big Brother is the malevolent use of surveillance by a wicked state. But for as long as the state remains democratic we can decide what use is made of it and how we are protected from possible abuses. To refuse to use technology for fear of some monstrous future government is paranoid.<sup>601</sup>

Surveillance is commonly represented through the metaphorical employment of the image of Big Brother drawn from Orwell's *Nineteen Eighty-Four*. Despite exhortations to 'love Big Brother', the gaze of Big Brother's state is a hostile one. Surveillance is mobilised as a tool of social control. In this dystopian scenario any positive side to surveillance is diminished. It is entirely negative.

We could identify a number of factors contributing to the hegemony of this trope in news media accounts of surveillance. The first is metaphorical; a critical discourse uses *Nineteen Eighty-Four* to equate contemporary society with a dystopia inspired by Orwell's understanding of fascism and communism in Spain, Nazi Germany and Soviet Russia. In discourse theoretical terms this creates a *chain of equivalence* through dystopia, between contemporary society and types of society positioned as the antithesis of how our society should be organised. The protagonist of *Nineteen*

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<sup>601</sup> Toynbee, P. (7<sup>th</sup> November 2006) 'CCTV conspiracy mania is a very middle-class disorder' *The Guardian*. London.

*Eighty-Four* is dehumanised by his society, and the trope serves as the warning that our society might be equivalent. The invocation of the USSR's KGB or East Germany's equivalent the Stasi further simplifies this logic. It draws an equivalence between contemporary surveillance practices and the activities, logics and intentions of authoritarian or totalitarian states. This form appears in articles that use the film *The Lives of Others* to draw parallels between Stasi surveillance and contemporary surveillance in the UK.<sup>602</sup>

Secondly, the trope acts as a cultural shorthand. The signifiers '1984', 'Orwellian' or 'Big Brother' conjure up a rich visual and textual imagery of oppression, control and dehumanisation. This eases communication, the term acting as a signifier for a complex of practices and technologies. Representations of surveillance in other cultural products, including books and films can fulfil a similar role in discourse, for example the writing of Franz Kafka or Philip K. Dick.<sup>603</sup>

A new trope has entered the discourse in recent years: understanding contemporary society as (or becoming) a surveillance society. This draws upon ICO and academic discourses. The 'surveillance society' has started to eclipse the trope of Big Brother, yet is stripped of much of the nuance associated with the concept in academic discourses of surveillance, and in many texts is functionally equivalent to metaphors of Big Brother.

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<sup>602</sup> Berlins, M. (2<sup>nd</sup> May 2007) 'Surveillance can save innocent lives, but we still need to stand up for our civil liberties' *The Guardian*. London

<sup>603</sup> Evans, R. & Mostrous, A. (2<sup>nd</sup> November 2006) 'News: spy places, clothes scanners and secret cameras: Britain's Surveillance future.' *The Guardian*. London.

Surveillance discourse is not isolated, but is framed according to narratives with familiar lines of antagonism. Whilst positive evaluations of surveillance draw upon discourses of crime control and security, surveillance is often negatively represented in terms of wider civil liberties implications.

Some might consider these proposals far-fetched. In fact, we are already progressing down this road. Consider: DNA sampling is now routine, trial by jury is under threat, electronic tagging is increasing, no detainment without trial - once a hallowed tenet of British law - has been curtailed, surveillance by government and other bodies is commonplace, the double-jeopardy rule is being abandoned, and ID cards are in the offing. It's a salami process, driven by "the ends justify the means" utilitarianism.<sup>604</sup>

In more positive evaluations of surveillance, the frame of control by a powerful other is drawn upon much less frequently. Control is limited, either constructed as proportional and necessary, or actively over-estimated by opponents of surveillance and civil liberty groups. The subjects of surveillance resist or attempt to evade surveillance. The other manifestation of this frame is acknowledgement of its existence incorporated in attempts to subvert and rearticulate its meaning.

### *Human impact of issues*

News media accounts of surveillance are frequently focused on named and individualised individual actors. The internal mental states and ambitions of prime ministers and home secretaries are considered of high importance to the narrative constructed. Identity cards are constructed as belonging to David Blunkett.<sup>605</sup> Many

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<sup>604</sup> Linzey, A. (28<sup>th</sup> June 2003) 'Faith and Reason: So why hasn't Mr Blunkett come up with this one yet?' *The Independent*. London.

<sup>605</sup> Booth, J. (16<sup>th</sup> August 2004) 'UK 'sleepwalking into Stasi State' Britons are 'under surveillance'.' *The Guardian*. London.



texts appear to be produced in reaction to press releases or statements by Richard Thomas, the Information Commissioner. Such texts frequently include verbatim inter-textual reports of these statements. Regular voices also include Phil Booth of NO2ID and Shami Chakrabati of Liberty. Antagonistic relationships appear to be the norm for media coverage of political issues. A statement by the government is frequently matched by a counter-statement from one or two leading opposition parties.

Human impact frames again take two main forms. Positive evaluations of surveillance provide accounts of people or communities saved by surveillance, or accounts of people who would have been saved, if systems were in place. Victims of crime such as Victoria Climbié or James Bulger who may have been saved by surveillance technology had it been present, or were caught on CCTV, are also frequently personalised.

Negative evaluations of surveillance instead focus upon the victims of surveillance. Personal anecdotes are used to illustrate the potential effects or dangers of surveillance practices. For example the victim of identity theft recounts how it took him several months and much inconvenience to rebuild his identity.

It took James Bristow, the manager of a large property firm, 13 months to have his daughter Caitlin's DNA details erased from the national database.<sup>606</sup>

Leaving Mrs Howlett in the situation where she might be placed under surveillance at any time would cause her anxiety and uncertainty and was a course of conduct amounting to harassment under section 1(1) of the 1997 Act.<sup>607</sup>

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<sup>606</sup> Slack, J. (6<sup>th</sup> September 2007) 'A DNA record of every one of us? Is this the sinister signal that anti-crime database will become universal' *Daily Mail*. London.

<sup>607</sup> Queens bench division. (8<sup>th</sup> February 2006) 'Freedom of Expression and secret surveillance can be harassment' *The Times*. London.

*Involve the application of moral values*

Neuman *et al*'s final dominant frame is the application of moral values, thus segueing into the evaluation of surveillance practices. Both evaluative discourses draw upon moral values in their evaluation, however the choice or emphasis of particular moral frameworks highly affects the evaluation of surveillance.

Positive evaluations draw upon frameworks of crime prevention, protection of the innocent, risk management and security. Risk management can appear as a moral prerogative, whilst states and institutions have duties of care and protection. Crime and terrorism are clear forms of moral deviancy and meet with substantial disapproval. The ultimate articulation of positive perspectives of surveillance is an active call for more surveillance technology, or for greater support of its use. This can take the forms of calls for more funding to replace outdated surveillance technology or for the lifting of restrictions on the use of surveillance evidence in court.<sup>608</sup> Certain articles represent critics of surveillance as paranoid and ignoring more pressing social issues – an explicit critique of a skewed value structure.<sup>609</sup>

It takes a delusion of some grandeur to imagine that an all-seeing eye really cares what you are up to every minute of the day. But it's one that seems to be shared by the vociferous campaigners against "the surveillance society."<sup>610</sup>

The negative evaluative discourses of surveillance draw upon different moral values for evaluation. The foremost of these is the value of privacy. Surveillance is generally

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<sup>608</sup> Irving, 8<sup>th</sup> August 2005.

<sup>609</sup> Toynbee, 7<sup>th</sup> November 2006.

<sup>610</sup> Ibid.

represented in negative discourses of surveillance as in an antagonistic relationship to privacy. Privacy is positively evaluated, and surveillance reduces privacy, therefore surveillance is negatively evaluated. Privacy is mainly constructed as a value to be protected rather than a principle which can act to protect the individual. Privacy is associated with individuals; it is a right, both in terms of human rights discourse and in terms of legal rights granted by legislation such as the European Convention on Human Rights and the Human Rights Act. Privacy constructs a set of limitations on surveillance activity. These can be related to data protection principles, but are only infrequently associated with these in media discourses. These limitations provide a framework for the evaluation of specific instances of surveillance activity; surveillance can be represented as violating privacy in a number of ways.

Surveillance is antagonistic to privacy when it is too invasive and when it is disproportionate or excessive; when it is automatic and excludes human beings from decision-making; when it is covert and the watched are not aware of being watched, or the identities of those conducting surveillance are unknown or inaccessible to the subjects of surveillance, for example when secret files are held on citizens.<sup>611</sup>

Transparency of surveillance practices is therefore seen as a positive value.

Up until now the best ally of governments and big corporations who wish to place every individual under total and unwavering surveillance has always been ignorance.<sup>612</sup>

As CCTV systems become as much part of the landscape as postboxes and telephone kiosks, we have all joined the legions of the watched. Mundane strolls through shopping centres or slow weaves back from pubs render us actors in a grainy low-resolution drama watched by an unknown audience of security forces in control rooms.<sup>613</sup>

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<sup>611</sup> Booth, 16<sup>th</sup> August 2004.

<sup>612</sup> Porter, 3<sup>rd</sup> November 2006.

<sup>613</sup> Bennett, 3<sup>rd</sup> December 1995.

Heather Rowe, partner at Lovells, says companies should be doing data audits and work out how they would deal with requests. 'On surveillance, employers should be setting out their policy in staff manuals and employment contracts - Big Brother can watch you as long as you know he is.'<sup>614</sup>

Surveillance invades privacy when conducted for inappropriate purposes, for example snooping or voyeurism. Surveillance is negatively evaluated if it is used for sexual gratification instead of security or crime control. Surveillance is also problematic when individuals have no choice but to be under surveillance. Choice is therefore an important element of negative surveillance discourses. Individual behaviour and choices can make an individual a legitimate subject of surveillance, but an individual should not become a target through no action of their own, or because of actions over which they have no voluntary control. Privacy is also understood as having a locational and spatial component. It is invaded by surveillance when surveillance is conducted in inappropriate places, for example, the home.

I wonder if our insouciance is about to change. The story in yesterday's Standard about Ealing Council using spy cameras to catch residents who put their rubbish out on the wrong day is one of many showing that the authorities' desire to pry is becoming maniacal.<sup>615</sup>

Surveillance may also be seen as threatening to democracy, which can be constructed as a moral imperative and an important value to maintain.

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<sup>614</sup> Langdon-Down, G. (7<sup>th</sup> March 2000) 'Looking over Big Brother's shoulder: from emails to shopping transactions, our every move leaves a cyber imprint. As we surrender our privacy in return for technological advances, how far can the new Data Protection Act protect us?' *The Independent*. London.

<sup>615</sup> Cohen, N. (21<sup>st</sup> March 2007) 'Let's revolt against the spies on our streets' *The Evening Standard*. London.

But if we go too far down the surveillance route, we are tampering with the very freedoms and democracy we're purporting to protect.<sup>616</sup>

News media discourses that provide positive evaluations of surveillance draw upon the effectiveness of surveillance, constructing surveillance practices and technologies as a useful technique for achieving a set of highly valued social aims, which are universalised; crime prevention, national security and the prevention of behaviour deemed anti-social. These discourses make strong use of 'them' and 'us' constructions and make use of human impact examples of the victims of the lack of surveillance. When surveillance does have problems, these are due to the failures or actors and institutions rather than of the technology itself. When surveillance is negatively evaluated there is a more complex set of discursive sources. However the core elements of this discourse are the concepts of privacy, intrusion, and dystopian models of society evoked through images like Big Brother. This discursive regularity constructs a number of lines of appropriateness across which surveillance practices can cross and thus receive a negative evaluation. These lines are not clear and distinct, but instead blurry and contextual. Surveillance is negatively evaluated when it is invasive, when it is directed at the wrong subjects, when it is disproportionate or excessive, when it is automatic and excludes human beings from decision-making, when it is covert and the watched are not aware of being watched, when it is constant, when it is mass surveillance rather than targeted surveillance, when it is snooping or voyeurism, when individuals have no choice but to be under surveillance and when it is conducted in inappropriate places.

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<sup>616</sup> Berlins, 2<sup>nd</sup> May 2007.

In conclusion, there exists a complex web of discourses related to surveillance, both critical and supportive, and providing understandings of political and social problems and evaluative frameworks through which to evaluate surveillance. These discourses have strong commonalities and recurring logics. The implications of these discursive constructions are explored in Chapter Seven. The next chapter adopts a thematic approach derived from the empirical material to examine the subject positions made available in this field of discourse.



## Chapter Five: Subject Positions in Discourses of Surveillance

### Introduction

This chapter adopts a thematic approach, collapsing initial analytical categories and drawing out regularities across the overlapping discourses surrounding the five points of reference explored in the previous chapter to provide a direct answer to the research question: what subject positions are made available in discourses of surveillance? The purpose here is to show the subjectivity (content) dimension of identity in discourses of surveillance, in contrast to the subsequent chapter, which demonstrates the contested articulation of the *form* of identity.

Subject positions are the non-essential relationally determined locations within discourses with which it is possible for a subject to identify. They are the social roles and identities made available by different discourses. The way that subject positions are represented, articulated and positioned in relation to each other can have political effects. The formation of social identities involves the suppression of alternatives. Subject positions may be incompatible with each other, and social antagonisms play important roles in the constitution and limits of particular identities. Representation is the way that subject positions are presented in the discourse, the qualities and characteristics associated with them. This also includes the way that subject positions are evaluated. Representation also includes the discourse theory concept of articulation in the way that the subject positions are constructed in chains of signification with other subject positions. Subject positions (as subjectivities) are the way that identity is commonly understood in post-structural discourse theory



approaches. This chapter contains the results of textual analysis in identifying available subject positions in UK discourses of surveillance, their representations and articulations. Politically relevant subject positions can be divided into three main categories emerging from the data. Firstly, *the individual*, secondly, negatively evaluated subject positions from the *illegal immigrant* to *the terrorist* and thirdly, the contested construction of *the vulnerable*.

### **The individual**

In all of the discourses in this thesis, the individual is the most common subject position available and one that is frequently privileged. The content of the individual is filled in in markedly different ways. In the government identity card discourse, individuals have one legitimate identity, although this identity may have multiple component parts. This identity can be tied to them through biometrics – unique physical characteristics of the individual. Individuals can also be the victims of identity theft and can have their identities stolen from them or assumed by another. Individuals are relatively defenceless against identity fraud, and should be protected from crime. Individuals lead relatively complex lives in the modern world, involving travel and complex financial transactions. Individuals produce personal data, and have records held about them. They produce a biographical footprint and have a place in the community. Individuals will want to, and need to, prove their identity. When interacting with organisations, individuals can also be citizens, clients or customers.

The individual is also the most commonly used signifier for a subject in ICO discourses. Occasionally, subjects are represented as consumers in certain

(commercial) circumstances, but even there, this usage is problematised through the use of inverted commas:

The FTC chairman spelt out bluntly that ‘Consumers’ private data must be protected from theft.<sup>617</sup>

Subjects are collectively referred to as ‘the public’ or ‘society’ but collective subject positions occur much less frequently than references to the individual.

Drawing upon discourses of universal human rights, individuals are represented as bearers of rights. These attributions of rights are often closely related with inter-textual references to specific legal acts, such as the Data Protection Act 1998, The Freedom of Information Act 2005, or the European Convention on Human Rights. One of these individual rights is the right to privacy.

Individuals have a **right of access** to information about them.<sup>618</sup>

The DPA not only creates obligations for organisations, **it also gives individuals rights** such as to gain access to their details and to claim compensation when they suffer damage.<sup>619</sup>

Good practice may go beyond simply meeting the requirements of UK law but will always be consistent with the law as well as with the EU Data Protection Directive (95/46/EC) and ultimately with **the right to respect for private life enshrined in Article 8 of the European Convention on Human Rights**.<sup>620</sup>

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<sup>617</sup> Information Commissioner’s Office. (2006) *What Price Privacy? The Unlawful trade in confidential personal information*. London: The Stationery Office. p.26.

<sup>618</sup> Information Commissioner’s Office. (undated) *Framework Code of Practice for Sharing Personal Information: Consultation Draft*.

<sup>619</sup> Information Commissioner’s Office. (August 2007) *CCTV Data Protection Code of Practice: Consultation Draft*. Wilmslow: The Information Commissioner’s Office. p.4.

<sup>620</sup> Information Commissioner’s Office. (June 2007) *Data Protection Strategy: Consultation Draft*. Wilmslow: Information Commissioner’s Office. p.3.

We want to provide a practical, clear set of advice to help individuals understand **their rights** in everyday situations<sup>621</sup>

However, just as an **individual's right to their own identity** is important there are fewer more jealously guarded commodities than an individual's own personal privacy.<sup>622</sup>

Subjects are *producers and possessors of information*; as individuals they are the subjects of surveillant social practices. This can place them in antagonistic relations with organisations that collect and process personal information.

Most CCTV is directed at viewing and recording the activities of **individuals**.<sup>623</sup>

Today, like it or not, **our personal information is held by many public and private organisations**.<sup>624</sup>

Almost every organisation we deal with in our daily lives holds some personal information about us.<sup>625</sup>

There has been a recent 'explosion' in the number of businesses holding **personal information**, and with that surge, an increase in the potential for the information to be misused.<sup>626</sup>

The collection and use of personal information is essential to the functioning of our modern society.<sup>627</sup>

Individuals also have (or should expect) a certain level of privacy. This privacy acts as a limit on what others can do with personal information regarding to that

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<sup>621</sup> Information Commissioner's Office. (7<sup>th</sup> December 2005) *Press Release: Information Commissioner publishes new Guidance*.

<sup>622</sup> Thomas, R. (2003) *Entitlement Cards and Identity Fraud: The Information Commissioner's Response to the Government's Consultation Paper*. p.1.

<sup>623</sup> Information Commissioner's Office, August, 2007, p.5.

<sup>624</sup> Information Commissioner's Office. (2007) *Personal Information Toolkit*. Wilmslow: Information Commissioner's Office. p.2.

<sup>625</sup> Information Commissioner's Office, 2006, p.7.

<sup>626</sup> Information Commissioner's Office. (15<sup>th</sup> June 2005) *Press Release: New division gets tough with businesses over Personal Information*. p.1.

<sup>627</sup> Information Commissioner's Office, June 2007, p.3.

individual, theoretically restricting antagonism and allowing coexistence. Privacy can be invaded and compromised. Privacy is constructed as both an experience and as a spatial/territorial area.

People care about their personal privacy and have a right to expect that their personal details are and should remain confidential. Who they are, where they live, who their friends and family are, how they run their lives: **these are all private matters**. Individuals may choose to divulge such information to others, but information about them held confidentially by others should not be available to anyone prepared to pay the right price.<sup>628</sup>

The primary objective of data protection or **privacy** legislation has always been to secure proper behaviour by those who process personal information, but the underlying policy objective has been to **allay concerns about the invasion of privacy**, and so to reinforce public and individual trust in public and private sector handling of personal information.<sup>629</sup>

Again, the subject position of the individual occurs in opposition discourse. Here, the individual is a placeholder for a wide range of subject positions, as individuals can have diverse and varying ages, genders, ethnicities, nationalities or social roles. As in ICO discourse, individuals are bearers of a number of rights. They have a right to privacy, a right to access to their own information and under the common law tradition, freedom except where constrained by law. The individual is a source of agency in the discourse. Whilst it is acknowledged that some individuals (including terrorists and criminals) can be malicious, these are represented as a minority and the category of the individual is generally positively evaluated in this discourse. The discourse creates the possibility of antagonistic relations between individuals and government. Individuals should be in control of their own personal information.

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<sup>628</sup> Information Commissioner's Office. (2006c) *What Price Privacy Now? The first six months progress in halting the unlawful trade in confidential personal information*. London: The Stationery Office p.3.

<sup>629</sup> Information Commissioner's Office. (29<sup>th</sup> November 2005) *Press Release: Data Protection celebrates 21 years with UK conference of international experts*.

Only vicious, out-of-control dictatorial regimes believe in monitoring and controlling all citizens all of the time just ‘in case’ **a tiny minority of individuals get up to no good.**<sup>630</sup>

For the **vast number of people who are not involved in terrorist activity**, their entry is irrelevant in combating terrorism.<sup>631</sup>

The individual is represented as profoundly affected by the introduction of identity cards. The individual is placed under obligations by the legislation, will bear the costs of the scheme and will be placed at risk by the scheme. Of key concern is the obligation placed upon the individual to keep the National Identity Register updated with changes to the registrable facts. These obligations are constructed as excessive and disproportionate and unaccompanied by any corresponding obligation on the part of government.

There was a concern that the **onus of renewal and updating information is on the individual.**<sup>632</sup>

Clauses 11-13 relate to maintaining the accuracy of the Register. This is largely achieved through **obligations on individuals** to notify of changes in relevant information. It does not, however, create any obligation to audit the information contained on the register.<sup>633</sup>

**You will have to** keep the authorities informed of changes in your personal details, and pay harsh penalties if you don’t. You will have to produce your card for scanning before being allowed to see your doctor. Your ID card will be your license to live.<sup>634</sup>

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<sup>630</sup> NO2ID. (20<sup>th</sup> December 2004) *How to Win the Fight against the National Identity Card and the Associated National Identity Register: A guide to countering pro-ID questions and arguments from friends, family, colleagues, media and the government.* p.9.

<sup>631</sup> Liberty. (December 2004) *ID Cards Bill: Liberty’s briefing for the Second Reading in the House of Commons.* p.7.

<sup>632</sup> Secretary of State for the Home Department. (October 2004) *Identity Cards: A summary of findings from the Consultation on Legislation on Identity Cards.* p.31.

<sup>633</sup> Liberty, December 2004, p.15.

<sup>634</sup> Liberty. (undated) *Prevent the Death of Privacy.* p.1.

Whether compelled or not, **the bill makes maintenance of one's record on the National Identity Register both onerous and expensive** — and all polling data shows that the popularity of the scheme drops away when the costs are considered.<sup>635</sup>

In addition to legal obligations the discourse negatively evaluates the way that the costs for establishing and running the identity card scheme will be borne primarily by individuals, both *qua* individuals, and as taxpayers, through tax contributions, the registration costs and the possibility of incurring the wide range of fines and penalties for non-compliance.

The costs of the project would be huge, and the Committee fears that, because these costs will be **borne by individuals**, those least able to afford the costs would be the most likely to incur them.<sup>636</sup>

Maintaining one's record on the National Identity Register is made both onerous and expensive. Any change in personal circumstances, such as moving house, requires notification to the Home Secretary and a concomitant fee to be paid. To make matters even worse, should a card be issued with an error, such as a misspelling of the name, **the individual has to pay such a fee for mistakes made by civil servants!**<sup>637</sup>

**Taxpayer pain:** Even at current estimates, the additional tax burden of setting up the scheme will be of the order of **£200 per person**. The **direct cost to individuals** (of a combined passport and ID card package) is quoted as £85. The impact on other departmental and local authority budgets is unknown. The scope and impact of arbitrary penalties would make speed cameras trivial by comparison.<sup>638</sup>

Thirdly, in addition to the legal obligations and financial costs, the individual is placed under increased risk by the scheme. This risk arises from the reduction of difference between normal individuals and criminals, as they are placed on the same

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<sup>635</sup> NO2ID. (2005) *Identity Cards Bill 2005: Briefing Notes*. p.3.

<sup>636</sup> Secretary of State for the Home Department, October 2004, p.55.

<sup>637</sup> NO2ID, 2005, p.7.

<sup>638</sup> NO2ID. (2005b) *NO2ID Summary Briefing*. p.2.

registers and databases. For the opposition discourse, this is a distinction which should be maintained in the face of attempts which they perceive as creating a functional equivalence. A second source of risk arises from the way a card may function to prevent the exercise of legal freedoms or the maintenance of bodily integrity.

The introduction of biometric measurements **increases the risk to the individual** within society. The state already forces people that are arrested to have their fingerprints recorded by the police, whether they are charged with an offence or not. As a result, the police already have a substantial number of fingerprints on various databases around the country. Most of the records are of convicted criminals. This risk to the individual is caused by the erosion of our ability to control our own security.<sup>639</sup>

Imagine being refused access to your doctor when you are sick, or being suspected of a crime and unable to prove your identity to the police. **These are real risks.**<sup>640</sup>

As part of these risks, the individual has little power and opportunity for redress if problems emerge due to the structure or operation of the National Identity Register.

Lost identity, becoming an un-person: By making ordinary life dependent on the reliability of a complex administrative system, the scheme makes myriad small errors potentially catastrophic. There's no hint from the government how it will deal with inevitably large numbers of mis-identifications and errors, or deliberate attacks on or corruption of what would become a critical piece of national infrastructure. A failure in any part of the system at a check might deny a person access to his or her rights or property or to public services, **with no immediate solution or redress**—"license to live" withdrawn.<sup>641</sup>

What happens when a person is falsely rejected from the system, or is, for example, incapable of providing the required biometric is barely considered [in the Bill]... **No consideration has been made on what happens if the process does fail at any stage.** No provision is made for an individual included on the Register, or any person or organisation

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<sup>639</sup> Mason, 2004, p.9.

<sup>640</sup> Liberty. (undated) *Prevent the Death of Privacy*. p.2.

<sup>641</sup> NO2ID, 2005b, p.3.

relying on the Register to operate correctly, to **seek redress** if any part of the system fails and causes them loss in some way.<sup>642</sup>

As if the dangers of a large National Identity Register were not enough, clause 3(3) introduces a presumption of accuracy in that Register, meaning that any **consequences of inevitable errors in the database will be left with the individual, who will have no opportunity for redress.**<sup>643</sup>

In these circumstances, the individual often becomes ‘the innocent individual’ or the ‘innocent person’, represented anecdotally with examples of the harms done to individuals by identity systems. The impact of the harms is magnified because the individual has not done anything to bring them upon himself.

In fact it **is the innocent who have the most to fear**. Criminals and terrorists will simply find a way around these cards – it will be a minor irritation (or even a golden opportunity) to them. Only the careless and guileless will be caught up in the bureaucratic nightmare. It is they who will be fined and criminalised for any one of the proposed ‘ID crimes’ such as failure to renew on time.<sup>644</sup>

In banking and finance discourses, individuals are represented as generally accepting and understanding of the necessity of identification practices discourse. Most people are constructed as being able to fulfil and comply with identification without any significant problem.<sup>645</sup> There is a distinction between levels of support from young and old people that reflects an assumption that all people will come to accept and understand identification in time.<sup>646</sup> The discourse constructs the need for the public to accept and understand identification more than it currently does.

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<sup>642</sup> Secretary of State for the Home Department, October, 2004, p.20.

<sup>643</sup> NO2ID, 2005, p.7.

<sup>644</sup> NO2ID, 20<sup>th</sup> December 2004, p.9.

<sup>645</sup> Financial Services Authority. (October 2004) *ID- Defusing the Issue: A progress report. Financial Crime Sector Report*. London: FSA. p.6.

<sup>646</sup> *Ibid.*, p.6.



With respect to invasions of privacy, ICO, financial and media discourses exhibit a division between subject positions. This involves the concept of *celebrity*. Subject positions are divided by their degree of celebrity, constructing a distinction between celebrities, and normal people. Concern is raised that this distinction is not respected by surveillance practices. It is a social problem when normal individuals are treated as the alternate category. Celebrities can expect additional surveillance, whilst normal people should be protected because they have ‘done nothing to court media attention.’<sup>647</sup> Presumably celebrities and people in the public eye have done something to court media attention and should therefore be prepared for a certain degree of privacy invasion. This division suggests that rights to privacy are not absolute and inalienable, but can be traded away in certain circumstances.

Having the press camped on your doorstep or receiving intrusive calls to self, family or friends is an experience few enjoy, **especially if they have done nothing to court media attention.**

Just as revealing were the interviews conducted with individuals whose privacy had been violated. **As one would expect**, they included a number of celebrities and others in the public eye such as professional footballers and managers, well-known broadcasters, a member of the royal household and others with royal connections, and a woman going through well-publicised divorce proceedings. **But they also included people caught up in the celebrity circuit only incidentally**, such as the sister of the partner to a well-known local politician and the mother of a man once linked romantically to a Big Brother contestant.<sup>648</sup>

The evidence also demonstrates that **we are all equally at risk** of having our privacy invaded. In cases sparked by media interest, for instance, the targets include celebrities and their families but also people with only the slimmest connection to the stars, and some individuals who have simply no idea why their personal details might be of interest to anyone.<sup>649</sup>

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<sup>647</sup> Information Commissioner’s Office, 2006, p.26.

<sup>648</sup> Ibid, p.17.

<sup>649</sup> Ibid, p.28.

## **Chains of equivalence and negatively evaluated actors**

The divisions of subject positions in news media discourse into ‘them’ and ‘us’ can be described in discourse theory terms as the operation of a logic of equivalence creating an equivalence between linked signifiers (‘us’) through the act of exclusion of negatively valued signifier (‘them’) which serves to provide a shared identity for the equivalences.<sup>650</sup> This is common in accounts that focus upon the function of surveillance technology and practices in dealing with criminals, terrorists, or those behaving in ‘anti-social’ ways. The exclusion of deviant social actors serves to provide a shared collective identity to normal, law-abiding people as non-criminals and non-terrorists, thus occluding other potential sources of difference. This frame incorporates the core point of antagonistic constitution of subject positions in these discourses. In similar ways, discourses construct chains of equivalence between negatively evaluated subject positions antagonistic to normal, law-abiding citizens.

Government discourse articulates a distinction between UK citizens and foreign nationals. ID cards will be issued to foreign nationals before they are issued to British citizens. Whilst UK citizens have a default ‘right to be here’, foreign nationals’ presence is contingent and must be demonstrated.<sup>651</sup> The chain of equivalence of foreign nationals incorporates asylum seekers, legal and illegal immigrants and even terrorists.

It will take several years for the scheme to come fully into operation and for all eligible citizens to be enrolled. We will introduce biometric

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<sup>650</sup> Howarth, 2000, p.107.

<sup>651</sup> [www.identitycards.gov.uk/faq.asp](http://www.identitycards.gov.uk/faq.asp).

identification for foreign nationals in 2008 and we expect the first ID cards to be issued to British citizens in 2009.<sup>652</sup>

A broad range of equivalences are drawn between subject positions that would wish to avoid their identification. These subject positions are all negatively evaluated for multiple reasons, but in this construction pejorative labelling is (at least in part) due to their reluctance to maintain their legitimate identity; anonymity is tainted by association with negatively evaluated subjects.

This includes **illegal immigrants** wishing to stay in the country, **money launderers**, **disqualified drivers** who wish to continue driving, **paedophiles** wishing to continue working with children, **people with poor credit histories** wishing to obtain financial services, **wanted criminals** and **bigamous marriages**. False identity is also used by those working undercover – some **terrorists** etc working against the interests of the UK<sup>653</sup>

Bigamous marriage is a remnant of older discourses surrounding the UK's wartime identity card schemes. A popular argument for the retention of the card after the Second World War was that it would prevent bigamous marriages.<sup>654</sup> The chain of equivalences at the time included 'rogues, vagabonds, spies, deserters, bigamists and all the 'lunatic fringe'.'<sup>655</sup> In both cases the social evil of illegitimate identity is spread across a wide range of practices and subject positions articulated as socially undesirable. A distinction is drawn between these subject positions and the positively evaluated subject position of the UK citizen or 'honest citizen'; the honest citizen is often the victim of the malign social actors. A distinction is drawn between 'people in positions of trust' and 'those who have lied to gain positions of trust':

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<sup>652</sup> [www.identitycards.gov.uk/scheme-what-how.asp](http://www.identitycards.gov.uk/scheme-what-how.asp).

<sup>653</sup> Cabinet Office. (July 2002) *Identity Fraud: A Study* p.10.

<sup>654</sup> Agar, 2001, p.115-116.

<sup>655</sup> Agar, 2001, p.115.

**You need to know that people in positions of trust** (such as nannies, carers for the elderly, childminders, and so on) **are who they say they are**. Biometric data in the ID card means that a potential employer could quickly and reliably confirm an applicant's identity. The Criminal Records Bureau could also use the applicant's Identity Registration Number (IRN) in order to check that they have no criminal record, for example. Use of the IRN will speed up such searches significantly.<sup>656</sup>

Enhance checks as part of safeguarding for the vulnerable: the Scheme will introduce a high level of efficiency in authentication of identity, and this will significantly support checks on **people working with** children and the most vulnerable.<sup>657</sup>

Constructed in chains of equivalence with these *ad hoc* users of illegitimate identity are subject positions that make use of illegitimate identities and identity theft/fraud. Equivalences are drawn between terrorists and organised crime. These groups are constructed as organised and networked, and as responsible for societal costs and misery. The use of false or multiple identities by these actors is represented as easy and commonplace. The effect of this chain of signification is that *the terrorist* becomes a nodal point for the whole chain. Each subject position is associated with the terrorist, the worst of all possible subject positions in contemporary discourses of government and security; terrorists are always enemies rather than adversaries of positively evaluated subject positions.

False identities and false identity documents are standard 'tools of the trade' for **organised criminal organisations**. As well as the economic costs of organised crime it is also linked to many of the crimes which cause most misery in society such as drugs misuse and drug-related crimes, people-trafficking, prostitution and people working illegally in

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<sup>656</sup> [www.identitycards.gov.uk/benefits-individual-british.asp#loved](http://www.identitycards.gov.uk/benefits-individual-british.asp#loved).

<sup>657</sup> Home Office. (December 2006) *Strategic Action Plan for the National Identity Card Scheme: Safeguarding your Identity*.

unsafe and overcrowded conditions. It is estimated that organised crime may cost the country up to £20bn pa.<sup>658</sup>

The use of false identities plays an increasing part in illegal activity, with sometimes devastating and costly results.<sup>659</sup>

**Terrorists** and **fraudsters** have used modern IT to forge identities easily.<sup>660</sup>

The National Identity Scheme will disrupt the use of false identities by **terrorist organisations**, for example in money laundering and **organised crime**. We know that **terrorist suspects** make use of false identities. The scheme would also be a useful tool in helping to maintain and disrupt the activities of **terrorist networks**.<sup>661</sup>

The identity cards scheme will help to disrupt the support networks of **terrorists** and **organised criminal operations** which rely extensively on the use of multiple identities to make it more difficult to monitor their activities.<sup>662</sup>

Those involved in facilitating and funding terrorist and organised criminal activities make use of multiple identities to make it more difficult to investigate their crimes. At least one-third of **terrorist suspects** are known to have used **more than one identity** either for facilitation or planning the commission of terrorist acts.<sup>663</sup>

The final important subject position in this chain of equivalence is the illegal immigrant. The illegal immigrant is articulated as not entitled to be in the country and not entitled to work here. Related to illegal immigrants are the sub-set of foreign nationals who could become illegal immigrants, and must be discouraged. The illegal immigrant is constructed as needing 'identity' in order to function in society; given that the (depersonalised) immigrant is not legitimately allowed to be in the country, this identity can never be legitimate. Illegal immigrants are portrayed in this discourse

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<sup>658</sup> Home Office. (25<sup>th</sup> May 2005) *Identity Cards Bill Introduced to House of Commons on 25<sup>th</sup> May 2005 Regulatory Impact Assessment*. p.15.

<sup>659</sup> Home Office, December 2006, p.2.

<sup>660</sup> Secretary of State for the Home Department. (July 2004) *The Home Office Strategic Plan 2004-08*. p.7.

<sup>661</sup> Home Office. FAQ 'how will ID cards protect us from the threat of terrorism?' [www.identitycards.gov.uk](http://www.identitycards.gov.uk)

<sup>662</sup> Home Office. (25<sup>th</sup> May 2005) *Identity Cards Bill Introduced to House of Commons on 25<sup>th</sup> May 2005 Regulatory Impact Assessment*. p.8.

<sup>663</sup> Ibid., p.15.

as drains on social support structures. ‘Those who are entitled to public services’ implies ‘those who are not’ and must be denied access. It also constructs a situation in which the continued delivery to those who are entitled is dependent upon the denial to those who are not.

We will put in place an effective approach to managing the **identity of foreign nationals** to help secure our borders, manage migration, cut illegal working and shut down fraudulent access to benefits and services. Better ways of identifying people will help us to facilitate travel **for those we want to welcome to the UK**. They will also help us to remove **those not entitled to be here**.<sup>664</sup>

There are an estimated 430,000 **illegal migrants** living in the UK, and employers currently have no reliable way of establishing whether or not a job applicant has a right to work here.<sup>665</sup>

The National Identity Scheme will help employers find out about the **immigration status of job applicants** and about any visa restrictions which mean they cannot legally work in the UK. This will speed up the checking process and could be an advantage to those **immigrants who are entitled to work**. It could also **help to identify people who try to work here illegally** and could deter **potential illegal immigrants** from coming to the UK.<sup>666</sup>

**Illegal immigrants** require identity to access goods and services in this Country.<sup>667</sup>

The government is responding to these changes and has introduced biometrics into UK passports as part of a comprehensive programme to improve border controls and security, make travel safer and improve the delivery of free public services and benefits for **those who are entitled to them**.<sup>668</sup>

Terrorists are less frequently present in banking and finance discourse than ordinary criminals. They are primarily articulated in terms of anti-money laundering efforts

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<sup>664</sup> Home Office. (December 2006b) *Borders, Immigration and Identity Action Plan: Using the National Identity Scheme to strengthen our borders and enforce compliance within the UK*. p.2.

<sup>665</sup> [www.identitycards.gov.uk/benefits-society-immigration.asp](http://www.identitycards.gov.uk/benefits-society-immigration.asp).

<sup>666</sup> Ibid.

<sup>667</sup> Cabinet Office, July 2002, p.7.

<sup>668</sup> [www.identitycards.gov.uk/scheme-now](http://www.identitycards.gov.uk/scheme-now).

and obligations by financial service providers. Terrorists are closely associated with criminals in that they make use of the same methods of money laundering and false identities in attempts to access the financial system without leaving a detectable record of their activities. Practices of identification are legitimised by reference to the ultimate, yet immeasurable, risk provided by terrorists freely operating under false identities.

Proving your identity: makes it harder for terrorists to move money anonymously. **Terrorists can use the financial system in preparing their attacks.** The information gained during identity checks can be helpful in investigations.<sup>669</sup>

Crime and **terrorism need cash.** Criminals turn the ‘dirty’ cash made from fraud, drug trafficking, smuggling and robbery into ‘clean’ money by **using false identities or taking the names of innocent people** – like you. You can make life harder for criminals and terrorists.<sup>670</sup>

Also, how can the cost of a terrorist or a convicted sex offender operating under an assumed identity be measured?<sup>671</sup>

In anti-surveillance discourse the subject positions of terrorist and criminal are distinguished from the law-abiding majority of the population, but constructed in equivalence with each other. The discourse of opposition to identity cards has two main constructions of terrorists and criminals. The first discursive move is to show how terrorists and criminals will not be stopped in their malign activities by the introduction of identity cards. This can result from deficiencies in the design of identity schemes or from the skills of the terrorist or criminal. Terrorists and criminals

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<sup>669</sup> Financial Services Authority. (July 2007) *No Selling. No Jargon. Just the Facts about proving your identity*. London: FSA. p.3.

<sup>670</sup> HM Treasury, National Criminal Intelligence Service & FSA.(undated leaflet) *Fighting Crime and Terrorism: We need your help*.

<sup>671</sup> [http://www.cifas.org.uk/default.asp?edit\\_id=556-56](http://www.cifas.org.uk/default.asp?edit_id=556-56).

may even be able to exploit the existence of an identity system to enhance their malign activity.

The Law Society does not believe the identity card scheme will significantly help combat crime and terrorism.<sup>672</sup>

While a link between identity cards and anti-terrorism is frequently suggested, the connection appears to be largely intuitive. Almost no empirical research has been undertaken to clearly establish how identity tokens can be used as a means of preventing terrorism.<sup>673</sup>

In fact it **could make the terrorist's life easier**, if anything. Even the government dropped their tired 'fighting terrorism' slogan in 2002 regarding ID cards when they realised it didn't stack up. The government has started using it again recently to bolster their other very weak arguments for this draconian measure. Imagine the Sept 11th terrorists abandoning their evil plan because...they didn't have a valid ID card. That's not very credible. Will lack of an ID card stop any determined terrorist? No. Also, many terrorists (e.g. Timothy McVeigh, Oklahoma bomber) are 'card-carrying citizens' of their own countries. The National Identity Card can and will be faked (see below) allowing terrorists to enter the country with fewer security checks than at present. Why? If they carry the card, and their eye scan matches the database – then it will be “pass friend”, without a second glance.<sup>674</sup>

Even if there were evidence that identity cards could help combat terrorism full compulsion is not expected for nearly ten years. Until then it will be **ineffective as a terrorist is unlikely to volunteer to register**.<sup>675</sup>

Research suggests there is no link between the use of identity cards and the prevalence of terrorism, and **in no instance has the presence of an identity card system been shown a significant deterrent to terrorist activity**.<sup>676</sup>

Whilst negatively evaluated and depersonalised, terrorists are represented as mobile, tenacious, flexible, invisible, audacious, highly skilful, sophisticated and competent.

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<sup>672</sup> Secretary of State for the Home Department, October 2004, p.51.

<sup>673</sup> Privacy International. (April 2004) *Mistaken Identity; Exploring the Relationship Between National Identity Cards & the Prevention of Terrorism*. London: Privacy International. p.1.

<sup>674</sup> NO2ID, 20<sup>th</sup> December 2004. p.10.

<sup>675</sup> Liberty. (December 2004) *ID Cards Bill: Liberty's briefing for the Second Reading in the House of Commons*. p.7.

<sup>676</sup> NO2ID, 2005b, p.1.



They are also represented as operating using their real identities more often than not, being more orientated towards hiding their intentions rather than their identities. This flexibility and skill allows them to subvert identity systems if they need or desire to, whilst the suicide bomber's use of his own identity removes the need to use a false identity. By demonstrating the ability of terrorists and criminals to operate with and potentially exploit the identity card system, the discourse attempts to deconstruct the government's arguments for the introduction of identity cards based around countering the threat of terrorism and crime.

Five keywords generally apply to the character of modern terrorism: **mobility, flexibility, invisibility, tenacity and audacity**. Any study of the modus operandi of terrorists will highlight **skills** in exploiting weaknesses and loopholes, manipulating administrative procedures and circumventing vetting systems. This is demonstrated with great clarity in the use by terrorists of tourist visas.<sup>677</sup>

Given that a **sophisticated terrorist network** is likely to recruit those with no criminal convictions or history with the authorities it is difficult to see how the introduction of an identity card will have any real impact. It is safe to assume that British intelligence agencies already have gathered intelligence on anyone that they believe could constitute a risk to national security. We cannot imagine what information held on a massive identity register would add to that possessed by the security services. For the vast number of people who are not involved in terrorist activity, their entry is irrelevant in combating terrorism.<sup>678</sup>

The men thought responsible for the bomb in Madrid **all carried valid ID cards. Suicide bombers don't go to great lengths to hide their identity**; they want the world to know who they are. The Home Office has admitted that ID cards will not deter a determined terrorist.<sup>679</sup>

The fundamental point that needs to be made about terrorists is that their aim is to hide their intentions. **Establishing the identity (if such is possible) of a potential terrorist and issuing a registration card to them is of a minor concern**. There is no correlation between acts of terrorism and the absence of a registration system.<sup>680</sup>

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<sup>677</sup> Privacy International, April 2004, p.6.

<sup>678</sup> Liberty. (December 2004) *ID Cards Bill: Liberty's briefing for the Second Reading in the House of Commons*. p.7.

<sup>679</sup> Liberty. (undated) *ID Cards: Fiction and Fact*. London: Liberty. p.3.

<sup>680</sup> Mason, 2004, p.3.

Criminals are also represented as being able to subvert and exploit identity systems. Criminals are represented as technically capable and motivated by the value of the information to be included on the register and the necessity of forging identity cards after the introduction of a national identity scheme.

Many believed that by creating a centralised database, people's information would be more accessible to **those not entitled** to it if a number of organisations and people were accessing the central database at any one time.<sup>681</sup>

In addition, Mr Anderson also expects registration cards and passports to have the chip removed and a replacement added. This can occur to registration cards obtained improperly or where they are stolen. In addition, people will tamper with the chip itself, and the government can also expect the database to be manipulated.<sup>682</sup>

Don't believe those who say it will be impossible to forge the new 'biometric' cards. They said that about bank and credit cards and it took the forgers just a few hours to prove them wrong. **If someone can produce it, someone else can forge it.** Plus industry experts say that 1 in 10 biometric readings will be wrong.<sup>683</sup>

The seizure of ID cards (like benefit-books and passports now) will become a means for extortion by gangsters.<sup>684</sup>

However for opposition discourse, the identity card act has the potential to make non-criminals into criminals, and even to drive the marginalised towards terrorism. The discourse vocalises concerns about the way the identity card Act breaks down a privileged social distinction between criminals and innocent people - inappropriately criminalised for acts of omission relating to identity cards.

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<sup>681</sup> Secretary of State for the Home Department, October 2004, p.17.

<sup>682</sup> Mason, 2004, p.8.

<sup>683</sup> Liberty. (undated) *ID Cards: Fiction and Fact*. London: Liberty. p.11.

<sup>684</sup> NO2ID, 2005b, p.3.

If someone thinks their card may be damaged they will have all the incentive needed to replace it as a consequence of no card will be disentitlement to services. We do not believe the criminal law is appropriate, yet the Government seems to wish to rely on criminal sanction wherever possible. At the heart of the criminal law should be the element of commission rather than omission. **The state should criminalise people for acts they have done, rather than things they have forgotten to do.**<sup>685</sup>

This is likely to exacerbate divisions in society. The Chairman of the Bar Council has asked, “is there not a great risk that those who feel at the margins of society — the somewhat disaffected — will be **driven into the arms of extremists?**”<sup>686</sup>

The second, less common, discursive construction of criminals and terrorists in the opposition discourse attempts to play down the threat of criminality and terrorism. Instead of representing criminals as technically skilled and not inhibited by identity cards, this model instead portrays these phenomena as exaggerated by a government reliant on a ‘politics of fear’ to introduce heightened security measures.<sup>687</sup> Some opposition discourses of surveillance contest governmental constructions of crime as excessive and bringing too many activities within the sphere of criminality.

Bearing in mind the **expanding definition of crime** is fast becoming ‘what small minded petty middle class folk don't like’ the scope for an ID scheme seems limitless. It appears to tie in nicely with the huge number of CCTV cameras in this country (the most in Europe if not the planet) and anti-social behaviour orders (ASBOs), dispersal orders and the other new powers given to police and courts to penalise people without even the already dubious ‘due process’ of the law. Shopping centres are now being praised for banning young people in baseball caps & “hoodys”. How low have things got when your clothes are the defining mark of criminality, striking fear even into the heart of mighty John Prescott?<sup>688</sup>

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<sup>685</sup> Liberty, December 2004, pp.16-7.

<sup>686</sup> NO2ID, 2005, p.3.

<sup>687</sup> NO2ID, 20<sup>th</sup> December 2004, p.4.

<sup>688</sup> Anarchist Federation. (April 2006) *Defending Anonymity: Thoughts for the Struggle against Identity Cards*. p.14.

Banking and finance discourses break apart the category of criminal into lots of differential subject positions. Identity thieves and fraudsters are presented as a specific class of fraudster, which in turn is a sub-variant of criminal. All of these subject positions are negatively evaluated throughout the discourse of banks and financial institutions. They are enemies not antagonists. They do not have a legitimate right to exist. The operation of a logic of difference is discernable here, and because there is no typical profile of an identity fraudster, it leads to a diffusion of suspicion and risk across all subject positions; anybody could be an identity fraudster.

Criminals who make money from drug-dealing, smuggling (people, tobacco, alcohol etc), robbery, gun crime, tax evasion, fraud and other crime use the financial system to hide where it came from. By putting it into apparently normal accounts they make it harder to trace where it came from and confiscate.<sup>689</sup>

Identity thieves are presented as agents, the active and dynamic forces responsible for the creation of a social problem. They are highly present in the discourse. They are presented in generic and functionalistic ways with no nomination – they are never given names but instead represented as anonymous (and unknowable) members of a particular denigrated group defined by what they do (steal identities) rather than other identities they may possess. This depersonalises them and removes them from the immediate experience of the audience of these texts.<sup>690</sup> Identity thieves, along with other fraudsters and criminals, are presented as a faceless external threat to the continuation of that experience.

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<sup>689</sup> Financial Services Authority. (July 2007) *No Selling. No Jargon. Just the Facts about proving your identity*. London: FSA. p.9.

<sup>690</sup> Van Leouwen, T. (1996) 'The Representation of Social Actors' in M.Caldas-Coulthard & M.Coulthard. (eds.) *Texts and Practices: Readings in Critical Discourse Analysis*. pp.43-54.

For crime to pay, criminals need to launder their profits (in other words, to make ‘dirty’ money – money obtained illegally – look ‘clean’). Criminals can use false identities or the identities of innocent people to take out financial products such as bank accounts. They use these to launder money – using false names makes it difficult to trace money back to them. But if they use their own names and there is an investigation, identity-check records will help law enforcement.<sup>691</sup>

Criminals are always looking for ways to get hold of your cards, PINs and card details and the industry is committed to fighting fraud on all fronts.<sup>692</sup>

As in oppositional discourse, criminals are represented as sophisticated and highly technically skilled, operating in international organisations with complex organisation divisions of labour.<sup>693</sup> They are presented as highly competent surveillance agents with the ability to acquire and use large amounts of personal information.

To minimise their own chances of being uncovered, the gangs structure their operations in a complex manner, layering their external relationships and utilising the relative anonymity of the Internet to remain remote and unaccountable from other parts of the fraud ring. Even if a runner is pulled in, it is unlikely they will know anything about whom they are working for.<sup>694</sup>

Fuelled by the growth of the Internet – identity fraud has moved from being a predominantly opportunistic offence into the realm of organised crime, which accounts for the dramatic increases in identity fraud we have witnessed over the last few years.<sup>695</sup>

The organised criminal identity fraudster – who is now e-enabled, IT savvy and (anti-)social networked.<sup>696</sup>

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<sup>691</sup> Financial Services Authority. (July 2007) *No Selling. No Jargon. Just the Facts about proving your identity*. London: FSA. p.3.

<sup>692</sup> APACS. (2007a) *Personal Security Plan: best ways to minimise your chances of become a victim of fraud*. London: APACS. p.4.

<sup>693</sup> Experian. (April 2007) *Victims of Fraud Dossier: Part II*. Nottingham: Experian. p.13.

<sup>694</sup> Ibid., p.13.

<sup>695</sup> Ibid., p.3.

<sup>696</sup> Ibid., p.13.

This suggests that fraudsters are adopting strategies of adaptation and diversification in order to find innovative ways of committing card fraud in response to prevention measures such as chip and PIN.<sup>697</sup>

Therefore, the proportion of identity theft/fraud facilitated online is expected to increase throughout 2007 as a result of the increasing technical sophistication and organisation of fraudsters and the increasing amount of identity information that may be gathered from online sources.<sup>698</sup>

The increased level of current address fraud demonstrates that fraudsters are increasingly acquiring a very thorough knowledge of the victim's details. They will therefore supplement basic information with that available online in order to quickly build up a comprehensive portfolio of identity information relating to the victim.<sup>699</sup>

The focus on bin-raiding (the practice of sorting through household rubbish to retrieve personal information) builds a representation of identity thieves as deviant and unclean. It is not normal practice in the UK for anybody except the desperate to sort through dirty, unhygienic household rubbish. As environmentalists have discovered, it is difficult to get households to sort their rubbish for recycling prior to collection. The actual scale of this practice has been contested by suggestions that sufficient data to conduct identity theft can more easily be acquired online. If bin-raiding is a myth, it is a persistent one, and one that is represented in the responsabilisation of the individual and the near constant exhortation to shred all personal documents before throwing them away.

One North London Authority discovered that homeless people were being paid upwards of £5 by fraudsters for each document they found in the rubbish.<sup>700</sup>

Don't make your rubbish bin a goldmine for identity thieves. Destroy all confidential rubbish before throwing it away. You can get inexpensive

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<sup>697</sup> Fafinski, 2007, p.10.

<sup>698</sup> Ibid., p.8.

<sup>699</sup> Ibid., p.8.

<sup>700</sup> [http://www.cifas.org.uk/default.asp?edit\\_id=554-56](http://www.cifas.org.uk/default.asp?edit_id=554-56).

document shredders from many shops. Cross shredders offer the best protection as they turn documents into very small squares.<sup>701</sup>

What is most alarming is that the numbers of households who are disposing of personal information in an unsafe manner have in many cases actually increased. For instance, the number of bins containing bank account numbers and sort codes has risen by a massive 20 per cent.<sup>702</sup>

First, let's clear up a couple of myths. Fraudsters aren't rooting around in your rubbish looking for receipts. They can get all the information they need in a couple of hours online.<sup>703</sup>

### **Victims and vulnerable people**

The third point of discursive contestation is the floating subject position of the vulnerable. This subject position is made available by all the discourses discussed here, although the filling in of the position varies significantly. There is also contestation over the reasons for this vulnerability.

News media portrayals of surveillance often focus upon the victims of surveillance through the human impact frame. Personal anecdotes are used to illustrate the potential effects or dangers of surveillance practices. For example the victim of identity theft recounts how it took him several months and much inconvenience to rebuild his identity.

IT TOOK James Bristow, the manager of a large property firm, 13 months to have his daughter Caitlin's DNA details erased from the national database.<sup>704</sup>

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<sup>701</sup> Experian. (August 2006) *Identity Fraud Explained: How to Protect Your Identity*. Nottingham: Experian. p.5.

<sup>702</sup> Experian. (17<sup>th</sup> November 2005) 'Public ignore warnings around identity theft and continue to put themselves at risk'.

<sup>703</sup> 'Master Criminals want YOUR Identity, Garlik wants to help foil them'

[http://techdigest.tv/2006/11/master\\_criminal.html](http://techdigest.tv/2006/11/master_criminal.html).

<sup>704</sup> Slack, 6<sup>th</sup> September 2007.

Leaving Mrs Howlett in the situation where she might be placed under surveillance at any time would cause her anxiety and uncertainty and was a course of conduct amounting to harassment under section 1(1) of the 1997 Act.<sup>705</sup>

In government discourse, these are the individuals and groups of individuals who are constructed as the most vulnerable groups in society. The exact content of this subject position is sometimes left floating or empty, but can include children, the elderly and the poor. The vulnerable are that way for two reasons: firstly, because malign actors are able to hide their intentions or escape punishment, and secondly because they may be direct targets of identity theft.

The vulnerability of the population to identity theft is taken as environmentally homogeneous, with all individuals facing an equal level of danger. However, some individuals are best placed to mitigate that danger, either through personal information management practices or by engaging private sector information and identity security providers. Whilst government discourse is sceptical of the ability of the private sector to protect vulnerable identities, this still leaves some individuals more vulnerable than others, unless appropriate identity systems (such as the proposed ID card) are put in place. Vulnerability is constructed as a social problem of governance and acts as a drive for secure identity systems.

Illegal immigrants are also constructed as vulnerable to employers who would exploit their illegal position. There is also concern that vulnerable people need to be included

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<sup>705</sup> Queens bench division. (8<sup>th</sup> February 2006) 'Freedom of Expression and secret surveillance can be harassment' *The Times*. London.



in the identity card scheme from the early stages in order to continue their access to services.

**Enhance checks as part of safeguarding for the vulnerable:** the Scheme will introduce a high level of efficiency in authentication of identity, and this will significantly support checks on people working with children and the most vulnerable.<sup>706</sup>

To combat illegal working and help stop unscrupulous employers undercutting legitimate companies who are employing some of the most vulnerable members of society on the minimum wage.<sup>707</sup>

Unless we invest in identity systems we leave our borders and our economy open to abuse, we leave individuals defenceless against fraud and we risk leaving the benefits safety nets we've worked so hard for, vulnerable to attack. Against all these risks, it's unlikely to be the most well off who will be hurt first - it will be those **who cannot afford to buy their own defences.**<sup>708</sup>

The ICO discourse, whilst contesting the ability of government systems to remove the vulnerability, and highlighting individual responsibility, does situate all subject positions as functionally equivalent vis-à-vis the risk of identity theft. This can be seen in the way that all identities are assumed to be valuable. As with its portrayal of criminals, the discourse of the banking and finance institutions presents a much more differentiated representation of the victims of identity theft. Victims are generally passivated, appearing as the object of actions by others, until forced to exert agency to deal with the repercussions of identity theft. The claims that all subject positions are equally vulnerable are contested by the proliferation of subject positions as the discourse creates a huge range of categories distinguished by income, lifestyle,

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<sup>706</sup> Home Office. (December 2006) *Strategic Action Plan for the National Identity Card Scheme: Safeguarding your Identity*.

<sup>707</sup> Secretary of State for the Home Department. (July 2002) *Entitlement Cards and Identity Fraud: A Consultation Paper*. p.76.

<sup>708</sup> Byrne, L. (19<sup>th</sup> June 2007) *Securing Our Identity: a 21<sup>st</sup> Century Public Good: Speech by Liam Byrne MP, the Minister of State for Immigration, Citizenship & Nationality, to Chatham House*. <http://press.homeoffice.gov.uk/Speeches/sc-identity-21st-century>.

occupation etc. The most likely victims, according to financial services providers, are the wealthy, professionals, directors and those living in affluent areas. The lifestyles of these subject positions are said to make them attractive to fraudsters, however it could be interpreted as the identity of these individuals that is attractive, granting access to high levels of credit. CIFAS statistics show that the most common victims of identity theft are those earning over £60,000, with settled suburban lifestyles.<sup>709</sup>

Fraudsters increasingly move towards premeditating and implementing sophisticated attacks against a wider range of 'higher value' and 'easy target' victims. Victims have the wealth or assets to attract attention, or live in high-risk locations and circumstances.<sup>710</sup>

The wealth of the **Cream of the Crop**, the top-salaried professionals, directors and business owners who often live in the most exclusive city flats and residences, makes them prime targets for identity thieves, who use a variety of techniques to target them. This group is statistically almost four times more likely to fall victim. The affluent company directors and business owners that make up the **Smart Money** and **Corporate Top Dogs** types also feature amongst the higher risk groups.<sup>711</sup>

The lifestyles of the top salaried professionals – directors and business owners who often live in the most exclusive city residences – continues to make them prime targets for identity fraudsters. They are almost four times more likely to fall victim than the average UK resident. Those renting – either privately or from local authorities – are also at high risk. Young singles and homesharers who live in flats rented from local councils or housing associations are more than twice as likely to fall victim, as are the young, single, wealthy people who rent high-value flats in fashionable areas.<sup>712</sup>

London remains the identity fraud capital of the UK with all of the top 25 most-at-risk areas located inside the M25. The area around Victoria Street in Westminster has overtaken Kensington as the highest risk area in the UK for identity fraud, with residents there being almost three-and-a-half times more likely to fall victim than the national average. Those living

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<sup>709</sup> [http://press.homeoffice.gov.uk/press-releases/Shredding\\_The\\_Risk\\_Of\\_Id\\_Fraud](http://press.homeoffice.gov.uk/press-releases/Shredding_The_Risk_Of_Id_Fraud).

<sup>710</sup> Experian, April 2007, p.3.

<sup>711</sup> Ibid., p.5.

<sup>712</sup> Experian. (12 April 2007) 'Experian see rise in Fraud coincide with increase in organised cyber-crime'. Nottingham: Experian.

inside the M25 are on average two-and-a-half times more likely to fall victim.<sup>713</sup>

The discourse of opposition to identity cards provides a number of subject positions articulated as socially vulnerable: a situation which is likely to be exacerbated by the introduction of identity cards. Contesting the government's articulation of vulnerability to environmental threat of identity theft, identity cards are constructed as potentially discriminatory and causing vulnerability. This forms a significant part of the opposition's normative evaluation of the identity card scheme. These subject positions include minority ethnic groups, older people, the frail, the disabled, people with mental illnesses or mental health problems, those who live in insecure accommodation, move house frequently, the homeless, people with complex personal information, people whose personal information changes frequently, the disadvantaged, those least able to afford the cards, people with unstable lives, people fleeing domestic abuse, those who do not look white, people forced to depend on the black economy, and anyone whose circumstances are a little out of the ordinary. These diverse individuals are placed in a vulnerable relationship to the state or the government.

A wide range of interest groups, including those **representing minority racial groups, the homeless, and those with mental health problems** have expressed concern at the implications of the scheme. We share these concerns that **vulnerable groups may be adversely affected**.<sup>714</sup>

The Law Society has expressed concerns that the introduction of identity cards could have a disproportionate affect on **minority ethnic groups, those with complex personal information, and those whose information changes frequently**.<sup>715</sup>

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<sup>713</sup> Ibid.

<sup>714</sup> Liberty, December 2004, p.6.

<sup>715</sup> Secretary of State for the Home Department, October 2004, p.50.

Rethink expressed concerns over the possibility that **people with mental illness** may in some circumstances find it difficult to participate in an identity cards scheme. This may be as a result of living a chaotic life, not wishing to be identified, losing belongings, being vulnerable and relying on income from benefits. A particular concern is that individuals may be turned away from the public services they need and may have an additional financial burden.<sup>716</sup>

The Civil Service Pensioners' Alliance expressed concern that the scheme might disadvantage some **older people**, particular **the disabled, frail and infirm**. They pointed out that many older people would not be able to attend personally for registration, may have difficulties advising of changes in personal details or remembering the PIN numbers. CSPA also raised the issue of charging, arguing that all people of state pension age should be provided with a free identity card.<sup>717</sup>

These subject positions are made more vulnerable by the introduction of identity cards for three main reasons. Many of these groups are represented as dependent on services which might be denied to them on the basis of the identity scheme, they may have additional problems in registering or updating information on the register. There is concern that the identity card scheme will lead to disproportionate targeting of people based on race or ethnicity. The identity scheme is constructed as creating a false division of the social space.

Identity cards will have particular consequences for race relations. We are concerned by the **disproportionate use of stop and search against ethnic minority groups**...Even if identity cards do not have to be produced to the police upon request, they will frequently have to be produced to access services. This is likely to **predominantly affect ethnic minorities**. Our concerns are exacerbated by the government's argument that identity cards will be an effective tool of immigration control.<sup>718</sup>

The CRE have concerns in the light of statistics on stop and search in this country and of ID cards in other European countries, that **they impact disproportionately on ethnic minority communities**. Whilst the CRE noted the Government's statement that there will be no new powers for the police and the protections in Clause 19, they remain concerned that

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<sup>716</sup> Ibid, p.72.

<sup>717</sup> Ibid, p.61.

<sup>718</sup> Liberty, December 2004, p.6.

Clause 19 protections are not applicable after compulsion. The CRE are similarly concerned that **black and ethnic minority individuals are more likely to be asked to produce an identity card to prove identity or entitlement to services.** The CRE contend that in the non-compulsory stage, particular racial groups might feel under pressure to obtain a card.<sup>719</sup>

Banking and finance discourses attempt a rearticulation of a legal definition of victim.

The vast majority of the constructions of victims across these discourses refer to individuals whose identity has been stolen. It is this victim who is advised to contact credit reference agencies, and police their credit record. It is however, often the bank's money that has actually been stolen. This articulation, that the victims are the (generally non-labile) individuals whose accounts are used to defraud banks and companies supports the construction of appropriate conduct in protecting personal identity. Individuals should take appropriate steps in order to limit the likelihood that the banks will lose money.

However, in the eyes of the law, **the financial institutions/lending organisations are considered the only victims**, because they are the ones who have been defrauded. As a result, the damage inflicted on the reputation of the victims and the time they spend mending the trail of destruction cannot easily be redressed. Any such compensation needs to be fought for through the civil courts. This is likely to continue to be the case until legislation is introduced to specifically outlaw identity theft, as in the USA.<sup>720</sup>

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<sup>719</sup> Secretary of State for the Home Department, 2004, p.53.

<sup>720</sup> [http://www.cifas.org.uk/default.asp?edit\\_id=554-56](http://www.cifas.org.uk/default.asp?edit_id=554-56).

## Conclusions

Individualism is hegemonic in these discourses: rights, risk and costs of identity and surveillance issues are held and carried by individuals. All discourses construct outcomes in terms of what is best for the individual. The individual is positively evaluated in all the discourses of surveillance, and group experience and identities are downplayed.

There is discursive contestation over the privacy rights of individuals and there is contestation over the degree to which the individual is or should be subject to surveillance practices. There is also contestation over the degree of capability and specific tactics of criminals, and who are the most vulnerable groups in society. The potential 'most vulnerable' are often similar groups, but the government's claim that they are made vulnerable by the absence of a surveillance system is contested by claims that they will be placed at greater risk should a system be implemented.

Logics of equivalence which articulate together a wide range of negatively evaluated subject positions quilted by the nodal point of terrorism are dominant in government discourse and largely accepted by media discourses. This serves to associate all subject positions in the chain with the ultimate contemporary evil of terrorism, and also to associate any desire for anonymity with malign and criminal subjects. Anti-government discourses respond to perceived attempts to treat non-criminals as criminals. Whilst discursively, the government separates criminals from normal people, the material practices of the functioning of the NIR are understood as conflating two separate subject positions.

Across the discourses, and hegemonic in banking and finance discourses, there is a focus on the actions of criminal subject positions as the agents responsible for the social problems of identity fraud. This elides social problems caused by the practices and technologies of the finance industry itself. Any risks to individuals are caused by the actions of other (negatively evaluated) individuals. Because the identity thief is hard to identify, with no typical profile, anybody could be a potential identity thief, just as anybody could potentially lie about who they are, and a wide range of subject positions make illegitimate use of false identities. This leads to a diffusion of suspicion across society, presenting an environmental threat to identity. It is only banking and finance discourses that rearticulate the level of risk, revealing that it is the wealthy that are most at risk from identity theft.





## Chapter Six: The Articulation of Identity in Discourses of Surveillance

This chapter presents the final empirical analysis results, answering the research question: how is the idea of individual identity articulated within contemporary discourses of surveillance in the UK? It does this by identifying cross-discursive regularities and points of antagonism and by laying out a schema of identity. This shows how identity is articulated in governmental discourses as ontologically objective, unitary, physical, shallow, behavioural, attributed, persistent and socially vulnerable. This chapter, in contrast to Chapter Five, focuses on the role of identity as contested signifier, the form rather than the content of identity. Once these two activities have been completed, it will be possible to examine the political and theoretical effects of this in the final chapter.

### Identity is ontologically objective

The concept of the false identity is very commonplace throughout the governmental discourse. This suggests the presence of its binary opposite, the un-enunciated true identity against which false identity is compared. The existence and dominance of this concept suggests an evaluative schema for determining what counts as a true (or false) identity.

The 'biographical footprint' check will make it extremely difficult to register with the National Identity Scheme under a **false identity**.<sup>721</sup>

It is possible to assume a **false identity** or obtain false documentation used as evidence of identity whether the tests of identity applied are

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<sup>721</sup> [www.identitycards.gov.uk/benefits-society-terrorism.asp](http://www.identitycards.gov.uk/benefits-society-terrorism.asp).

“attributed”, “biographical” or “biometric”. But “attributed” identity is by far the easiest to assume under false pretences.”<sup>722</sup>

False identities are almost universally negatively evaluated in government discourse; associated strongly with the subject positions of criminals, terrorists, benefit fraudsters and illegal immigrants. False identities are used to launder money, to perpetrate terrorism, and to defraud the social security system.

It has been estimated that **false identities** are used to launder around £390m every year.<sup>723</sup>

**False identities** and false identity documents are standard ‘tools of the trade’ for **organised criminal organisations**.<sup>724</sup>

The National Identity Scheme will disrupt the **use of false identities by terrorist organisations**, for example in money laundering and organised crime. **We know that terrorist suspects make use of false identities.** The scheme would also be a useful tool in helping to maintain and disrupt the activities of terrorist networks.<sup>725</sup>

**The use of false identities plays an increasing part in illegal activity,** with sometimes devastating and costly results.<sup>726</sup>

The distinction between true and false identities allows the construction of identity as possessing an essential ontological truth value. Identity can be authoritative, established without question if the right mechanisms are in place to achieve this. The identity scheme is not constructed as creating or fixing a social identity, but rather discovering and revealing something that already exists. Knowledge of identity is an epistemological and practical problem rather than an ontological or metaphysical

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<sup>722</sup> Cabinet Office. (July 2002) *Identity Fraud: A Study*. p.17.

<sup>723</sup> Home Office. (25<sup>th</sup> May 2005) *Identity Cards Bill Introduced to House of Commons on 25<sup>th</sup> May 2005 Regulatory Impact Assessment*. p.18.

<sup>724</sup> *Ibid.*, p.15.

<sup>725</sup> [www.identitycards.gov.uk](http://www.identitycards.gov.uk) FAQ ‘how will ID cards protect us from the threat of terrorism?’

<sup>726</sup> Home Office. (December 2006) *Strategic Action Plan for the National Identity Card Scheme: Safeguarding your Identity*. p.2.

problem. This is necessary for the discourse's focus on the ways in which identity can be verified, checked, authenticated and fundamentally proven.

Identity should be **validated and verified** on the basis of biographical checks for most applicants and checked against a register of known and suspected frauds – with those not passing such checks invited in for face-to-face interview.<sup>727</sup>

Identity can be checked and authenticated, implying the existence of additional external sources of identity evidence. When an individual is questioned about their identity, their statements must be checked against an authoritative source. Only certain voices can act as this source, whilst others are denied this function. In this discourse, the external source of identity against which identity can be checked is the National Identity Register underpinning the ID card scheme. Again this constructs these social processes as revealing something pre-existing, rather than creating a social fact.

Each ID card will be unique and will combine the cardholder's biometric data with their **checked and confirmed Identity details**, called a 'biographical footprint'. These identity details and the biometrics will be stored on the National Identity Register.<sup>728</sup>

Through the scheme, which will be run by the Identity and Passport Service (IPS), accredited organisations will be able – with your permission – to use your ID card and the NIR to **check your identity**.<sup>729</sup>

Our vision remains focused on stronger **identity authentication** to continue to provide even better customer service by safeguarding our customers' identities and reflecting our intended future role in the Government's identity cards scheme.<sup>730</sup>

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<sup>727</sup> Cabinet Office, July 2002, *Study* pp.44-5.

<sup>728</sup> [www.identitycards.gov.uk/scheme-what.asp](http://www.identitycards.gov.uk/scheme-what.asp).

<sup>729</sup> Ibid.

<sup>730</sup> Home Office. (24<sup>th</sup> March 2005) *press release: UK Passport Service: Improving Passport Security and Tackling ID fraud*.

**Authentication requires both validation and verification:** validation being the process of establishing that a claimed identity exists (ie. relates to a “real” person) and verification being the process of establishing that the person using the identity rightfully “owns” it (often done by testing for detailed knowledge of the identity which typically only the rightful owner would have).<sup>731</sup>

Identity can be proven authoritatively. This creates an antagonistic relationship between the individual who is either placed in a position where she needs to prove her identity, or places herself in such a position, and the institution to which she must prove her identity. The accuracy or truth of identity presented by the individual is questioned. The presumption is that when asked ‘who are you?’ individuals may lie.<sup>732</sup> The need to prove identity is normalised as an essential part of modern social life.

Being able to **prove who you** are is a fundamental part of modern life. We need a more robust and secure way to check that identities are real and that people are who they say they are.<sup>733</sup>

You won’t need to carry the card with you at all times, **and if you need to prove your identity** without the card you will be able to do so by providing a few details about yourself along with a biometric, such as a fingerprint or PIN.<sup>734</sup>

The Scheme will provide a comprehensive and secure way of recording personal identity information, storing it and making it possible for you to use it if you want to **prove your identity**.<sup>735</sup>

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<sup>731</sup> Cabinet Office, July 2002, p.11.

<sup>732</sup> Lyon, D. (2005) ‘The Border is Everywhere: ID cards, Surveillance and the Other’ in E. Zureik & M.B. Salter. (eds) *Global Surveillance and Policing: Borders, Security and Identity*. Devon: Willan Publishing. p.71.

<sup>733</sup> [www.identitycards.gov.uk/scheme-why.asp](http://www.identitycards.gov.uk/scheme-why.asp).

<sup>734</sup> [www.identitycards.gov.uk/benefits-individual-british.asp#loved](http://www.identitycards.gov.uk/benefits-individual-british.asp#loved).

<sup>735</sup> Home Office, December 2006, p.4.

As with government, identity is theoretically provable in banking and financial discourse. Ontologically, any given identity can be either true or false. However, epistemologically this cannot be known with complete certainty. Instead proof is always associated with concepts such as reasonable satisfaction and sufficient proof or evidence. Despite this scepticism towards any given proof of identity, identity is a non-subjective quality. The ability to prove identity is understood as a social necessity, a legal requirement, and a positive activity.

Please remember though, the law requires that you must provide satisfactory **proof of your identity**. If you cannot meet this requirement, then under the law the bank or building society must not open an account for you.<sup>736</sup>

**Proving your identity** can help to fight financial crime such as money laundering. This is why the law says financial services firms must check the identity of their new customers.<sup>737</sup>

ICO discourse also accepts identity is capable of *verification*, thus attributing a truth value to identity. Identities can either be true and real (in which case they will be successfully verified) or false (in which case they will fail verification). This truth value may be very hard to access, as is seen in the doubts raised over the ability of the government's proposed identity card scheme and its gold standard of identity verification<sup>738</sup>, but it exists ontologically. In this sense, the ICO discourse also subscribes to an ontologically realist understanding of identity.

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<sup>736</sup> British Banking Association. (May 2005) *Proving Your Identity: How money laundering prevention affects opening an account*. London: BBA.

<sup>737</sup> Financial Services Authority. (July 2007) *No Selling. No Jargon. Just the Facts about proving your identity*. London: FSA. p.2.

<sup>738</sup> Information Commissioner's Office.(October 2005) *The Identity Cards Bill – The Information Commissioner's Concerns*.

If an entitlement card scheme was introduced the card itself would be viewed as having an **unrivalled status in terms of identity verification**. It may be relied upon as the **definitive proof of an individual's identity** and other particulars relating to them.<sup>739</sup>

As with ICO discourses, news media discourses largely accept the realist ontological status of identity, instead contesting the accuracy of surveillance systems and their ability to prove identity. There are risks to specific technological attempts to provide proof of identity, but these arise from the technologies rather than anything fundamental about attempts to prove identity.

Looking through the ID card debates in Hansard, it becomes obvious that most MPs simply didn't understand that the threat comes not just from pooling everyone's information in one database, but from creating a single trusted identifier which is bound to become an irresistible challenge for criminals.<sup>740</sup>

Opposition discourses contest the ease with which identity is proven in government discourse. Identities tend to be unknown rather than unproven. Identity is constructed in a way that suggests that difficulties in proving identity may not lie in simply pragmatic or technical deficiencies (although these are certainly present) but arise because identity may not be provable at all. At a certain point in the discourse, identity is constructed as metaphysical, something that does not easily map onto bureaucratic administration or measurable tokens, even if such mapping were socially desirable.

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<sup>739</sup> Information Commissioner's Office. (June 2005) *The Identity Cards Bill – The Information Commissioner's Concerns*.

<sup>740</sup> Porter, H. (19<sup>th</sup> November 2006) 'Surveillance is really getting under my skin: This unique human chip implant was supposed to protect me – but it just makes me more vulnerable.' *The Observer*.

Of interest is the **concept of proving individual identity**. We are familiar with a wide range of documents in the twenty first century, but all they do is record the name of an individual. No document acts to establish proof of identity, not even a birth certificate.<sup>741</sup>

All a registration card will demonstrate is: That an individual might have attended a designated centre to have recordings taken of such biometric measurements of their body as are deemed required, and that they presented a sufficient number of other forms of record (such as a passport, driving licence and such like) to establish a causal link between the documents held in their possession and the claim that they are the person identified in these documents.<sup>742</sup>

The point about identity is that it is **a metaphysical concept**, and as such it cannot be inextricably linked to a physical token. Even if it was possible to create such a bond, it is questionable whether our identity should be tethered in such a way.<sup>743</sup>

Some elements of identity are constructed as social constructions rather than fundamental essential characteristics. Gender is regarded as particularly problematic given the existence of trans-gender individuals, who have willingly changed an element of their identity perceived as socially significant. This also contests constructions of identity as permanent over the life course, as gender identity is defined by the way an individual lives, not their origin.<sup>744</sup>

With regard to what should be on the face of the card, Beaumont Trust asked that gender should not be included as means of identification as they believe this would embarrass both early stage transsexuals and transvestites. PFC commented that the **flexibility of identity** is necessary for those living dual-gendered lives and recommended that the Bill should either explicitly allow the issue of multiple identity cards or not record gender on the face of the card.<sup>745</sup>

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<sup>741</sup> Mason, S. (2004) 'Is there a need for Identity Cards' *Computer Fraud and Security*. p.2.

<sup>742</sup> Ibid p.2.

<sup>743</sup> Ibid., p.2.

<sup>744</sup> Ibid., p.2.

<sup>745</sup> Secretary of State for the Home Department. (October 2004) *Identity Cards: A summary of findings from the Consultation on Legislation on Identity Cards*. p.70.

Oppositional discourse does occasionally adopt the ontological distinction between true and false identity, but primarily for the purposes of providing a critique of factual claims about the use of false identities. Terrorists are constructed as using false identities, but claims that identity cards prevent or limit the use of false identities are contested.

Almost two thirds of known terrorists operate under their **true identity**. The remainder use a variety of techniques to forge or impersonate identities. It is possible that the existence of a high integrity identity card would provide a measure of improved legitimacy for these people.<sup>746</sup>

It is the detail on the card that can (and will) be faked. Thus a terrorist will have a false card with *his* iris scan or *his* fingerprint, but a **fake name address and citizen number** – all illegally (but properly) registered on the National Identity Register by (say) a paid insider. When he uses the card at the airport, the iris scan will match the card and his record will come up as John Doe, 43 The Street, Anytown – whereas **he is really Mr A Terrorist**, c/o Osama Enterprises etc.<sup>747</sup>

### Identity is unitary

In addition to critiquing false identity, government discourse allows normal law-abiding individuals to possess only *one* legitimate, true identity. The aim of identity mechanisms is to be able to link or tie a single identity to a single individual. Additional identities on top of this true identity are constructed as criminal, or at the very least suspicious. Multiple identities are the preserve of criminals and terrorists. There is no recognition in government discourse that there could be personal preferences for multiple or overlapping identities without malign intent. This is found

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<sup>746</sup> Privacy International. (April 2004) *Mistaken Identity; Exploring the Relationship Between National Identity Cards & the Prevention of Terrorism*. London: Privacy International. p.2.

<sup>747</sup> NO2ID. (20<sup>th</sup> December 2004) *NO2ID How to Win the Fight against the National Identity Card and the Associated National Identity Register: A guide to countering pro-ID questions and arguments from friends, family, colleagues, media and the government*. p.12.



in references to identity in the singular when talking about a single individual:

‘protect your identity’ rather than ‘protect your identities’. It can also be discerned in statements similar to the following:

The scheme would provide a step change in **preventing people from obtaining multiple identities**.<sup>748</sup>

Identity fraud is not an offence per se, but an enabler for other offences. It is very rarely committed for its own sake. There are three basic reasons for a person to develop a second (and possibly, subsequent) identity. These reasons are: to avoid being identified in the original identity, to make financial profit from some form of fraud, or to avoid financial liability.<sup>749</sup>

The one exception to this negative evaluation of multiple identities is the legitimate use of false identities by undercover law enforcement. The implication here is that if an individual is not an appropriate agent of the state, then they should not have a false identity.

It is presence on historical databases that is the hardest test to pass for those wanting **legitimately to develop false identities** i.e. officials working undercover.<sup>750</sup>

For banking and finance discourse it is not false identity itself that creates a social problem, but the act of adopting an additional identity is understood as a signal of perfidy or malicious intent. False identities are discarded, creating significant problems for a financial system predicated upon identity as a consistent, historical record of an individual’s reliability over an extended time period. Not all identities are

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<sup>748</sup> Home Office, 25<sup>th</sup> May 2005, p.17.

<sup>749</sup> Cabinet Office, July 2002, p.10.

<sup>750</sup> Ibid, p.49.

equally valued; some are clean with a higher value to criminals. Multiple identities make risk assessment activities more problematic.

Fraudsters are financial criminals. They are unlikely to use their own identity for their criminal activity. They will either create a new false identity, or, more commonly, will attempt to pose as someone else - someone with a **clean identity**, a good financial history and a reputation of settling their accounts on time.<sup>751</sup>

Criminals can use false identities or the identities of innocent people to take out financial products such as bank accounts. They use these to launder money – using false names makes it difficult to trace money back to them. But if they use their own names and there is an investigation, identity-check records will help law enforcement.<sup>752</sup>

In a counter-articulation, ICO discourse allows for anonymity and fictitious identities in certain restricted circumstances. This shows that whilst identity has a truth/falsity characteristic, false identities are not universally discredited and negatively evaluated. False identities are however, overlaid over true or real identities (as seen with the priority given to biometric forms of identification). Control over identity is therefore limited to control over the presentation of identity, or decisions on where to make use of your identity.

We must recognise that we may risk turning our society from one where the need to prove identity is commensurate with the service on offer, with **complete anonymity being a real option in many circumstances**, to one where the highest level of identity validation becomes the norm for the most mundane of services.<sup>753</sup>

It has been suggested that a new criminal offence of identity fraud be created. Great care needs to be taken to avoid criminalising the

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<sup>751</sup> [http://www.cifas.org.uk/default.asp?edit\\_id=554-56](http://www.cifas.org.uk/default.asp?edit_id=554-56)

<sup>752</sup> Financial Services Authority. (July 2007) *No Selling. No Jargon. Just the Facts about proving your identity*. London: FSA. p.3.

<sup>753</sup> Thomas, R. (2003) *Entitlement Cards and Identity Fraud: The Information Commissioner's Response to the Government's Consultation Paper*. p.2.

**assumption of a fictitious identity** to **preserve anonymity** in legitimate or inconsequential circumstances.<sup>754</sup>

In a similar way, multiple or fictitious identities are not automatically evaluated as malicious or dangerous in ID card opposition discourse. Many statements draw upon common law tradition to represent multiple or fictitious identities as both legitimate and potentially necessary. Positively evaluated examples of fictitious identities are presented, including artists, writers, or groups of people constructed as particularly vulnerable to their identity. Multiple and false identities are emptied out of dangerous or hostile content.

It has been a long-standing principle of common law in this country that **a person is free to use more than one name**... for example singers, actors and writers often use an assumed name for their art, and that name may carry over into wider usage... There are many... cases where a person would not want their two identities connected, and indeed **it may be dangerous for them to be connected**... To have a single identity in the NIR [National Identity Register] showing both current and previous names would immediately undermine that privacy whenever an identity check was made against it...Explicit restrictions on the disclosure of this crucial information [is required].<sup>755</sup>

A variety of persons have **good reason to conceal their identity** and whereabouts, for example: those fleeing domestic abuse; victims of “honour” crimes; witnesses in criminal cases; those at risk of kidnapping; undercover investigators; refugees from oppressive regimes overseas; those pursued by the press; those who may be terrorist targets.<sup>756</sup>

### **Identity is associated with external physical characteristics**

Identity is a feature of individual humans, and is often associated with biometrics – measurements of physical characteristics unique to each particular individual. ID

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<sup>754</sup> Idid, p.5.

<sup>755</sup> Secretary of State for the Home Department, October 2004, p.21.

<sup>756</sup> NO2ID. (2005b) *NO2ID Summary Briefing*. p.3.

cards (and the government ID scheme more broadly) link an identity to a particular individual. This suggests the possibility of identity being ontologically separate (or separable) from individuals. Biometrics allow the possibility of preventing this coming loose of identity and the individual. Governmental discourse articulates the possibility that tying an individual to an identity has been difficult in the past. Identity has not been sufficiently tied to corporeality, and this is a social problem that requires action to rectify. The tight linking of identity and biometrics is constructed as a way of ensuring the security of identity systems. In government discourse, the component of identity understood as biometric identity is biologically determinist.<sup>757</sup> It is derived from technologies of differentiation. Biometrics such as DNA profiling or fingerprinting allow the differentiation between human beings. These physical markers are constructed as persistent over time. Biological markers are constructed as unique and belonging to the individual. However, they (with the exception perhaps of older forms of identifier such as the facial image or the signature) only become visible through the use of specific technologies, which are often not possessed or controlled by the individual. Biometrics could have been alternatively constructed as a co-creation between the individual and the technology operators or even as an invasive monitoring of the individual by external actors. Contrast ‘your biometrics’ with ‘our measurements of your physical features’.

In future, the recording of biometrics, such as fingerprints, iris patterns or facial image means that we will have a **much stronger way of linking identity to the person**. A national ID card will be a robust, secure way to establish that identities are real, not fabricated.<sup>758</sup>

Biometric technology now means that we can **link people to a unique identity**.<sup>759</sup>

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<sup>757</sup> Ogura, 2006, p.293.

<sup>758</sup> Home Office, (13<sup>th</sup> October 2005) *Press Release: Home Secretary announces £30 ID card*.

<sup>759</sup> Home Office, December 2006b, p.2.

There are already several government databases that hold biographical information used to identify people. The real step change in the National Identity Scheme is that **biometrics, such as fingerprints, will be recorded and linked to a single, confirmed biographical record** (covering name, address, etc.). **Biometrics will tie an individual securely to a single unique identity.**<sup>760</sup>

The National Identity Scheme, to be phased in over a number of years, will **link basic personal information, such as name and address, to secure biometrics** - a computer image of a person's iris, face or fingerprints. These are unique and provide a hi-tech form of security for every citizen.<sup>761</sup>

Biometrics – fingerprints, iris and facial data – are now well established as **the most secure way of fixing an individual to a unique identity.**<sup>762</sup>

In ICO discourse, identity has a physical component, although it is clear that this is not the sole component of identity. Biometrics – measurements of physical uniqueness and difference, allow the strong linking of identity and an individual.

If a reliable indicator of identity is the core aim of the scheme then it should seek to achieve this aim in the **most reliable way**. It is recognised that the inclusion of a biometric encrypted on a smartcard chip would be a way to **link identity to a particular person by way of a 'unique' physical characteristic.**<sup>763</sup>

Other systems of checks are perfectly feasible such as a local card reader and **biometric reader verifying identity.**<sup>764</sup>

Opposition discourses attempt to deconstruct links between biometrics and identity, and problematise the use of biometrics and the way that they are assumed to be unproblematic or to produce authoritative proof of identity. It draws upon a general narrative of science to contest claims by specific, interested technology vendors.

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<sup>760</sup> Home Office, December 2006, p.10.

<sup>761</sup> [www.identitycards.gov.uk/press-2006-03-30.asp](http://www.identitycards.gov.uk/press-2006-03-30.asp).

<sup>762</sup> Home Office. (December 2006) p.6.

<sup>763</sup> Thomas, 2003, p.5.

<sup>764</sup> ICO. (October 2005) *The Identity Cards Bill – The Information Commissioner's Concerns*.

Biometrics can only provide probabilities not authoritative certainties. This scepticism is reflected in parts of the news media discourse, however the potential of technologies is more frequently emphasised.

The government are assuming that biometric measurements are perfect – an assumption that is not demonstrated by the scientific evidence. Worse still there is relatively little experience in the widespread deployment of systems involving biometrics and large population databases. Hence many of the claims being made can only be speculative and cannot possibly justify the expenditure of unquantifiable sums of taxpayer's money.<sup>765</sup>

Biometrics is not simple. Biometrics is the science of measuring and statistically analyzing human body characteristics, such as faces, iris patterns, fingerprints, voice recognition and so on. Features of them *are not* always unique, and so **biometrics works with the statistical probability rather than offering definite identification**. The idea is an added "safeguard" to prevent another person from using your ID card. A fingerprint is much more difficult to forge than a signature. But that relies on biometric data being checked every time the card is used. Each check against the national database will be recorded.<sup>766</sup>

Biometrics raise very serious issues about civil liberties. The most important point is that, once submitted, they cannot be recovered and there is nothing to prevent them remaining on Government IT systems for all eternity. There is a good argument that our biometrics are essentially our own property and the business of no-one else, least of all Government.<sup>767</sup>

### **Identity is shallow.**

The various discourses also provide various articulations of the concepts can be included within identity. Identity may, in this limited respect, be playing the part of a floating signifier that is filled in by competing discourses. Across several discourses identity is composed of a relatively limited set of data (deemed important) that excludes other information (deemed unimportant). In government discourse, the

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<sup>765</sup> Mason, 2004, p.9.

<sup>766</sup> <http://www.no2id.net/IDSchemes/FAQ/>

<sup>767</sup> Secretary of State for the Home Department, October 2004, p.19.

boundaries of the concept of identity are expansive and somewhat fuzzy; indicating that even within the governmental discourse the concept is not fully hegemonic. Some articulations of identity include facts such as address whilst other articulations make such things separate from identity:

These checks will simply confirm your identity **or other known facts**, such as your address details, from the NIR.<sup>768</sup>

The apparent emptiness of the concept with regard to its particular content may be a requirement for the wider structure of government discourse. The structural elements of the government's ID process suggest that a wide range of recordable information is included as part of identity. However, only surveillance-permeable information (registrable facts) is included.

The concept of individual identity is explicitly articulated in financial discourse as name, personal details/information and the possession of a number of designated identity documents. It is this definition of identity as personal information that allows identity to be stolen during identity theft.

Your identity is made up by your personal details (for example your name, address and date of birth), and a collection of documents and records (such as utility bills, passports, driving licences, birth certificates and your bank details). Any of these details are potentially useful to identity thieves.<sup>769</sup>

Identity theft: When somebody steals **your name and other personal information**. The information can be used to get credit, goods and

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<sup>768</sup> [www.identitycards.gov.uk/how-organisations.asp](http://www.identitycards.gov.uk/how-organisations.asp).

<sup>769</sup> CIFAS. (undated leaflet) 'What is Identity Fraud'.  
[http://www.cifas.org.uk/download/Identity\\_Fraud\\_Leaflet.pdf](http://www.cifas.org.uk/download/Identity_Fraud_Leaflet.pdf) (26/09/2007).

services in your name, or to provide thieves with false credentials so they can hide their own criminal identities.<sup>770</sup>

The identity of an individual has a number of aspects: e.g., his/her given name (which of course may change), date of birth, place of birth. Other facts about an individual accumulate over time (the so-called electronic “footprint”): e.g., family circumstances and addresses, employment and business career, contacts with the authorities or with other financial sector firms, physical appearance.<sup>771</sup>

Similarly, in financial discourse, identity is closely associated with address – the physical location at which an individual is assumed to be resident or closely tied to. The link between address and identity can be stronger than the link between identity and the individual – identity can be left behind at a previous address. The linkage is represented as important for law enforcement purposes.<sup>772</sup>

About 40% of the fraud people report to us involves their previous address. **If you move, take your identity with you!**<sup>773</sup>

The ability to ask questions relating to data held at the applicant’s supplied **previous address also serves as a powerful and unique impersonation fraud prevention capability.**<sup>774</sup>

If you move home, inform all the relevant organisations of your change in address straight away to make sure all your accounts move with you.<sup>775</sup>

ICO discourse creates equivalence between identity and personal information (or personal data). An individual’s identity is composed of personal data about and

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<sup>770</sup> Financial Services Authority, July 2007, p.11.

<sup>771</sup> Joint Money Laundering Steering Group. (January 2006) *Prevention of Money Laundering/Combating the financing of terrorism: Guidance for the UK financial Sector*. JMLSG. p.54.

<sup>772</sup> Financial Services Authority. (October 2004) *ID- Defusing the Issue: A progress report. Financial Crime Sector Report*. London: FSA. p.15.

<sup>773</sup> Experian. (August 2006) *Identity Fraud Explained: How to Protect Your Identity*. Nottingham: Experian. p.4.

<sup>774</sup> Equifax. (undated ‘factsheet’) *eIDverifier: The most reliable way to verify the true owner of an online identity*. p.2.

<sup>775</sup> CIFAS. (undated leaflet) ‘What is Identity Fraud’  
[http://www.cifas.org.uk/download/Identity\\_Fraud\\_Leaflet.pdf](http://www.cifas.org.uk/download/Identity_Fraud_Leaflet.pdf) (26/09/2007)



relating to that individual. Secondly, an individual's identity can be read off from personal data used in the process of identification of an individual.

'Personal data' means data that relate to a living person who can be identified from the information, either separately or together with other bits of information likely to come within an organisation's possession.<sup>776</sup>

Usually stored on computer, these are the jigsaw pieces which help to build up a picture of each one of us as a unique individual.<sup>777</sup>

In practical terms, if individuals are capable of being identified from the relevant CCTV images, then it is personal information about the individual concerned.<sup>778</sup>

In these discourses, there is frequent conceptual slippage between identity and personal information. Similar arguments and problem constructions are made around both signifiers, with similar outputs in terms of normative evaluations or suggestions for action. The use of the contested term identity theft allows this to be unpacked. Identity theft is an emotive term for what often turns out to be credit card fraud, but with more sinister connotations. Identity theft is the use of personal data to commit theft or fraud. Identity and personal data are therefore very strongly linked by this discourse. The discourse could have made use of alternate signifiers for such practices – for example simply fraud which would not signify the same level of importance attached to personal data in the construction of identity.

Identity is represented as a contested concept much more frequently in opposition discourses than it is in the other discourses. The definition can be contested and a

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<sup>776</sup> Information Commissioner's Office. (2006) *What Price Privacy Now? The first six months progress in halting the unlawful trade in confidential personal information*. London: The Stationery Office. p.11.

<sup>777</sup> Ibid, p.3.

<sup>778</sup> Information Commissioner's Office. (August 2007) *CCTV Data Protection Code of Practice: Consultation Draft*. Wilmslow: The Information Commissioner's Office. p.13.

number of attempts re-define identity against a background of contention. Identity is contextual.

The **precise meaning of personal identity may differ**, according to the circumstances, such as: a unique name of an individual, a name and an address, a name and a date of birth, or perhaps a name and an occupation. An identity can be the establishment of a relationship between one manifestation of personal activity and another.<sup>779</sup>

This illustrates the point that there is a need to **distinguish between the concept of identity and information associated with identity**, such as the name, address and nationality of an individual. This distinction is important, because our identity does not change, but information relating to identity does. It is where an attempt is made to identify people by using the information linked with identity, that things go wrong.<sup>780</sup>

In contrast to government discourse of identity, the discourse of identity scheme opposition attempts to narrow down the content of the concept of identity – what information, or types of characteristics, comprise identity? This is a limitation of the strategies of filling for the empty signifier of identity. Identity is things other than that contained on the National Identity Register. It is clear therefore, that whilst identity is closely linked to personal data, identity is not *all* personal data. This serves to limit the concept of identity to specific information.

In this response, Data Protection and Privacy Practice Editors, expressed the view that **the contents of the National Identity Register are not related to identity** or entitlement and is more concerned with linking Government databases together and serving the needs of the law enforcement agencies.<sup>781</sup>

Liberty has expressed concerns on the possible inclusion of Police National Computer numbers and National DNA database numbers under Clause 1 (4)(g). They also question the reasoning of including past residential status (as under Clause 1 (4) (f)) **wondering how such**

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<sup>779</sup> Mason, 2004, p.2.

<sup>780</sup> Ibid, p.2.

<sup>781</sup> Secretary of State for the Home Department, October 2004, p.55.

information could be regarded as limited to “identifying information.”<sup>782</sup>

The concept or characteristic most frequently ejected from the concept of individual identity articulated in the oppositional discourse is location, characterised in terms of address or previous places of residence. A chain of equivalences connecting address and name under the concept of identity is broken.

The inclusion of a person’s address and the subsequent requirement to inform of a change of address were unpopular with a number of respondents, who **did not believe the inclusion of an address had any relation to their identity.**<sup>783</sup>

The Information Commissioner is concerned about the extent of the personal information that could be recorded on the National Identity Register and **cannot see the relevance of some information to identity verification (e.g. previous residences).** He is also concerned that information could be stored indefinitely.<sup>784</sup>

For example individuals are obliged to tell the government about all the addresses they have lived at and any new places where they reside. It is difficult to see the relevance of all such details, once identity has been verified to the ‘gold standard’ the government sets for itself. If a person issued with a card buys a second home this cannot affect their identity which would already have been verified and tied to them by a unique biometric. The requirement to register another address is excessive and irrelevant to establishing that person’s identity.<sup>785</sup>

Also excised from the concept of identity is the requirement for some level of economic activity as reflected in the government’s moves to check the authenticity of identity against credit reference agency databases. This is rearticulated as a problematic basis for identity:

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<sup>782</sup> Ibid, p.57.

<sup>783</sup> Ibid, p.22.

<sup>784</sup> Ibid, p.45.

<sup>785</sup> Information Commissioner’s Office, June 2005, p.2.

I remain concerned that there may be **an unrealistic view of the value of this sort of information** particularly where individuals are young, involved in limited economic activity or have been absent from or are newly arrived in the UK.<sup>786</sup>

There is significant attention paid to the rearticulation of many ‘registrable facts’ as unnecessary, or unrelated to identity, and therefore invasive of privacy. The National Identity Register is rearticulated as exceeding the requirements of an identity system.

The NIR would be the key to a total life history of every individual, to be retained even after death.<sup>787</sup>

We are **not convinced that non-identification material will be excluded.**<sup>788</sup>

We urge parliamentarians to bear in mind how **the list of information is likely to increase** once the register is in place. The list of what constitutes ‘in the public interest’ allowing facts to be registered (clause 1 (4)) would not provide much limitation on what information could be added. National Security, crime, immigration, employment and the provision of services covers most facts that could realistically be recorded.<sup>789</sup>

The articulation of identity in news media discourse is frequently mobile and floating, demonstrating absence of a hegemonic articulation of identity. Identity is however not explicitly theorised; it is rarely explicitly rearticulated in response to other articulations. In texts referencing ID cards, identity is constructed in similar ways to the government and financial perspectives on identity – it can be checked and proved, and we each have one and only one true identity. In terms of identity theft, the

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<sup>786</sup> Thomas, 30<sup>th</sup> January 2003, p.4.

<sup>787</sup> NO2ID, 2005b, p.1.

<sup>788</sup> Liberty. (December 2004) *ID Cards Bill: Liberty’s briefing for the Second Reading in the House of Commons*. p.1.

<sup>789</sup> Ibid, p.12.

construction of identity is similar to the banks and the ICO perspective – identity is vulnerable and needs protection.

### **Identity is behavioural, based upon probabilistic and actuarial logics**

In governmental discourses, biographical identity is based upon individual behaviour. It is a record of the recordable features of an individual's behaviour and interaction with institutions. Biographical identity does not (in this construction) include how an individual feels about these interactions. Whilst many of these interactions could be understood as attributed, the construction here highlights the individual agency in undertaking certain behaviours and actions that leave recordable traces as biographical identity. The understanding of identity as composed of recordable facts is supported by the articulation of identity as being composed of registrable facts drawn from the statutory purposes in the Identity Cards Act 2006. Registrable facts have some overlap with the ICO understanding of 'personal data' stripped of the implications of personal ownership hegemonic in ICO discourse. The use of identity as a basis for risk assessments in banking and financial discourse mirrors the actuarial logics at play.

The provision of a secure and reliable method for **registrable facts** about individuals to be ascertained or verified wherever that is necessary in the public interest.<sup>790</sup>

Information provision: this is the ability to make data from the NIR available to other parts of government, to make sure that all parts of government are using the most up-to-date **identity information** about

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<sup>790</sup> Secretary of State for the Home Department. (October 2006) *Identity Card Technologies: Scientific Advice, Risk and Evidence*. The Government reply to the Sixth report from the House of Commons Science and Technology Committee Sessions 2005-06 HC 1032. p.9.

you, for example to make it much simpler when you change your name or address.<sup>791</sup>

### **Identity is not controlled by the individual but attributed by trusted sources**

Attributed identity: the components of a person's identity that are given at birth, including their full name, date and place of birth, parents' names and addresses.<sup>792</sup>

Although the governmental articulation limits attributed identity to components given at birth, it shows how identity is not an internal self-creation of the individual, but includes elements attributed to the individual by external actors. The distinction that is drawn between attributed identity and biographical identity breaks down in a number of cases, where identity is attributed to the individual later in life by a relatively constrained set of social actors (banks, creditors, utilities, public authorities). This is well summarised by the term 'structured society'.<sup>793</sup> This refers to established social institutions in relatively formalised and structured forms. In the Identity Card Act 2006, identity is defined as full name, other names by which an individual might previously have been known, gender, date and place of birth and 'external characteristics of his that are capable of being used for identifying him.'<sup>794</sup> Identity is constructed as a series of institutional reputations mediated through personal information disclosed to those institutions.

Banking and financial discourses construct identity as best proven through the production of official documents issued by authorities that act as identity tokens and

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<sup>791</sup> Home Office, December 2006, p.11.

<sup>792</sup> Cabinet Office, July 2002, p.9.

<sup>793</sup> Ibid., p.9.

<sup>794</sup> *Identity Card Act 2006* (c.15). London: HMSO. p.3.

authenticate claims to a specific identity by an individual. This occurs during the surveillant practice of identification. Identity is therefore fundamentally relational and reliant upon institutions. Identity is a placeholder for relationships with organisations. These organisations produce documents that act as signifiers of those relationships, allowing other organisations to base decision-making activity upon pre-existing relationships.

Evidence of identity can take a number of forms. In respect of individuals, much weight is placed on so-called 'identity documents', such as passports and photocard driving licences, and **these are often the easiest way of being reasonably satisfied as to someone's identity**. It is, however, possible to be reasonably satisfied as to a customer's identity based on other forms of confirmation, including, in appropriate circumstances, written or otherwise documented assurances from persons or organisations that have dealt with the customer for some time.<sup>795</sup>

An alternate source of evidence of identity to identity documents is electronic information. This involves a 'wide range of confirmatory material' that can be utilised for the purposes of identity verification without involving or informing the customer.<sup>796</sup> This concept of the footprint emerges at several points through the discourse. It closely matches to the surveillance theory concept of the data double, or the image of the individual produced by the surveillant assemblage. The text suggests that having the correct or appropriate data image aids in identity verification.

The size of the electronic 'footprint'(see paragraph 5.3.1) in relation to the depth, breadth and quality of data, and the degree of corroboration of the data supplied by the customer, may provide a useful basis for an assessment of the degree of confidence in their identity.<sup>797</sup>

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<sup>795</sup> Joint Money Laundering Steering Group, January 2006, p.53.

<sup>796</sup> Ibid, p.54.

<sup>797</sup> Ibid, p.55.

The converse is that an incorrect footprint can suggest an identity is false, invalid, or otherwise cast doubt upon the individual, leading to his or her subjection to other mechanisms of risk management or surveillance. This can be linked to a politics of a personal identity management, as individuals begin to encounter the effects of their data image in a variety of circumstances as it begins to affect their real world lives. Possessing a flawed (for whatever reason) data image could cast doubt on the validity of one's identity.

There is possibility in financial discourse for the negotiation of identity. However, this is based upon the ontological assumption that identity can be divided into true and false identities, of which each individual has one true identity. Negotiation occurs in the ways that identity might be proven. Only individuals above a certain position in most organisations are capable of undertaking this negotiation.

ICO discourse contests the role of external attribution in identity construction by placing identity under control of the individual, reflected in the responsibility of the individual to actively manage their identity. If identity was not under the control of the individual, then it would be nonsensical to require the individual to manage their identity – it would be the responsibility of the organisation with control over identity. Secondly, control over identity is a requisite for its construction as the 'property' of the individual. The discourse surrounding ICO articulates identity as (normatively if not practically) under the control of the individual. This results in concerns over the introduction of identity cards, which are articulated as placing identity under the control of the government.



The Identity Cards Bill is not just about the introduction of ID cards for individuals, it will establish a **whole system of identity verification** with the recording of information about individuals on a **government controlled** central register with a record being kept of when it is checked by both public and private sector organisations.<sup>798</sup>

Rather than identity being controlled by external actors, the ICO discourse states that it should be under the control of the individual.

If we are to have an identity card, the Information Commissioner would like it to be a **tool to assist individuals to demonstrate their identity when they find it useful**. It should be a **tool within the individual's control**.<sup>799</sup>

The primary aim of Government with this legislation should be to establish a scheme which **allows people to reliably identify themselves** rather than one which enhances its ability to identify and record what its citizens do in their lives.<sup>800</sup>

In a similar way, ID card opposition discourses understand identity as a possession of the individual. This is contrasted against possession, control or management of identity by the state. Identity should normatively be under the control of the individual, including the ability to access records and data (drawing on data protection and ICO discourses).<sup>801</sup> This control is threatened by the identity card scheme.

An individual should have the right to access their own record free of charge, including all associated information used to validate claimed identity, and any audit data of that record. The identity of the individual can be verified using biometrics.<sup>802</sup>

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<sup>798</sup> Information Commissioner's Office, June 2005, p.3.

<sup>799</sup> Ibid, p.3.

<sup>800</sup> Ibid, p.3.

<sup>801</sup> Ibid, p.3.

<sup>802</sup> Secretary of State for the Home Department, October 2004, p.18.

We believe that it is our **fundamental right to assert who we are**, without being checked against an approved list.<sup>803</sup>

It is important that the **data about an individual be owned by that individual and not by the State**. Equally, individuals should maintain **control over their own records**, including the ability to view all aspects of their own records — including the audit trail — without additional charge. To ensure the accuracy of records, subject access disclosure (similar to under the Data Protection Acts) ought to be encouraged and occur regularly, without additional charge. The Bill makes such no provisions to ensure that individuals have an opportunity to check their records are reliable, accurate and up-to-date.<sup>804</sup>

We must recognise that we may risk turning our society from one where **the need to prove identity is commensurate with the service on offer**, with **complete anonymity being a real option** in many circumstances, to one where the highest level of identity validation becomes the norm for the most mundane of services, one where we run the risk of the unique personal number being used to track our various interactions with the state and others, and to have all this recorded on a central register under its control.<sup>805</sup>

The Identity Cards Bill is not just about the introduction of ID cards for individuals, it will establish **a whole system of identity verification** with the recording of information about individuals on a **government controlled** central register with a record being kept of when it is checked by both public and private sector organisations.<sup>806</sup>

The Government wants **state management of personal identity**.<sup>807</sup>

Because individual identity should be under individual control, the individual becomes of vital importance in verifying identity. Individuals are best placed to verify the accuracy of their own identifying information. This is antagonistic to the government and finance articulation that the individual is an unreliable (perhaps the worst) source of information, likely to lie or dissemble, and that more accurate sources are available in state and commercial databases.

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<sup>803</sup> NO2ID. (2005) *Identity Cards Bill 2005: Briefing Notes*. p.2.

<sup>804</sup> Ibid., p.8.

<sup>805</sup> Thomas, 30<sup>th</sup> January 2003, p.2.

<sup>806</sup> Information Commissioner's Office, June 2005, p.1.

<sup>807</sup> NO2ID. (undated) *I work on the Identity Card System for the UK Government*.

While we maintain our opposition to the creation of a national identity register, if there is to be one it should be as accurate as possible. **Self-verification is the best way to ensure this.**<sup>808</sup>

In the following excerpt from an ICO code of practice for information-sharing addressed to institutions making personal profiles, the individual is positioned as a source of verification for identity, of confirmation in the last instance:

You need to have procedures in place for dealing with situations where there are disagreements between organisations about the accuracy of a record. In some cases, **the best course of action might be to ask the individual him or herself whether their record is correct.**<sup>809</sup>

### **Identity is historically persistent**

Documentary proofs of identity have been problematised by the government and financial discourses. An alternative proposal is the use of databases. These are constructed as a distinct privileged technology. Databases could instead be understood as another type of document, with similar inaccuracies, flaws, and potential for misuse. The response to the insecurity of identity is to increase the dependence of identity upon historical knowledge stored in databases.

But more effective ways of risk profiling applications for passports, driving licences, and numbers that serve as unique identifiers would be based on **“biographical” rather than “attributed” aspects of identity**. At its simplest, this means **checking someone’s identity against historical information held on databases** (whether government or private sector) rather than asking to see their birth certificate/seeking a

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<sup>808</sup> Liberty, December 2004, p.16.

<sup>809</sup> ICO. (undated) *Framework Code of Practice for Sharing Personal Information: Consultation Draft*, p.10.

counter signatory to establish who they are. This essentially checks a person's "**historical footprint**" on the world.<sup>810</sup>

This methodology is tried and tested by the private sector, where any organisation wishing to give credit relies on the ability of credit reference agencies to **draw together information from different sources to authenticate a customer's identity** and develop a measure of their credit-worthiness.<sup>811</sup>

It is **presence on historical databases** that is the hardest test to pass for those wanting legitimately to develop false identities i.e. officials working undercover. By the same token, **biographical checking is potentially the surest way to find those seeking to defraud the state** or the private sector under false identities, or to establish a false identity for other purposes (such as illegal working, money-laundering or drug trafficking).<sup>812</sup>

The result is that databases can be used to store and check large amounts of biographical information. Biographical checking requires substantially more information to be stored and used in identity verification or authentication than under previous systems, where possession of particular documentation served as a token of an authentic identity.

It would seem then that e-service delivery confirms the emerging conclusion: that the surest way to validate and verify identity is through face-to-face interview or through **validating identity against databases** and verifying identity by checking that the applicant knows information that others would not be aware of.<sup>813</sup>

Verification being the process of establishing that the person using the identity rightfully "owns" it (often done by **testing for detailed knowledge of the identity which typically only the rightful owner would have**).<sup>814</sup>

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<sup>810</sup> Cabinet Office, July 2002, p.49.

<sup>811</sup> Ibid., p.49.

<sup>812</sup> Ibid., p.49.

<sup>813</sup> Ibid., p.23.

<sup>814</sup> Ibid., p.11.

The secondary implication here is that the database must contain information that only the individual *and the databases* have knowledge of. This is replicated in banking and financial discourses. Identity is also related to things that an individual knows. These can range from specific information about the biographical history of an individual, to PINs and passwords and shared secret information. For this information to be useful in proving identity, it must be something that the organisation to which identity is to be proven must also have knowledge of, or access to. An individual is assumed to have better knowledge of his or her identity than any impostor or fraudster. Self-knowledge of identity is also constructed as a way to secure one's identity against usurpation.

### **Identity is valuable and socially vulnerable**

Across all discourses examined here, identity is understood as valuable and incredibly important for the individual. It serves as a gateway to services and institutions.

Without their identities individuals would be severely limited in their social and economic activities. In financial discourses, identities are understood as differentially valued. Some identities are simply better than others, more reliable, more predictable, or simply more profitable. Better identities arise both from quality of data and from what that data signifies. This supports the representation of the victims of identity theft. Some identities signify better types of relationships with institutions and so are more highly valued than others.

Fraudsters are financial criminals. They are unlikely to use their own identity for their criminal activity. They will either create a new false identity, or, more commonly, will attempt to pose as someone else -

someone with **a clean identity, a good financial history and a reputation of settling their accounts on time.**<sup>815</sup>

Individual identity is also constructed as highly valuable to other subjects – primarily identity thieves and fraudsters. Acquiring another’s identity allows fraudsters to make use of that identity to circumvent enhanced security in other areas of finance, in order to commit theft.

Phishing originated because the banks’ own systems have proved incredibly difficult to attack. Criminals have turned their attention to phishing attacks to target individual internet users in order to gain personal or secret information that can be used online for fraudulent purposes.<sup>816</sup>

The industry view is that as authentication procedures for credit cards are significantly strengthened over the next two years, fraudsters will shift their focus further upstream in the process, resulting in more “account takeover” (whereby genuine accounts are hijacked for fraudulent purposes) and other identity fraud.<sup>817</sup>

The articulation of identity as valuable in ICO discourses is often quite explicit:

Your identity is one of your most valuable assets.<sup>818</sup>  
Your personal information is valuable, so you should treat it just as you would **any valuable item.**<sup>819</sup>

There is **nothing more sacrosanct** to an individual than their own identity.<sup>820</sup>

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<sup>815</sup> [http://www.cifas.org.uk/default.asp?edit\\_id=554-56](http://www.cifas.org.uk/default.asp?edit_id=554-56).

<sup>816</sup> APACS. (2007b) *Fraud: The Facts 2007: The definitive overview of payment industry fraud and measures to prevent it*. London: APACS. p.43.

<sup>817</sup> Cabinet Office, July 2002, p.14.

<sup>818</sup> Information Commissioner’s Office. (2007) *Personal Information Toolkit*. Wilmslow: Information Commissioner’s Office. p.30.

<sup>819</sup> Ibid, p.6.

<sup>820</sup> Thomas, 2003, p.1.

This construction of identity as an asset demonstrates a particular regularity in this discourse. Identity is linked to financial status, and practically, the ability to gain access to credit. Identity therefore stands for the relationship an individual holds with institutions – in this case institutions responsible for assessing financial status and providing financial services. Identity is differential; individuals have different identities. It is the differences between these identities that make some identities more valuable than others.

Having an accurate credit file is essential. Before giving out credit, lenders such as banks, catalogue companies and shops have to be confident that the money will be repaid. To help them do this, they assess your credit rating using the information credit reference agencies hold on you.<sup>821</sup>

The trend in the ICO discourse is to suggest all identities are valuable. However, there are some identities which are negatively valued – for example people with a bad credit history, or in related circumstances, people with serious health problems attempting to gain health insurance. If identity is an asset, then it is a larger asset for some people than for others. This disparity is one of the motivators for identity fraud. If you are seen as an objectively bad credit risk, if you have a bad credit history (the assumption being that past behaviour is a strong predictor of future behaviour), then an accurate credit file reflecting this is not essential, but a disadvantage. Identity is never a liability in this discourse. This assumption of a positive identity may reflect the assumed audience for the statements – people concerned with the damage that could be done to their (presumably good) financial identity. Individuals whose identity leads them to be less positively valued presumably have less to lose from

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<sup>821</sup> Information Commissioner's Officer. (2 March 2005) *Press Release: 'Credit Explained' Your rights to your financial information.*

identity theft (although they could still incur debts or legal sanction). Conceptualising identity as a property of an individual creates some ‘space’ between identity and the individual. This can also be recognised in the way biometrics link an identity to an individual.

In one of the strongest problem constructions across the discourses, identity (as personal information) is placed under threat: primarily by the phenomenon of identity theft. It is possible that your identity can be stolen from you. Identity is under threat from criminals, and ‘blaggers’ and this threat is both ‘widespread’ and ‘increasing’.

Your identity is one of your most valuable assets. However, criminals can use a number of methods to find out your personal information and will then use it to open bank accounts, take out credit cards and apply for state benefits in your name. If your identity is stolen, you can lose money and may find it difficult to get loans, credit cards or a mortgage until the matter is sorted out.<sup>822</sup>

At the same time security is **increasingly** at risk. Ever growing collections of personal data, more remote access and the prevalence of crime such as identity theft all create vulnerabilities.<sup>823</sup>

With crimes like identity theft **increasing**, it is **even more** important for you to safeguard your information. Criminals can find out and use your personal details to open bank accounts, apply for credit cards and loans and get state benefits in your name.<sup>824</sup>

The research shows that respect for their personal information is a **high priority**, and **people worry** especially about threats to their health and safety and to their finances. No doubt they are increasingly aware of the dangers of identity theft and the **serious consequences** if their health, financial and other personal records fall into the wrong hands or are otherwise misused.<sup>825</sup>

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<sup>822</sup> Information Commissioner’s Office, 2007, p.30.

<sup>823</sup> Information Commissioner’s Office, (June 2007) *Data Protection Strategy: Consultation Draft*. Wilmslow: Information Commissioner’s Office. p.21.

<sup>824</sup> Information Commissioner’s Office, 2007, p.34.

<sup>825</sup> Information Commissioner’s Office, (16<sup>th</sup> November 2005) *Press Release: Protecting Your Personal Information ranked as a top issue*. p.1.



Protecting personal information is now ranked as **one of the top three most socially important issues**, according to new research published by the Information Commissioner, Richard Thomas, today. Delivering the annual Steele Raymond Lecture (“Taking Information Rights Seriously”) at Bournemouth University, Mr. Thomas highlighted findings from the research, which show that “protecting people’s personal information” was ranked behind crime prevention and improving education standards as an issue of concern, alongside the NHS and **ahead of equal rights, freedom of speech, national security and environmental issues**.<sup>826</sup>

This particular construction emphasises the worry over identity theft. The statement that people are worried implies that the reader too should be concerned about the threat of identity theft. If many people worry about an issue, there is probably something to be concerned about, and the issue is constructed as something which requires a response. Additionally, the representation of this research serves to reinforce the purposes of the Information Commissioner’s Office in the competition for funding and resources in public policy. Finally, for the purposes of this thesis, a high proportion of the population articulating concern over identity theft and the security of personal information may represent the spread of this discourse and its potential hegemonic capacity. This strong construction of threat and worry continues:

All the scripts are **frighteningly** plausible, as can be seen from the extract contained in Annex B. Recorded telephone conversations to call centres confirm **how easy** it can be to circumvent security questions designed to check the caller’s identity. Some blaggers make repeated calls to the same call centre adopting different identities (and occasionally different genders) as they seek to ‘check’ personal details such as their current employers.<sup>827</sup>

Although most of the personal information stored about you will provide benefits like better medical care and financial reassurance, it also brings dangers. If your personal information is wrong, out of date or not held securely, it can cause problems. You could be unfairly refused a job,

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<sup>826</sup> Ibid., p.1.

<sup>827</sup> Information Commissioner’s Office, 2006, p.23.

benefits or credit, or a place at college. **In extreme cases, you could be a victim of identity theft or arrested for a crime you did not commit.**<sup>828</sup>

This explicit articulation of threat is supported by a number of more subtle ways of constructing threat. An example given later in the same text suggests that one of the ways you might become aware you were a victim of identity threat is when:

You apply for state benefits, but are told **you** are already claiming.<sup>829</sup>

The double use of the word you conjures up images of threat to the you. This threat construction is evocative of the doppelgänger of mythology, a malicious spirit or evil twin that assumes the identity of its victim in order to ruin that individual's life, destroying relationships with family and community and ruining the individual's reputation. Seeing one's doppelgänger was believed to be an omen of ill fortune and eventually death.

The predominant characteristic of identity in news media discourses of surveillance is that identity is under threat from identity theft. Identity theft is used much more frequently than the technically more accurate identity fraud. Technical and specialist discourses such as banking and finance attempt to differentiate and delimit this category. News media discourse tends to not make this distinction. Identity is under threat and it the responsibility of the individual to protect it – although this threat is often portrayed as due to the shortcomings and failings of other actors or institutions, for example, the result of avoidable lapses in IT security by firms holding detailed

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<sup>828</sup> Information Commissioner's Office, 2007, p.3.

<sup>829</sup> Ibid., p.30.

information on individuals.<sup>830</sup> The responsibility of the individual for protecting their identity appears as a result of the frequent issuing of press releases on the subject featuring advice and guidance by banks, financial institutions, the Information Commissioner and the government.

### **Identity can be stolen**

The representation of identity theft in discourses of surveillance is analysed in Chapter Four. If identity theft is possible, then identity is articulated as something that can be stolen. This constructs identity as distinct and separate from the individual whose identity it is. Theft is clearly a pejorative term. The following extracts show the relation of equivalence drawn between identity fraud and identity theft in government discourse.

**Identity theft or fraud** involves someone using your identity to, for example, open bogus accounts, apply for loans, buy goods over the phone or internet, or take over one of your bank accounts.<sup>831</sup>

Our identities are incredibly valuable to us and **too easily stolen**. ID fraud is a growing crime which can ruin lives and underpin illegal activities from people-trafficking to credit card fraud, from abuse of our healthcare and benefits systems to terrorism.<sup>832</sup>

This is the core articulation of the problem of governance within the government's discourse. Identity is problematised; it cannot be relied upon for the proper functioning of governance in society. Financial discourses construct identity's vulnerability in similar ways. Because of its value, identity is constructed as under

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<sup>830</sup> Biever, C. (10<sup>th</sup> September 2006) 'ID Revolution – Prepare to meet the new you' *New Scientist*.p.26.

<sup>831</sup> [www.identitycards.gov.uk/benefits-society-idtheft.asp](http://www.identitycards.gov.uk/benefits-society-idtheft.asp).

<sup>832</sup> Home Office. (25<sup>th</sup> May 2005) *Press Release: Safeguarding Our Identities: Government reintroduces the ID cards bill*.

threat. Identity is something that can be stolen – denied to the individual constructed as the rightful owner and made use of by somebody who is not entitled to make use of it.

Your identity is at risk every time you check your e-mails or use the Internet. The following tips will help you keep your details safe.<sup>833</sup>

A criminal could falsely use your identity if these checks are not in place.<sup>834</sup>

Identity theft: When somebody steals your name and other personal information. The information can be used to get credit, goods and services in your name, or to provide thieves with false credentials so they can hide their own criminal identities.<sup>835</sup>

### *Mechanisms of identity are inadequate*

Government discourse evaluates the effectiveness of contemporary methods of establishing identity. This relies upon a hegemonic understanding of identity as relations with structured society. It is contextualised against the background of identity theft and identity fraud. The discourse constructs current social identity systems as inadequate to the demands placed upon them; the needs of modern society, the demands of organisations for identity verification, international obligations and the desire to introduce joined up government. The weakness of these systems leaves individuals and society open to the social threats of identity theft and fraud, and the associated risks of organised crime, terrorism, illegal immigration and benefit fraud.

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<sup>833</sup> Experian, April 2007, p.15.

<sup>834</sup> British Banking Association, May 2005.

<sup>835</sup> Financial Services Authority, July 2007, p.11.

Identity fraud is possible **because of weaknesses in the processes** used to issue documents used as evidence of identity, and the processes used to check identity at point of use.<sup>836</sup>

Criminals can copy personal information (from a bank statement, for example) or steal or forge the documents – such as utility bills – we currently use to prove identity.<sup>837</sup>

Processes used in the issue and checking of documents used as **evidence of identity are not secure.**<sup>838</sup>

Continuing this construction, the government's identity systems are seen as not reaching the standards of the private sector.

Most current processes for issuing government documentation used for identity verification, and a range of unique identifying numbers, **do not meet the highest private sector or overseas standards of security.** Government databases are also considerably less than fully accurate, and checks on identity at point of use less than in the private sector.<sup>839</sup>

A highlighted aspect of this problem is the way identity is assembled from a 'mosaic' of documentary sources. These documentary sources are understood as insecure, not primarily designed for identity verification purposes, or compromised by competing design incentives. For example, entitlement documents are not created for identity purposes.

A variety of documents are used as evidence of identity and can be seen as forming a **mosaic** of documentary evidence for identity.<sup>840</sup>

Each of these government-issued identifiers can be used as a starting point or 'breeder document'. One document can be used as evidence of identity to obtain another, more persuasive item of evidence of identity.<sup>841</sup>

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<sup>836</sup> Cabinet Office, July 2002, p.4.

<sup>837</sup> [www.identitycards.gov.uk/benefits-society-idtheft.asp](http://www.identitycards.gov.uk/benefits-society-idtheft.asp).

<sup>838</sup> Cabinet Office, July 2002, p.11.

<sup>839</sup> Ibid., p.4.

<sup>840</sup> Ibid., p.18.

Our current system for establishing identity is generally to check the individual against a document, which can be anything from a driving licence to a utility bill. This approach works for now, but there are many problems associated with it:

- different organisations establish identity in different ways using different documents
- utility bills and similar documents can easily be altered or forged by people who want to create a false identity
- criminals can steal documents and use them to assume other identities.<sup>842</sup>

The two most widely used documents which are accepted as evidence of identity by public and private sector organisations are:

- passport – but this is a travel document **rather than proof of identity** (although it includes a photograph);
- photocard driving licence – but this is **proof of ability/right to drive** (although it includes a photograph).<sup>843</sup>

The existing identity system is also seen as archaic and no longer appropriate to the modern age:

The reliance on a countersignatory to verify identity smacks of **a bygone age** in which local professionals who had lived in a neighbourhood for all their working lives could vouch for the bona fides of people with whom they had a long-term professional relationship.<sup>844</sup>

**The long established ways** of linking us to our identity – a signature or a photograph - **are no longer enough**. ID cards will link your basic personal information to something uniquely yours - like the pattern of your iris, your face shape or your fingerprint.<sup>845</sup>

This inadequacy results in a need to introduce new systems capable of meeting the demands of security and accuracy. Because identity is vulnerable to theft and forgery, because multiple identities are associated with negatively evaluated social actors and

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<sup>841</sup> Ibid., p.18.

<sup>842</sup> [www.identitycards.gov.uk/scheme-why.asp](http://www.identitycards.gov.uk/scheme-why.asp).

<sup>843</sup> Cabinet Office, July 2002, p.18.

<sup>844</sup> Ibid., p.48.

<sup>845</sup> [www.identitycards.gov.uk/myths.asp](http://www.identitycards.gov.uk/myths.asp).

practices, and because identity's essential ontological nature makes it possible, identity *must* be checked and secured. It cannot be left undetermined or ambiguous.

This current inadequacy cannot be allowed to continue:

The results speak for themselves:

- criminals and terrorists use multiple identities to hide their activities
- passports may be issued to people who should not have them
- foreign nationals are able to live and work in the UK illegally
- public services are abused by people not entitled to receive them.<sup>846</sup>

Unless we invest in identity systems we leave our borders and our economy open to abuse, we leave individuals defenceless against fraud and we risk leaving the benefits safety nets we've worked so hard for, vulnerable to attack.<sup>847</sup>

*Governmental response: a more secure form of identity is necessary*

Government discourse defines the acceptable responses to the dual problem of the vulnerability of identity and the inadequacy of existing identity systems.

We need **a more robust and secure way** to check that identities are real and that people are who they say they are.<sup>848</sup>

Longer term options worth examining include:

- a register of people entering and leaving the UK against which applications can be checked;
- reducing the “mosaic” of identifiers by establishing a single entitlement card, subject to very secure issuing processes, that would combine the functions of the driving licence, the passport and the NINO.<sup>849</sup>

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<sup>846</sup> [www.identitycards.gov.uk/scheme-why.asp](http://www.identitycards.gov.uk/scheme-why.asp).

<sup>847</sup> Byrne, L. (19<sup>th</sup> June 2007) *Securing Our Identity: a 21<sup>st</sup> Century Public Good: Speech by Liam Byrne MP, the Minister of State for Immigration, Citizenship & Nationality, to Chatham House.* <http://press.homeoffice.gov.uk/Speeches/sc-identity-21st-century>.

<sup>848</sup> [www.identitycards.gov.uk/scheme-why.asp](http://www.identitycards.gov.uk/scheme-why.asp).

<sup>849</sup> Cabinet Office, July 2002, p.46.

Processes for issuing documents used as **evidence of identity need to be made more secure**. The source document on which passport and driving licence issue depends – the birth certificate – is **not itself secure**, nor is the system of countersigning by a professional. For most people, checks against databases run by credit reference agencies will give much more satisfactory validation and verification of identity. For others, face-to-face interviews represent a secure alternative.<sup>850</sup>

The creation of a single document (an entitlement card) could be beneficial in **replacing the present “mosaic”** of documents used to establish identity if accompanied by much more secure processes for the issue and use of the document.<sup>851</sup>

Government discourse positions the proposed identity card and National Identity

Register as the most appropriate way of responding to these problems.

The National Identity Scheme is designed to be **far more secure than anything we use at present**.<sup>852</sup>

The ID card will be the **most secure and reliable form of verifiable identification issued by the Government**. It will be designed to be verifiable in a way that is not possible with current forms of ID such as passports and driving licences.<sup>853</sup>

The problem construction of the vulnerability of identity is answered by government discourse's representation of the identity card scheme (see Chapter Four). It also includes an attention to the use of biometrics and biographical checking. These are both dependent upon the specific articulation of identity at play in this discourse.

*Response: individual responsibility and stewardship of identity*

ICO and financial discourse serves to provide alternate responses to state identity cards. With ICO, these fall into two main categories. Firstly, responses by governance

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<sup>850</sup> Ibid., p.5.

<sup>851</sup> Ibid., p.5.

<sup>852</sup> [www.identitycards.gov.uk/benefits-society-idtheft.asp](http://www.identitycards.gov.uk/benefits-society-idtheft.asp).

<sup>853</sup> Home Office, 25<sup>th</sup> May 2005, p.22.



agencies or the state, including the information commissioner's office, and secondly, responses by the individual whose identity is under threat. The relative weighting of these options clearly prioritises responses by the individual. This serves to create a pattern of appropriate behaviour when identity is constructed as under threat, placing a significant degree of responsibility upon the individual. Firstly, the response to threats to identity from ICO and other agencies:

Our risk-based approach is in line with good regulatory practice. It does not mean that we seek to remove all data protection risk. **We do what we can to moderate the most serious risks and protect those who are most vulnerable** to improper use of their information.<sup>854</sup>

More generally, the Information Commissioner recommends that all relevant regulatory and professional bodies should take a strong line to tackle any involvement in the illegal trade in personal information.<sup>855</sup>

Take steps to **ensure that data protection aims are given due weight in the early stages of the development of policy and legislation**, rather than merely addressing the consequences when it may be too late to achieve anything.<sup>856</sup>

A fundamental element of this institutional response, however, is to provide individuals with the awareness, knowledge, and tools to manage their own privacy/identity threat risk. Individuals are awarded the status of key partners, a term normally reserved in policy discourses for institutions rather than individuals. Many of these statements can be linked to the representation of the individual subject as a bearer of both specific legal rights and universal human rights (see Chapter Five).

**Individual awareness:** We have a major role in giving advice and more generally **raising the awareness** of individuals about how their info is

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<sup>854</sup> Information Commissioner's Office, June 2007, p.5.

<sup>855</sup> Information Commissioner's Office, 2006, p.33.

<sup>856</sup> Information Commissioner's Office, June 2007, p.13.

used and the rights they have. An aware and questioning population is a key partner in data protection regulation.<sup>857</sup>

Part of our job is to **equip individuals** with the knowledge and tools to **enable** them to make their own well-informed decisions about the use and disclosure of their personal information.<sup>858</sup>

**Equip individuals** to exert pressure themselves by asking the right questions and making their own choices.<sup>859</sup>

Above all we see ourselves as working with those whose rights and liberty we are seeking to protect and enhance. We have a role in educating the public and raising their awareness and competencies but we must understand and respond to their interests and concerns.<sup>860</sup>

We will also seek to mitigate the negative effects of surveillance by promoting privacy friendly approaches, influencing stakeholders, developing relevant tools and **increasing the confidence of individuals in exercising their data protection rights**.<sup>861</sup>

Our vision is of a society where respect for personal information is guaranteed. A society where organisations inspire trust by meeting reasonable expectations of integrity, security and fairness in the collection and use of personal information. **A society where individuals understand how their information is used, are aware of their rights and are confident in using them.**<sup>862</sup>

Across the range of documents and texts analysed, there are presented a wide range of strategies and behaviours that the individual is prompted to engage in. These are frequently linguistically addressed to the individual reader – you, your information. A number of these are presented in the recently published ‘personal information toolkit’.<sup>863</sup> Much of this is written in a deontic modality, referring to necessity or obligation and with very few ‘hedges’.<sup>864</sup> In effect, this is an authoritative list of positively evaluated conduct, which should be followed. The document is framed as a

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<sup>857</sup> Ibid., p.22.

<sup>858</sup> Ibid., p.5-6.

<sup>859</sup> Ibid., p.14.

<sup>860</sup> Ibid., p. 16.

<sup>861</sup> Ibid., p.20.

<sup>862</sup> Ibid., p.3.

<sup>863</sup> Information Commissioner’s Office, 2007.

<sup>864</sup> Fairclough, 2003, pp.140-1.

toolkit. The various areas of personal information issues are represented by tools normally found in a conventional toolkit such as a hammer or a spirit level.

Preventing identity theft is a chisel. The metaphorical effect of this articulation is to create equivalence between this document, and the actions listed within it, and a familiar, practical DIY toolkit. A toolkit is associated with individual agency, and with fixing problems.

There are a number of signs to look out for that may mean you are or may become a victim of identity theft.<sup>865</sup>

If you think you are a victim of identity theft or fraud, act quickly to ensure you are not **liable** for any financial losses.<sup>866</sup>

‘Liable’ within a financial and legal framework, can be understood as a placeholder for the concept of responsibility.

Members of the public can also do a lot to protect their own information, by only giving it out if they are sure that a request is genuine and if they know what their information will be used for. **People can also take active** steps, such as shredding personal documents like bank and credit card statements and bills, and checking statements to ensure that they recognise all the transactions.<sup>867</sup>

Regularly get a copy of your personal credit file to check for any **suspicious** credit applications. For more information on how to do this, see our website [www.ico.gov.uk](http://www.ico.gov.uk) or ring 08453 091 091 for a free copy of ‘Credit explained’.<sup>868</sup>

Always **be wary** of those asking for your personal information. Are they genuine? How will they use it? Will it be passed on to others?<sup>869</sup>

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<sup>865</sup> Information Commissioner’s Office, 2007, p.30.

<sup>866</sup> *Ibid.*, p.31.

<sup>867</sup> Information Commissioner’s Office (16 November 2005) *Press Release: Protecting Your Personal Information ranked as a top issue*. p.2.

<sup>868</sup> Information Commissioner’s Office, 2007, p.7.

<sup>869</sup> ICO (20 September 2005) *Press Release: Students Urged to Protect Personal Data*.

If you receive letters, faxes, emails or telephone calls asking for your information, avoid replying unless you know they are genuine.<sup>870</sup>

Always check your bank / credit card statements for payments you don't recognise.<sup>871</sup>

Safeguard your personal documents (such as bank statements, utility bills, debit or credit card transaction receipts etc.), so that nothing can be obtained by fraudsters showing your name, address or other details.<sup>872</sup>

**Shred or destroy** personal documents you are throwing away such as bills, receipts, bank or credit-card statements and other documents that show your name, address or other personal details.<sup>873</sup>

Always think about who you are giving your information to. **Be cautious** about providing any personal details to unsolicited callers by phone, fax, post, email or in person, unless you are sure the person is who they say they are. If you are **suspicious**, ring the organisation back on an advertised number or visit their website.<sup>874</sup>

Even if you know who is asking for your information, think twice before you answer their questions. If it's not clear why they need the information, ask them or just move on to the next question.<sup>875</sup>

Similarly, in financial discourses individuals need to protect and secure their identity.

The individual should adopt strategies to ensure that their identity is safe and that it cannot be stolen (See Chapter Four).

You can also help prevent crime against yourself and others by maintaining the confidentiality of your account details and identity documentation.<sup>876</sup>

Given the increasing likelihood of all UK residents to fall victim, residents of these fast rising locations should take extra care with their identities.<sup>877</sup>

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<sup>870</sup> Ibid., p.1.

<sup>871</sup> Ibid., p.2.

<sup>872</sup> Ibid., p.2.

<sup>873</sup> Information Commissioner's Office, 2007, p.6.

<sup>874</sup> Ibid., p.7.

<sup>875</sup> Ibid., p.7.

<sup>876</sup> British Banking Association, May 2005.

<sup>877</sup> Experian, April 2007, p.7.

No matter how carefully you look after your personal details, you can never completely rule out the risk of someone stealing your identity. But if fraud does strike, Experian has a Victims of Fraud team ready to help.<sup>878</sup>

The cumulative effect of these statements is to outline the appropriate individual actions in a situation where identity, understood as strongly linked to personal data, is under threat from external malicious actors. There is a heavy workload placed on the shoulders of the individual, who must engage in vigilant, suspicious and cautious interactions with others whilst exercising control over his or her personal data. It also encourages an active monitoring of one's identity through the checking of relationships with institutions such as banks. The two iconic images of these responses are the credit rating file, and the personal shredder. The individual is made responsible for the management of their own identity. If these efforts are not taken, then the individual is considered responsible for their own identity loss or damage. Identity needs to be actively cared for.

The effect of this focus upon the responsibility of the individual, even backed up by appropriate guidance, is to diminish the responsibility of other social actors. The threat to identity is presented as environmental rather than agentic. The effect of this is to normalise the occurrence of identity theft. It cannot be prevented on a social level, but its effects can be mitigated at the individual level. This normalises the information infrastructure that encourages identity theft. This general acceptance of the contemporary model of information collection and processing can be seen in the following extracts. These are presented in a simple, factual modality, which downplays the social forces behind, or reasons for, this state of affairs. It is presented

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<sup>878</sup> Experian, August 2006, p.7.

as axiomatic. This is not a process we are invited to question. Whilst there has been an explosion in personal data holding, and a growth in supermarket loyalty cards, the reasons and motivations for these phenomena are not explored in this discourse.

Today, like it or not, our personal information **is** held by many public and private organisations.<sup>879</sup>

Almost every organisation we deal with in our daily lives holds some personal information about us.<sup>880</sup>

There **has been** a recent ‘explosion’ in the number of businesses holding personal information, and with that surge, an increase in the potential for the information to be misused.<sup>881</sup>

In the private sector, our details **will be** recorded by utility and telecommunications companies, banks and other financial institutions, and credit reference agencies. The growth in supermarket loyalty cards has led to the creation of extensive databases containing details of our spending and shopping habits. Transport operators using smartcard technology **will** also store detailed information about an individual’s travel patterns. Not only do more and more bodies hold our basic personal details in their systems, but new information may be added every day. According to one estimate, information about the average working adult is stored on some 700 databases. In both public and private sectors, much of the personal information stored about individuals **is** accessible via call centres, drawing on information held electronically and sometimes manually.<sup>882</sup>

Even when this model of personal information collection is presented as a historical change, it is still expressed in a manner which elides the motives of agents and social actors involved in the process.

During my predecessor’s consideration of a previous government’s proposals regarding identity cards back in 1995, she was unable to conclude that any of the predicted benefits outweighed the privacy and data protection costs. Since then society’s needs have changed, we

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<sup>879</sup> Information Commissioner’s Office, 2007, p.2.

<sup>880</sup> Information Commissioner’s Office, 2006, p.7.

<sup>881</sup> Information Commissioner’s Office (15<sup>th</sup> June 2005) *Press Release: New division gets tough with businesses over Personal Information*. p.1.

<sup>882</sup> Information Commissioners Office, 2006, p.7.

conduct far more business electronically or through call centres, the government is encouraging increased electronic service delivery by the public sector, all with the result that there are fewer opportunities to conduct business face to face where one person is known to the other. Individuals may have increased needs to be able to prove their identity with reliability and in a convenient way.<sup>883</sup>

Government, financial and ICO discourses therefore contain an ideological (in Laclau & Mouffe's understanding) elision of the contingent, political nature of the contemporary identity structure.

### **Counter-articulation: identity is not a social problem**

Opposition discourses challenge the government's construction of a number of social ills as being about identity. The discourse rearticulates crime, terrorism and benefit fraud as not being fundamentally concerned with identity, or as only tangentially affected by identity.

The government suggests that the scheme will help beat crime. However **identity is rarely an issue in criminal cases**. The vast majority of crimes never lead to arrest. This is **nothing to do with identity** but simply down to policing resources. Even where there is a suspect, **the issue is rarely identity** but whether sufficient evidence of culpability can be obtained.<sup>884</sup>

Costs usually cited for of identity-related crime here include much fraud **not susceptible to an ID system**. Nominally "secure", trusted, ID is more useful to the fraudster. The Home Office has not explained how it will stop registration by identity thieves in the personae of innocent others.<sup>885</sup>

Equally, there is no evidence to suggest the claim that an identity scheme will address the problem of benefit fraud. The government's figures show that **around five per cent of fraud relates to identity**. The vast majority

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<sup>883</sup> Thomas, 2003, p.1.

<sup>884</sup> Liberty, December 2004, p.7.

<sup>885</sup> NO2ID, 2005b, p.2.

of cases of benefit fraud involve lying about circumstances by, for example, claiming state benefit and working cash in hand.<sup>886</sup>

The men thought responsible for the bomb in Madrid all carried valid ID cards. **Suicide bombers don't go to great lengths to hide their identity;** they want the world to know who they are. The Home Office has admitted that ID cards will not deter a determined terrorist.<sup>887</sup>

*Articulation of identity: identity 'theft' is not really theft of identity.*

Government discourse constructs identity theft as a wide range of phenomena in government discourse often used interchangeably with identity fraud. This is deconstructed in opposition discourse. This ranges from explicit deconstruction of the concept as an illegitimate conflation to the labelling of the term as emotive and encasing it in quotation marks – linguistically reflecting a hedging of the concept. The opposition to identity cards attempt to undermine the threat of identity fraud, a key stated driver of the identity card scheme.

Not only have the government **failed to define what is meant by identity fraud**, it has also sought to demonstrate a problem that does not exist by gathering various types of criminal acts together and asserting that these acts are collective examples of identity fraud.<sup>888</sup>

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<sup>886</sup> Liberty, December 2004, p.8.

<sup>887</sup> Liberty (undated) *ID Cards: Fiction and Fact*. London: Liberty. p.3.

<sup>888</sup> Mason, 2004, p.4.



## Conclusions

It is possible now to summarise the articulations of identity at play in governmental discourses. Many of these characteristics of identity are shared across the discursive field analysed in this thesis. Identity is constructed as a series of institutional reputations mediated through specific types of personal information disclosed to the formal institutions of 'structured society'. It is this form of identity that the illegal immigrant lacks and needs to acquire to affect a convincing social presence. Identity has a realist ontological truth against which images of that identity can be verified, whilst any given identity can be assessed as true or false. This truth is associated in the last instance with unique physical differences on an individual human being's body, and with the state as the authoritative source of identity. Verification is not always easy, and can be decidedly problematic, but is possible if the right technologies and systems are put in place. Identity is vulnerable but can be made secure. False and multiple identities are illegitimate and associated with malign social actors. A more secure form of identity is required to prevent abuse of identity. Opposition and ICO discourses argue that identity should be under the control of the individual, and identification systems should allow the individual to prove his or her own identity. Fictitious or additional identities are allowed, but are overlaid over the ontologically true identity shared with government conceptions of identity. Identity is a valuable asset, a type of property, which is under threat from malicious external actors. For ICO, financial and media discourses, this threat requires a substantial response placing substantial responsibility upon the individual to manage and care for his or her own identity. Identity requires work to protect and maintain. Media

articulations of identity vary depending upon the particular frame used to evaluate surveillant practices but frequently share the above characteristics.



## Chapter Seven: Conclusions and Implications

This final chapter provides the conclusions of this thesis, drawn from the preceding three empirical chapters and based upon the theoretical framework developed in the first three chapters. It provides answers to the core research questions of this thesis, and explores the implications of these for both social and political theory, and for politics. The chapter concludes with a number of policy recommendations drawn from these implications, and from surveillance and governmentality theory.

### Research Questions

*What discourses of surveillance exist in the UK?*

This thesis shows that whilst there is not one single, hegemonic discourse of surveillance there are shared elements, regularities and patterns of articulation that refer to surveillance practices across a number of fields of discourse. These aspects have substantial interaction with other discourses. Whilst the five points of reference extracted from surveillance theory do have distinctive discursive formations surrounding them, the boundaries between these formations are distinctly fuzzy.

There is substantial discursive convergence between government, governance, finance and the media, sufficient to conceive of these as forming a shared *governmental discourse of surveillance*. Points of conflict over the control of identity emerge between data protection discourse and governmental/financial discourses and between government and its various opponents over the key political issue of identity cards. Media discourses draw upon all the other discourses, in combinations determined by

the frame adopted for any given text and strongly structured by internal media logics. It is highly likely that discourses of surveillance can be identified in fields of discourse beyond those examined in this thesis. There is also substantial consistency of representation across different surveillance technologies, suggesting that it is articulations of technologies or practices, rather than inherent qualities of the practices themselves, that affect the varying evaluation of surveillant practices.

*What rationalities are at play in discourses of surveillance?*

There are a number of rationalities across these discourses. These include the governmental articulation of identity discussed below, the dominance of risk-averse rationality and variants of the precautionary principle, the common articulation of a number of subject positions (see below), a focus on political individualism, the reliance upon privacy as the core method for resisting the harms of surveillance, and a dystopian tendency in critical accounts of surveillance. Across the discourses, and hegemonic in banking and finance discourses, there is a focus on the actions of criminal subject positions as the agents responsible for the social problems of identity fraud. This elides social problems caused by the practices and technologies of the finance industry itself. Any risks to individuals are caused by the actions of themselves or other individuals.

*What are the problems of governmentality in discourses of surveillance?*

There are five problems of governmentality addressed in governmental discourses of surveillance: firstly, the challenges of the modern age: technology, modernisation and

globalisation; secondly, the threats of terrorism and crime; thirdly, the instability of cultural identity and the lack of a sense of Britishness; fourthly, that knowledge of the population is incomplete, due to illegal immigration, movement and covert behaviour of elements of the population; finally, and critically, identity itself is considered insecure. Documentary identity is undermined and existing systems are archaic and unfit for the modern world. The core articulation of the problem of governance within the government's discourse is that identity is problematised; it cannot be relied upon for the proper functioning of governance in society. Because identity is vulnerable to theft and forgery, because multiple identities are associated with negatively evaluated social actors and practices, and because identity's essential ontological nature makes it possible, identity *must* be checked and secured. It cannot be left undetermined or ambiguous.

*What subject positions are available in these discourses?*

Whilst all discourses incorporate a large number of subject positions, three meta-types are privileged; the individual, the illegitimate, and the vulnerable. The individual is a formal subject position, describing the autonomous agent and bearer of rights (and sometimes normative control of identity) of liberal theory. Each individual is potentially a risk to organisations, sometimes a client or customer (distinguished from citizen) and each individual is both a producer and possessor of personal information – a data subject. Illegitimate subject positions include a long chain of equivalent positions contrasted against the normal majority and honest law-abiding citizens. These include illegal immigrants, criminals and organised crime, fraudsters, identity thieves, and terrorists. The subject position of the terrorist serves as a nodal point for

this chain of signification. These subject positions are negatively evaluated by all discourses, generally portrayed as enemies rather than adversaries. They are constructed as requiring identity in order to function; therefore they abuse and undermine the identity system. The content of this category is occasionally contested in opposition discourses. The exclusion of deviant social actors serves to provide a shared collective identity to normal, law-abiding people as non-criminals and non-terrorists, thus occluding other potential sources of difference. The final category of subject position, the vulnerable, varies distinctly between discourses. Both government and ICO discourses construct subjects as equally vulnerable to the threat of identity theft, yet government constructs some as better able to weather the consequences on their own. Financial discourses break down this construction, identifying the wealthy as the most vulnerable to identity fraud. Opposition discourses construct the vulnerable in a highly distinct manner. For these discourses, the vulnerable are those who are already socially disadvantaged, such as the homeless, the poor, or the disabled, whose disadvantage will be exacerbated by the introduction of proposed identity systems.

*How is individual identity articulated in discourses of surveillance?*

The hypothesis derived from governmentality theory as outlined in Chapter Two holds substantially true on the basis of the analysed texts. Identity is a floating signifier contested by various discourses of surveillance. Across the governmental discourses of surveillance (discounting opposition and some media discourses), there is privileging of a *surveillant identity*. Whilst elements of the hypothesis are sometimes implicit rather than explicit, and thus requiring theorised interpretation,

many elements of the hypothesised articulation of identity are explicitly present in the discourses of surveillance. The governmental surveillance identity is ontologically objective, unitary, biologically determinist, shallow but compelling, behavioural and based on actuarial and probabilistic logics, attributed by structured society, historically persistent and resistant to change. Importantly, identity is articulated across many of the discourses as socially vulnerable. This is contested in opposition discourse, where identity is understood as not intrinsically vulnerable, but threatened by the government's identity scheme. Counter-hegemonic discourse constructs social problems as not about identity and describes identity theft as emotively mislabelled fraud.

### **Theoretical implications**

The implications for theory are explored below. In line with the construction of this research, there are implications for surveillance theory, governmentality theory, and for political and social identity theories.

#### *Surveillance theory*

The representation of surveillance in many of these discourses differs from academic accounts of surveillance. Many phenomena understood by surveillance theory *as surveillance* are not understood as surveillance in popular or governmental discourses. Given that surveillance theory is expansive and involved in showing the connections between apparently disparate phenomena, this is not unexpected. However there has



been interplay between surveillance theory and surveillance discourses. The findings of this thesis support elements of surveillance theory, highlight the need for continued outreach by surveillance researchers, and provide an addition to the understanding of identity in surveillance theory. Fundamentally, however, the thesis demonstrates the importance of a discursive approach to researching surveillance.

Drawing upon the same theoretical underpinnings of Haggerty and Ericson's surveillant assemblage model, this thesis showed that enunciation, discourse, is a critical component of any surveillant assemblage. The semiotic is interwoven with and interpenetrates the social, and if one is to understand an assemblage, then one must pay attention to its discursive dimension. It is important to examine textual and linguistic connections, links and traces. In demonstrating the commonalities between seemingly separate discourses (such as between government, the banking and finance industry, and much of the media with regard to identity) such an approach exposes discursive links in the surveillant assemblage. Regularities in language can both demonstrate linkages between seemingly disparate surveillance phenomena, but they can also *be* such linkages. Just as there is not a single surveillant assemblage, there is not a single assemblage of surveillant enunciation. The surveillant identity emerges as one such regularity, as do shared rationalities and problem constructions. Particular ways of understanding risk, subjects of surveillance, or of representing surveillance technology, for example, allow the porting across of methods, technologies and strategies from one social sphere to another. Similar problem constructions across multiple discourses are part of the horizontal spread of surveillant assemblages, as are long chains of negatively evaluated subject positions.

Surveillance theory's attention to risk is supported by this discourse analysis. Risk is a core concept that structures many other elements. Many surveillance discourses exhibit strong risk-aversion and regard surveillance as a functional way to reduce risk. Risk assessments are highly dependent upon how issues relating to those assessments are framed and constructed through discourses.<sup>889</sup> Identity often serves as a marker for risk information relating to an individual.

Despite surveillance theory attempts to move beyond accounts of privacy, in actually existing discourses of surveillance, privacy is still the core concept used for resisting and contesting surveillance practices as demonstrated in ICO and opposition to ID card discourse. However, the ownership and control of personal data are increasingly becoming explicit points of contestation.

The term surveillance society has seen growing use in ICO and media discourses, achieving hegemonic parity with Big Brother as a discursive trope. However the meaning is often used equivalently with the Orwellian model that 'surveillance society' was in part an attempt to move beyond. The concept of the data double and the associated digital footprints have started to gain common usage, especially in media accounts of surveillance. Elements of financial discourse encourage the active management of the data profile, and provide services to enable this.<sup>890</sup>

This thesis adds to surveillance theory by providing increased understanding of the complex and nuanced understandings of identity actively in use in contemporary UK society. Prior to this, surveillance theory has either used identity in a technical form,

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<sup>889</sup> Sunstein, C. (2007) 'Moral Heuristics and Risk' in T. Lewens. (ed.) *Risk: Philosophical Perspectives*. London & New York: Routledge. p.161.

<sup>890</sup> [www.garlik.com](http://www.garlik.com)

or in terms of some form of political subjectivity. These theoretical *a priori* accounts can be supplemented by incorporating accounts of the ways that identity, as a signifier and a concept is used in contemporary political discourse.

Additionally, the range of surveillance discourses affects the extent to which it is possible (or analytically useful) to talk of a surveillance society. This research identifies and demonstrates a range of discourses of surveillance, which although possessing commonalities and interactions, each have their own logics and articulations. There are many different practices, evaluated in a wide range of ways, some of which are accepted, others condemned. This suggests that surveillance is a range of processes, rather than a single societal-level process. However, the linkages between discourses and the privileging of governmental interactions and partnerships (for example between ICO and data controllers in ensuring compliance or between government and credit reference agencies in identity checking) demonstrate a number of linkages in a surveillant assemblage model.

### *Governmentality theory*

The findings of this thesis are generally supportive of the theoretical assumptions of governmentality theory, supporting the use of governmentality approaches in the analysis of surveillance practices.

The wide range of actors involved in governance practices are demonstrated through the significant inter-textual and inter-discursive linkages of discourses. Rather than a monolithic picture of unified state control, the surveillance regulatory environment is

typified by a range of government and governmental agencies, regulatory bodies, oversight committees, private institutions and individual actors. These bodies are interlinked, interactive and draw upon shared discursive sources. Discourses of surveillance support the governmental necessity of knowledge of the population. ‘We need to know people are who they say they are’ is a recurring trope in governmental discourse. Necessity is associated with security and economic productivity; the illegal immigrant and the terrorist threaten territorial security and integrity, whilst the benefit fraudster threatens economic productivity. *Raison d’Etat* emerges as the state is articulated as competing with other nation states in a global market economy. Being cursed with a second class identity system hampers UK standing in this competition, whilst identity fraud costs the UK. The use of credit referencing agencies in determining governmental identity demonstrates the centrality of economic activity to the understanding of the productive citizen.

The conduct of conduct, the shaping of conduct through norms, is a regular theme in these discourses. Many discourses provide a range of conduct articulated as appropriate; an exemplar is the steps an individual must take to guarantee the security of their personal data and to protect themselves from identity theft. Almost every text that articulates identity theft provides a range of strategies in response to the danger. There is a remarkable level of consistency in this advice, constructing a hegemonic articulation within this field of discourse of what is appropriate conduct and behaviour with regard to personal information. This conduct is explicitly framed in deontic modalities – it must be followed. However, it is also presented as the best strategy for the individual. It is advice and guidance, not orders and directives. That failure to freely follow these apparently reasonable information security precautions can be

rearticulated as negligence and a signal of liability for financial loss underscores the conduct of conduct. Financial and ICO discourses are particularly replete with guidance and best practice articulated as attempts to inform and educate individuals enabling them to (freely) act in their best interests (which are also socially valuable interests). Following these strategies allows the individual to reduce risks to themselves and to institutions and thereby maximise productive resources.

Governmentality accounts of surveillance are supplemented by an expanded understanding of identity as a contested concept articulated in particular ways in governmental discourses, rather than solely a theoretical marker for subjectivities. This expansion affects theories other than governmentality and is explored below.

#### *Political and social theories of identity*

It is possible to analyse usage of the concept of identity without making firm ontological statements. Whilst discourse and governmentality theories suggest an understanding of identities as subject positions or subjectivities, the discourse analysis in this thesis points to a distinct articulation of identity – the *governmental surveillant identity*. This usage has implications for political and social theories of identity as this form of identity cannot be ignored.

Subjectivity accounts are limited because they do not account for all processes which can be understood as creating identity, instead focusing on processes through which the individual becomes a subject or identifies with a subjectivity. Political theories of identity which only understand identity as subjectivities miss the important effects of

identity in active political use in contemporary societies. Identities are created, attributed, used, manipulated, exploited and sometimes negotiated in ways beyond that of subjectification processes. Whilst these identities may not be as deep as subjectivities, they have important political, social and economic effects. To this extent this form of identity could be understood as *shallow yet compelling*. The subject need not in any way identify with the attributed surveillant identity, for it to have effects upon them. For an examination of some of these effects, see the political implications below. The existence of surveillance-permeable, persistent, externally attributed identity casts doubt upon accounts emphasising the flexibility and fluidity of (post)modern identities. Whilst this may be true of subjectivities, or the multiple hybrid social identities available to subjects to identify with, the persistence of surveillant identities suggests that there exist forms of identity which are characteristically non-flexible.

This thesis demonstrates that not all identity creation processes are self-creation, and that there are strong structure-like effects of discourses and practices. Agency exists theoretically through identification with subjectivities, but is politically constrained by the political attribution of identities. For example, governmental assemblages should be understood as powerful identifiers responsible for attribution of socially important identities to subjects:

The state is thus a powerful ‘identifier’, not because it can create ‘identities’ in the strong sense, in general, it cannot, but because it has the material and symbolic resources to impose the categories, classificatory schemes, and modes of social counting and accounting with which bureaucrats, judges, teachers, and doctors must work and to which non-state actors must refer. But the state is not the only ‘identifier’ that matters. As Charles Tilly has shown, categorization does crucial “organizational work” in all kinds of social settings, including families,

firms, schools, social movements, and bureaucracies of all kinds. Even the most powerful state does not monopolize the production and diffusion of identifications and categories; and those that it does produce may be contested.<sup>891</sup>

This analysis demonstrates the need to conceptualise both the *form* and the *content* of identity in modern society. Subjectivity accounts should be supplemented by an understanding of attributive identity at shallower levels.

### **Political implications**

The following sections discuss political implications arising from the empirical findings of this research. This focuses primarily upon the near hegemonic representations of surveillance and articulations of identity characteristic of governmental discourses of surveillance, but found in other surveillance discourses. These implications can be divided into three categories: the implications of the representation of surveillance, the implications of subject positions and their articulations, and the implications of the articulation of identity in discourses of surveillance.

#### *The representation of surveillance*

The implications of the representation of surveillance in these discourse falls under six categories: normalisation, limiting surveillance, the limits of dystopia, data protection requirements as empty signifiers, the accuracy and effectiveness of surveillance and the related question of human truth versus machine truth.

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<sup>891</sup> Brubaker & Cooper, 2000, p.16.

### *Normalisation*

The dominant representation of surveillance performs a normalising function in which surveillance practices are presented as normal and unavoidable aspects of life. Examples include the articulation of identification practices as legal necessity and the portrayal of surveillance and personal data gathering as inevitable in ICO discourse. This ideological function elides the contingent nature of political practices, presenting them as non-political technological functions. Joyce's model of the 'technopolitical' shows how political issues are rendered 'technical' and thus placed outside the scope of democratic debate.<sup>892</sup> The substantial degree of technological determinism found in discourses of surveillance also creates a feeling of the inexorable, determinist spread of surveillance technology. Articulating a surveillance practice as inevitable complicates any attempts to resist or challenge surveillance practices; such contestation must first rearticulate the practice into the realm of the contingent. Representing imposed risks as natural phenomena has moral implications and breaks the moral distinction between imposed and natural risks.<sup>893</sup>

### *Limiting 'surveillance'*

In the hegemonic representation of surveillance, the definition of surveillance is tightly constrained. Many surveillant practices are not identified as such. Given the negative connotations of surveillance this is unsurprising. For example, government actors go to great lengths to articulate identity cards as not surveillance. Surveillance often retains an archaic image of wire-taps and police stake-outs unreflective of the

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<sup>892</sup> Joyce, 2003, p.7.

<sup>893</sup> Cranon, C.F. (2007) 'Towards a Non-Consequentialist approach to Acceptable Risks' in T.Lewens (ed.). p.38.



contemporary reality of mass personal data gathering and processing. In this manner, linkages between practices are occluded and surveillance practices are frequently presented in isolation; as an isolated response to an isolated problem. The picture of surveillance islands may well retard the development of public critiques of surveillance as resistance to a particular surveillance practice does not frequently extend to widespread general resistance. This may be affected by the way the concept of the surveillance society has been adopted.

### *Data protection requirements as empty signifiers*

Dominant representations of surveillance also have implications for public acceptance of surveillance. Principles of data protection act as the standard frame for evaluating surveillance practices in the UK.<sup>894</sup> The concepts of necessity, appropriateness and legitimacy, which surveillance practices must meet, are in reality frequently empty signifiers, which can be filled in in a broad range of ways. It is easy to articulate surveillance practices as necessary, especially given the predominance of risk-aversion in surveillance discourses. If information can be used (or is thought to be potentially useful) in risk-analysis, then a claim for necessity can easily be made. Legitimacy is largely associated with the actor conducting the surveillance; therefore legitimate actors' activities are always legitimate, whilst illegitimate surveillance is practiced by illegitimate actors. It is discursively difficult for the activities of actors granted legitimacy to become illegitimate. Appropriateness has the additional problem of a positive feedback loop. If an installed surveillance system does not meet the ends it was installed to meet, it is inappropriate. If, however, it might meet those ends if

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<sup>894</sup> The Information Commissioner's Office. (2006) *Protecting Privacy – Promoting Openness*. Wilmslow, Information Commissioner's Office. p.17.

upgraded to gather more information, then meeting data protection principles could provide justification for upgrading the surveillance system until appropriate for its stated objectives.

### *Accuracy and effectiveness*

Representations of the accuracy and effectiveness of surveillance systems also have political implications. Governmental, financial and media discourses tend to privilege the assumption that surveillance systems are effective and accurate. Even opposition discourses tend to assume that statements of accuracy made for surveillance systems are themselves accurate. Mistaken assumptions of accuracy for surveillance systems can lead to mistaken decisions taken on the outputs of these systems. Additionally, information systems are frequently constructed as secure, when this may be highly questionable given the frequency of information loss.

### *Human truth vs. technological truth*

As Van der Ploeg has shown, the discursive strategies surrounding surveillance technologies have implications for the negotiation of human choices and values in relation to those technologies.<sup>895</sup> The difficulty of contesting the output of surveillance systems constructed as accurate is developed with an account of human truth versus technological truth. Human truth is a placeholder for statements made by people. These statements can be accurate or mistaken, based upon imperfect

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<sup>895</sup> Van der Ploeg, I. (2003) 'Biometrics and Privacy: a note on the politics of theorising technology' *Information, Communication and Society*, 6:1. pp.85-104.

knowledge, or even deliberately misleading. Human truth is axiomatically subjective. However human psychology shows that human beings have developed a range of (imperfect) methods for assessing the veracity of human truth. Technological truth encompasses statements generated by machinic processes, either technological or bureaucratic. Technological truth is articulated by surveillance discourses to be cheaper, easier, and more reliable than human truth. There are situations where technological truth provides access to information inaccessible to human perception, for example a microscopic image of a cancer cell. However, many social encounters oppose human truth to machine truth, for example when a polygraph lie-detector test states a person is lying, who adamantly denies this. Human truth is discursively denied credibility in these encounters whilst the technological truth is not questioned, but instead understood to be authoritative. This is observed in the studied discourses regarding credit ratings, identity cards, and background checks. 'We need to know you are who you say you are' is an example of a machine/human truth opposition. This privileging is based upon faulty application of the logic of arguments from authority. For a speaker to be considered an authority they must be qualified to pass judgement and have sufficient information. However, many actors lack the capacity to analyse the qualification of machine processes to produce authoritatively truthful statements. Given the scientific privileging of technological methods and the assumption of surveillance system accuracy, in many cases authority may be substantially overestimated. Discourses construct technology as more reliable than human truth, whilst there are instrumental reasons for many interested actors to oversell the capabilities of surveillance technology. Critics attempting to dissuade the general public from accepting surveillance can also overplay the invasiveness of surveillance, accepting that surveillant systems perform as advertised. Specialist

training required to understand technical process is not widely possessed. This problem will increase as technologies become more complex, leaving fewer people able to judge a technology's capacity to produce authoritative statements. Finally, with de-skilling and automation, technological truth processes are frequently technologically opaque to their users, who are themselves unable to interrogate the processes. Human truth is understood to be subjective, so users can be cautious, they can look for alternatives, corroborating evidence, or check statements for errors. If technological truth is understood to be objective and authoritative then it will not be checked, but it will be used as the basis for decision-making. A reliance on technological truth diminishes the political value of transparency and potentially does not treat people as fully human agents in a Kantian sense.

### *Subject positions*

Several discourses of surveillance, especially involving terrorism, immigration and crime prevention, are characterised by what Laclau terms a 'popular antagonism', a simplification of the social space which reduces the number of available subject positions and brings about a particular relationship towards excluded subjectivities. Torfing identifies the popular antagonism as characteristic of wartime.<sup>896</sup> Excluded subject positions (such as the terrorist and the criminal) are constructed as enemies (who cannot be tolerated) rather than opponents. The wartime logic allows for extreme measures of social control and supervision not acceptable in peacetime. This parallels Agamben's work on the State of Exception; where by creating a 'wartime' environment through the war on terror, states have been able to avoid limitations on

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<sup>896</sup> Torfing, 2003, p.126.

their activity.<sup>897</sup> Jackson's analysis shows how the language of the War on Terror has been used to justify and normalise a global campaign of counter-terrorism, and so regularise and institutionalise the practice of war.<sup>898</sup>

The construction of subject positions identified in discourses of surveillance has the capacity to continue the expressive harms identified by Gandy – the disproportionate treatment of certain groups as suspects. Gandy's notions of cumulative disadvantage, and 'rational discrimination' also have applications for the way that subject positions are treated differentially by these discourses, as does Turrow's work on marketing discrimination.<sup>899</sup>

Not all identities are equally valued, with implications for egalitarian politics. In financial discourse, the interests of the wealthy are clearly privileged, whilst ICO discourses which construct identities as valuable assets elide the fact that for many their identity can be a source of problems and a limitation on their activities and choices rather than an enabling asset. For somebody with a poor credit rating, or high levels of debt, their identity is a constraint they may well be better off without. Why then should they protect their identities, or participate in practices which perpetuate this securitisation? CIFAS statistics on identity theft victims undermine the assumption that all individuals are equally at risk from identity theft. Identity is used in governmental discourses as a technology of discrimination, allowing differential responses to different risk profiles. Discrimination on the basis of identities allows

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<sup>897</sup> Agamben, 2005. p.3.

<sup>898</sup> Jackson, R. (2005) *Writing the War on Terrorism: Language, Politics and Counter-Terrorism*. Manchester & New York: Manchester University Press. p.1.

<sup>899</sup> Turrow, J. (2006) *Niche Envy: Marketing Discrimination in the Digital Age*. Cambridge, MA and London. MIT Press. p.215.

institutions to reduce their organisation risks. However it can also push costs onto the individual.

Identity discrimination provides a motivation for a move to a politics (or perhaps a political-economy) of identity management. Organisations that exploit the insecurity of identity are likely to grow and organisations are likely to continue to shift the costs of information security onto their clients and customers. This may foster a ‘new culture of suspicion and envy’.<sup>900</sup> Individuals may be encouraged to ‘game the system’ in their favour, manipulating their identity to gain increased benefits.<sup>901</sup> Alternatively, identity management may become a requirement for all, but only achievable by the wealthy.

### *Identity articulation*

This section examines the political implications arising from the governmental model of identity articulation – the *governmental surveillant identity*. Whilst in discourse theory, identity articulation is axiomatically political, distinct political effects can be demonstrated. Effects of identity articulation can emerge either from elements of the articulation, or from the articulation as whole. The latter effect will be examined first.

From an examination of the discourse, identity is a floating signifier, a contingent ideological element that can be articulated by opposed political projects.<sup>902</sup> It should also be understood as an essentially contested concept, both on the range and

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<sup>900</sup> Turrow, 2006, p.179.

<sup>901</sup> Ibid., p.184.

<sup>902</sup> Glynnos, J. & Howarth, D. (2007) *Logics of Critical Explanation in Social and Political Theory*. London & New York: Routledge. p.152.

indeterminacy of many of its components.<sup>903</sup> However, within governmental discourses there are active attempts to fix the meaning of identity, and construct a surveillance-permeable form that draws upon the privileging of machinic truth over human truth. In common social usage, identity has plural meaning. Brubaker and Cooper identify a number of usages ranging from a ground for social action opposed to instrumental ‘interests’, self-understanding, particularity and position in social space, to a collective sense implying sameness amongst members of a group, to ‘deep, basic, abiding or foundational’ elements of self-hood distinct from contingent, fleeting elements.<sup>904</sup> As definition limits other identities, these forms of identity are reduced in importance in contrast to the surveillance identity, the typology of which is presented in Chapter Six. In order to define identity in a discourse, other *non-identities* must be excluded. In addition to the above, the governmental discourses explicitly exclude archaic historical systems of identity, and second-rate identity systems. The discourses also tacitly exclude organic social identity systems. A particular, *context-insensitive* articulation of identity is spread across a number of social areas. 6 identifies this as a problem with the entitlement card consultation documents.<sup>905</sup> However, this form of identity is prevalent across a wide range of social institutions and underpins the entire identity card project and government attitudes to identity and personal information.

This is not to suggest that the privileging of surveillance-permeable identity automatically overwrites or prevents subjectivities. In many senses subjectivities may be compatible with the surveillance identity and have different social functions;

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<sup>903</sup> Freeden, 1996, p.56.

<sup>904</sup> Brubaker & Cooper, 2000, pp.6-8.

<sup>905</sup> 6, P. (2003) ‘Entitlement Cards: Benefits, Privacy and Data Protection Risks, Costs and Wider Social Implications’ The Information Commissioner.

however there may be points where the surveillance identity comes into active conflict with subjectivities. The identity of identity-politics, focusing on subjectivities and collective identities is a different *form* of identity, and as such these debates cast little light upon the form of identity predominant in governmental information infrastructures. Subjectivities can be rendered irrelevant if decisions are made and actions taken on the basis of surveillant identities.

Identities become the basis for risk assessments. Risk is based upon probabilities and decisions taken in a terrain of imperfect knowledge. Based on the information they contain, some identities are considered bigger risks than others. Organisations make use of inferential logics in determining which these are. Surveillance is used to provide the necessary data for these risk assessments, and risk rationality therefore promotes increasing acquisition of personal data. Identities therefore act as risk markers, or signifiers of collections of risk-relevant data. This is why false or multiple identities are problematic in these discourses; they obfuscate necessary risk information. Risk management also has a moral dimension, in that organisations must be seen to be performing risk assessment and management. This includes the need to check identities. Banks need to check their customers, governments need to check identities for national security and entitlement purposes, and individuals need to check who they interact with to guard against fraud. This also drives the appropriate conduct of individual information security; identities are less effective risk signifiers if individuals leave their identities unprotected.



Rose argues that identity becomes a 'password', determining access to numerous sites and services and to active citizenship.<sup>906</sup> This theoretical insight is reflected in surveillance discourses where background checks against individual identity are constructed as necessary to access financial or social services, and are increasingly conducted through electronic biographical checks. Passwords have certain qualities: passwords protect access to something, and if that something is valuable, then the password *itself* becomes valuable. If the password is stolen, or becomes common knowledge then it allows access to the protected thing. Therefore passwords need to be protected. However, substantial differences between identities and passwords complicate the use of the identity as a password, and make identity valuable, thus acting as a driver for identity fraud, or the (illicit) accumulation of personal data. If compromised, a password can be discarded and replaced with a new secure password; identity cannot be replaced. If an identity is compromised (for example when the holder suffers from fraudulent loans taken out in their name, or is wrongly accused of a crime on the basis of DNA evidence) then that identity, based as it is upon clusters of biographical information from divergent sources, cannot easily be discarded, but must be corrected, which involves questioning the (supposedly authoritative) facts that make up the identity. If identity theft does increase, many identities will become contaminated in this manner. Optimal passwords are unique and solely used as passwords, this allows their exposure to be limited, and reduces the likelihood of their discovery. Identity is used for many other activities with varying degrees of importance. This variety of uses means that identity information can be compromised from uses with low security, and then used to compromise higher security uses, in much the same way as using the same password for internet banking as for a

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<sup>906</sup> Rose, 1999, p.46.

registering with a free website compromises security. The increased use of personal information leads to more and more personal information being in the public domain. Each database entry increases the potential for the information to leak or be stolen, as in the December 2007 loss of child benefit data. Information such as mother's maiden name, routinely used by banks as shared secret information is intrinsically non-valuable. However, precisely because it has been used as a form of password, it becomes valuable to criminals. Because of its continued use, this information should now be considered freely available and insecure. This leads to other types of information, and finally *identities* being used as passwords.

The individual is placed in the impossible situation of having to police their personal data, in an environment where much of that data is out of their control. This has political implications as the individual is likely unable to control this information or the ability to do so is contingent on education and resources, and social implications if the individual must modify his or her behaviour in order to control their information. If an institution's shared secret information is favourite movie, or pet's name, then the individual can no longer freely and reflexively disclose that information to another without considering the implications for their financial security. This is exacerbated by the articulation that anybody could potentially be an identity thief. Individuals are told they should not post such information on social networking sites because it is frequently used as passwords. Better advice is that personal information should never be used as passwords. The same holds true for biographical identity. The duty of the individual to protect elements of their identity, whilst those elements are being exploited by institutions to provide institutional security, or to produce profit, raises questions of alienation and suspicion.

The articulation of identity described in this research is based upon a faulty construction of the normal individual with a normal lifestyle. The functioning of identity systems is predicated upon this normal individual with potential negative implications for those with abnormal lives. This can be seen in the use of the credit referencing agencies to check for economic activity as part of the identity verification process of issuing identity cards, and in the list of suitable documentary evidence of identity accepted by financial institutions. The assumption is that members of society interact with financial institutions, possess a passport and bank accounts, have some level of debt or credit, and a permanent address. People with alternative lifestyles already experience social difficulties, but these could be aggravated by the privileging of surveillance-permeable identities, which could prevent escape from problematic situations, or drag individuals back into contact with situations they had escaped. Three examples illustrate this point:

People who have undergone gender re-alignment processes may be confronted by the spectre of their previous identity, especially by biometric markers of identity. The proliferation of actors making use of identity information makes this likely to be a common occurrence and complicates informing all information processors of such a change. The previous identity (or the transition itself) of such individuals may potentially be a source of shame or embarrassment, or a source of social difficulty or persecution, to the extent that the re-appearance of their previous identity could have harmful psychological consequences.

Surveillance discourses strongly tie identity to permanent physical address in surveillance discourses, and as such complicate identity for the homeless or people with insecure accommodation. These individuals are already in precarious situations, often suffering from mental health problems. Escape from this situation is likely predicated upon interactions with institutions demanding some form of proof of identity. Systems designed around the normal individual exacerbate the lack of freedom of the homeless to escape from their situation. Following Waldron, not only does everybody need a location to perform actions, but they likely need an identity too.<sup>907</sup> Instead of basing systems of social identification upon the unacknowledged normal individual, a socially just approach would be to design systems to aid those most vulnerable, or face the greatest threat of social exclusion or stigma, thus reducing the problems of cumulative disadvantage, and arguably being in line with the Rawlsian difference principle.<sup>908</sup>

### *Elements of identity*

#### *Ontological realism*

The surveillant identity is articulated as unquestionably ontologically objective. This can be understood as ideological; a denial of the fundamental contingency of the socially constructed political concept of identity.<sup>909</sup> The articulation denies the construction of identity and acts as if identity is ontologically realist and placed outside of politics. Whilst identity systems might be technologically lacking, the

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<sup>907</sup> Waldron, J. (1991) 'Homelessness and the Issue of Freedom' *UCLA Law Review*. 39. pp.295-324.

<sup>908</sup> Rawls, J. (2005) *A Theory of Justice: Original Edition*. Harvard Mass: Harvard University Press. p.78.

<sup>909</sup> Torfing, 2003, p.216.

ontology behind them is never questioned. This attempts to create an impossible final closure of identity. Attempts to design technological systems and practices that assume that a negotiated, contingent process is an unquestionable reality are likely to cause problems. It may be a hypothesis worth exploring that essentially contested concepts (such as identity) may frequently cause problems and unintended outcomes for computer systems.

*Identity can be either true OR false*

The individual can have one and only one identity. If identity is assumed to be true, then any mistakes in identity processes (for example, you are mistakenly identified as somebody else) can be hard for the individual to prove. If identity was instead understood as negotiated then people and institutions could be more prepared to negotiate access to services. The binary distinction reduces social flexibility and the potential for interaction or accommodation of difference or disadvantage. If a presented identity does not meet the required standards for a true identity (for example previously recorded biometric measurements do not match fingerprint scans), that identity cannot be 'partly true' but must be considered false, and cannot be accepted. Finally, true identities are privileged over all other types of identity and what counts as a true identity is determined by the privileging of the surveillant identity discussed previously.

### *No legitimate multiple identities*

Theorists routinely construct identity as multiple. For example, in discourse theory, subject positions are multiple, constantly shifting subversions.<sup>910</sup> However, the governmental surveillance discourse constructs identities as singular, denying this multiplicity. Anonymity is denied through construction as akin to false (therefore illegitimate) identity. The discourse of opposition to identity cards constructs a number of valid multiplicities, (e.g. authorial pen-names) but even in this discourse, plural identities are abnormal. For surveillance discourses, knowingly presenting a false identity is an indication of criminality or perfidy. False identities are attempts to obfuscate risk-signifying information and thus frustrate the risk-based decision-making of institutions. These discourses complicate the legitimate use of multiple identities (for example online) which could potentially reduce the risks of personal information disclosure, allow individuals to control their personal data, and allow for social experimentation, risk-taking and experimentation. Combining this articulation with the true/false binary means that if an organisation holds an image of an individual it assumes to be true, and your presented image differs, your image cannot *also* be true, and must be considered false.

### *Identity as recordable facts*

Surveillant governmental identity is understood as being composed of recordable *surveillance-permeable* facts; facts that can be produced and recorded through

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<sup>910</sup> Mouffe, 2005, p.77.

bureaucratic or machinic processes. Permeable characteristics are a limited set of phenomena, but a set that is currently increasing through technological capacity (e.g. biometrics). If identity is broadly articulated, then all manner of information can be recorded in the category of identity. Identity then appears based upon the optimal inputs of surveillance technologies (what can be recorded) and the precautionary risk rationality – if information can be collected, then it should be. What is included in identity is substantial and expanding. This can be invasive of privacy, inconvenient, demanding on the individual (when they are required to provide such information) and violate data protection principles when data is unnecessary but gathered just in case. Due to the use of biographical identity checks and identity as a password this information is made valuable, meaning that these facts must be managed and secured. Other problems emerge if identity is *limited* to facts recordable by machines and bureaucratic processes. The complexity of the social world and individual psychology is reduced and forced into categories. This reintroduces the recognition problems of more familiar identity politics – for example the demands by minority religious or ethnic groups for inclusion on the census – as people feel that important parts of their identity are not officially recognised, with implications for social trust and cohesion. As bureaucratic systems are reliant upon abstraction, they will likely never recognise all difference. Rather than attempting to do so by increasing the scope of recorded personal information, the limitations of categorisations should be acknowledged.

### *Behavioural and inferential*

The articulation of identity as biographical and based upon records of previous behaviour combined with decisions made on the basis of identity result in the future

experiences of individuals becoming strongly determined by their past experiences. This can reduce social mobility (already low), trapping individuals in their social and economic positions. Identity requires an economic history, with credit agency checks to verify this. This normalises the current economic system and its distribution, and promotes cumulative disadvantage as those without an identity find it hard to get one. This is especially problematic for the poor or homeless. Incorrect patterns of behaviour attract institutional suspicion, disproportionately targeted against the abnormal defined statistically rather than normatively. People can feel uncomfortable when confronted with their spending pattern by their credit card company, and such over-watch makes changes in lifestyle problematic, as shifts in behaviour attract supervision and intervention.<sup>911</sup>

### *Attribution*

The governmental articulation of identity as primarily attributed by trusted institutions (structured society) has implications for who can be said to control identity. The control by the individual of their own identity promoted by ICO is meaningless if identities are functionally created and attributed (and altered and withdrawn) by organisations, especially if organisational attributions are considered more authoritative than any account the individual can give of their identity. This is exacerbated if organisations hidden from the individual contribute to the identity, as the individual is hard pressed to monitor all organisations contributing to his/her identity, especially given the increased trade in personal data between organisations.

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<sup>911</sup> Murakami Wood, D. (ed) (2006) *A Report on the Surveillance Society: For the Information Commissioner by the Surveillance Studies Network*. p.55.



Monitoring the attributed image is costly, requiring knowledge, effort and resources not available to all citizens.

Whilst the individual may have control over the subject positions they identify with, contingent on the degree of agency allowed by philosophical ontology, they have little control, if any, over their surveillance identity. This system of personal information and identity verification is weighted against the individual. Reliance upon subject access requests in data protection policy is problematic when an individual's data may be present in (and therefore an identity attributed by) 700+ databases.<sup>912</sup> An individual has limited resources, and cannot possibly issue subject access requests to all of these, given the levy of a 'reasonable handling fee' (up to £10 per request) and the prerequisite of knowing which institutions might hold their personal data.

Additionally, this management of identity is not a one-time task, but a process that must be maintained if the individual attempts to retain any control over their identity.

Thirdly, the individual becomes reliant upon relationships with organisations for identity in this sense. This places the organisations in a position of power, complicating any attempt by the individual to negotiate their own identity.

Organisations can refuse, withdraw or lose identity information. Individuals may concede to demands from institutions in order to improve their attributed identity, undertaking behaviour they might otherwise avoid. Individuals may not want a relationship or interaction with certain institutions, but find that such relationships are necessitated by the way identity is assembled from multiple institutions.

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<sup>912</sup> Information Commissioner's Office. (17/5/2007) *It's your Information: Your Personal Information and the Electoral Register*.

*Consistent over time and space*

Described by Brubaker and Cooper as a ‘common sense’ use of identity, consistency of identity over time, space, and social sphere is required by surveillance discourse in order for identity to carry risk information and act as a risk-signifier.<sup>913</sup> This permanence of identity arises from the reliance upon biographic identities and the ease of storage and retrieval of digital information. It problematises any legitimate attempt to change identity, for example, changing sex, fleeing persecution, escaping from previous experiences such as a criminal record or bad debts. Even state attempts to create new identities (for example witness protection schemes or undercover policing) will experience this difficulty due to the proliferation of identity data in the private sector. This raises questions as to when information included as part of an identity should be discarded by data processors. At what point does information become irrelevant for risk analysis and decision-making? Does a criminal conviction in an individual’s youth signal that they deserve employment less than somebody without? A decreasing level of institutional forgiveness can be anticipated as institutional memories expand. In previous eras, an individual could escape from a past mistake by moving to a new city, or waiting for a period of time. With searchable databases, individuals are linked to less salubrious elements of their identities for longer timespans. This has implications for anybody considering public life, as they are liable to have any negatively perceived recorded events from their life revealed. If identity is discursively understood as consistent over time, then what happens when (counter to this construction) identity changes in some way? For example, if a recording error is made, data is lost or corrupted, or malicious hackers change

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<sup>913</sup> Brubaker & Cooper, 2000, p.10.

biographical details. Combined with the discursive assumption of accuracy, such changes are hard to refute. Individuals who believe themselves victims of identity fraud are able to request a note placed on their credit record to this effect. Does the note carry as much weight as the rest of the credit file?

### *Identity is under threat*

The articulation of identity as something that can be stolen misrepresents financial crime, as identity theft is most frequently credit fraud.<sup>914</sup> Government statements that identity theft costs the UK £1.7 billion per annum conflate a number of different types of crime, the majority of which should not be considered identity fraud.<sup>915</sup> The articulation of identity in this discourse is too extensive. What is actually occurring in many of these cases is fraudulent manipulation of the information security processes and practices of organisations. References to identity theft scare people and confuse the search for potential solutions. Practices of identification are legitimised by reference to the ultimate, yet immeasurable, risk provided by terrorists freely operating under false identities, and identity theft prevention is stated as a major driver for proposed identity cards. The response to identity threat by governmental discourses privileges strategies of response by the individual. These discourses provide substantial examples of appropriate conduct for individuals to follow, expressed in deontic modalities, and individuals are positioned as to carry the costs of self-surveillance and self-securitisation. For example, individuals are increasingly directed to take out insurance against identity theft. Across the discourses, and hegemonic in banking and finance discourses, there is a focus on the actions of

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<sup>914</sup> The Identity Project. (June 2005) *The Identity Project: An assessment of the UK Identity Cards Bill and its implications. Version 1.09*. LSE Department of Information Systems.

<sup>915</sup> Byrne, 19<sup>th</sup> June 2007.

criminal subject positions as the agents responsible for the social problems of identity fraud. This elides social problems caused by the practices and technologies of the finance industry itself.

### **Policy implications**

Discourse theory and governmentality help to inform a number of normative considerations. Discourse theory used analytically provides an examination of governmental language, whilst governmentality theory prompts the search for the utopian moment in political discourse. As such, this thesis has identified a particular government articulation of identity, as well as the utopian intentions that are constructed alongside this articulation. As a source of normative purchase, these intentions should be taken at face value, and used to evaluate policy. If the government's stated intention is to prevent people being victims of identity fraud, secure their personal data, and place identity under the control of the individual, then policies should be assessed against these intentions. The political implications in the previous section prompt a range of implications for current policy debates. In order to alleviate or avoid problems of political ethics and social justice presented above, a number of policy recommendations can be outlined.

- Discourse theory demonstrates that identity should be understood as a socially constructed and negotiated category. Profiles and data images are only ever partial images of a person and alternative narratives can be constructed. Public awareness of this should be fostered, as well as amongst actors making decisions on the basis of data images and personal risk profiles.

- Given the over-emphasis of surveillance accuracy in governmental discourse, a distinction should be fostered between *prognosis* and *prediction*. A prognosis is ‘the likely course of future events which, although well-grounded in our analysis of the conditions and mechanisms underlying present phenomena, cannot be generated out of this analysis by simple deduction’ whilst prediction is ‘a deduction of what will necessarily follow if 1) certain laws, L1...n, themselves deductible from theory, T, obtain, and 2) requisite antecedent conditions, C1...n, are satisfied’.<sup>916</sup> Prognosis has less logical force than prediction. Many outputs of social surveillance systems are (at best) prognoses not predictions, and should be regarded as such.
  
- For the same reasons, the limitations of surveillance technologies should be acknowledged. If a decision or statement is reliant upon imperfect authority then the imperfections and the limitations should be acknowledged, allowing for proper public consideration.
  - System error rates for surveillance systems should be published and made available to those exposed to the surveillance system.
  - Independent assessment of the accuracy of surveillance technology should be undertaken and published.
  - Data controllers of personal information should acknowledge the information they use may very likely contain mistakes and inaccuracies, and caveat their outputs accordingly.

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<sup>916</sup> Sayer, D. (1983) *Marx's Method*. Brighton: Harvester. p.139.

- Uses of identity in different spheres of social life, and with regard to different institutions should be context-sensitive. Separate identities for separate spheres of life should be possible, perhaps reinforced with pseudo-anonymity identity tokens. These tokens could limit the amount of information disclosed. The alternative identity scheme proposed by the LSE uses a model of ‘assured sectoral identities’ akin to this.<sup>917</sup> Not all institutions need to demand the complete picture of an individual’s life. Mechanisms should be put in place to limit the information that organisations can characterise as necessary to prevent escalation of demands for information.
- Surveillance systems, if necessary, should be designed so that socially acceptable inputs are optimal. Technologies are designed in ways such that they have optimal inputs. Some forms of inputs may be more socially acceptable than others, and some may have greater impacts, or levels of invasiveness. Systems should be designed so that they minimise invasive surveillance. Acceptability should be organic and not manufactured, and non-invasive should not be understood as meaning covert or without the knowledge of the subject as surveillance harms can occur when subjects do not realise they are under surveillance, and such practices violate data protection principles. There should be democratic oversight of surveillance systems rather than their design being based upon hidden decisions of engineers and technologists.

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<sup>917</sup> The Identity Project, 2005, p.292.

- The National Identity Card and Register should be suspended. If introduced and inaccurately assumed to be totally accurate and secure, it will exacerbate the problems of identity discrimination, fraud and the politics of identity management. Government discourses overstate the accuracy, security and reliability of the system and promote this assumption. The identity system is currently touted as a solution to a wide range of problems. Accurate identification of functions is a cornerstone of reliable and secure information systems design and confused objectives increase the risks of the system. If the social problems to which the identity card is addressed in discourse are accepted as pressing social problems, and it is believed that some form of identity system might address these, then alternate options should be explored that meet government statements with fewer negative consequences. The LSE's alternate proposal as part of the ID card report is one such model.<sup>918</sup>
- If identity fraud is a significant enough problem to merit government action, then there is a need for clarity of language and thinking. One response to such a problem would be to insulate individuals from the risks of identity-based crime, especially those caused by the policies of organisations and institutions. Organisations, including the government and the media, should stop using the inaccurate and emotionally misleading term identity theft with connotations of doppelgangers and evil twins. Most so-called identity theft is credit card fraud and should be understood as such. Conflating different types of criminal activity, with different characteristics and effects, may prevent the

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<sup>918</sup> Identity Project, 2005, pp.275-284.

development of appropriate solutions. Theft connotes the denial of something to the legal possessor, which does not occur in identity theft.

- Organisations should minimise the data they hold on individuals. Less data is required to perform identification, or even authentication, than attempts to capture identity. This should be encouraged through compliance with enforced data protection legislation.



## Conclusions

Through the theoretically supported empirical analysis of public texts, this research has identified the existence and extent of a *governmental discourse of surveillance* interacting with a number of other discourses and found in the statements of a range of political actors, including government, independent agencies, financial institutions and the media. The thesis identifies a commonality (although not a universality) between varying sites of surveillance. This commonality can be understood as the discursive components of the surveillant assemblage constituting identification in the United Kingdom.

This discourse is characterised by a particular *surveillant articulation of the concept of identity*, in addition to a dominant representation of surveillance practices that normalises and legitimises surveillance practices. In focusing upon the supposedly factual and deterministic nature of identity for purposes of identification, this discourse denies the contingent and socially constructed nature of any form of identity. Identity is understood as a floating signifier that this governmental discourse attempts to articulate in a specifically delimited and defined way, so as to further the *raison d'état*, effect government and counter the proliferation of identities. The core articulation of the problem of governance within the governmental discourse is that older forms of identity are problematised; they cannot be relied upon for the proper functioning of governance in society and must be updated, modernised and critically, secured. From the reading of governmentality theory presented here, identification is a core component of governance, and improper systems of identification and therefore unknown identities are constructed as problems to be solved. Discourses of

surveillance position surveillance technologies as the proper solutions to those problems.

This understanding of identity has social justice implications. It is likely to most negatively affect the most vulnerable in society, and be managed only by those with sufficient resources, as well as creating practical problems for processes, institutions and individuals. The discourse of surveillance normalises surveillance practices based on accounts of risk and necessity, and complicates any attempt to resist or oppose such practices. Despite policies and rhetoric pointing in the direction of individual control of identity, the amount of meaningful control an individual can exercise over their own identity is distinctly limited, with implications for autonomy and the relationship between individuals and institutions.

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