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Being watched: The aftermath of covert policing

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Abstract

The ongoing Undercover Policing Inquiry (UCPI) is largely a response to a stream of national media scandals that exposed the illegal and unethical behaviour of undercover police officers in two secretive units. The testimony of those who were the targets of undercover operations has further exposed the human costs stemming from the personalised and highly invasive surveillance undertaken by anonymous state agents. In this article, we reflect upon the existing research on covert policing and identify new areas for conceptual and methodological engagement, with a view to better understanding the harms that these secretive operations can generate. Attending to the inherent and inescapable intimacy of covert policing offers a much-needed opportunity to explore the effects of a unique state practice that can radically alter the lives of individual surveillance subjects, and which tests our conventional understandings of the legitimacy and limits of force, coercion and police power.

KEYWORDS

covert surveillance, harm, morality, undercover policing, victims

1 | INTRODUCTION

Covert investigation is a key feature of late modern policing that commonly involves the deployment of undercover officers and civilian informants, 'sting' operations designed to lure

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likely offenders, and forms of electronic information gathering – including telephone tapping, email monitoring and video-audio surveillance. While the concept of covert policing commonly includes practices that are hidden from the public, there are distinctions between undercover work and covert surveillance. *Undercover policing* refers to a situation in which police officers engage in face-to-face interactions with surveillance subjects and other members of the public – sometimes for prolonged periods of time – while keeping their identity as police officers secret. As a mode of policing that inherently involves deception, Marx (1988) characterises undercover policing as active as opposed to passive surveillance. With the latter in mind, *covert surveillance* can be largely understood as having a more distanced, technological, and remote quality with little – if any – interaction between the officer and the subject of their surveillance.¹ Both styles of policing are nevertheless used by the police to obtain information about, or evidence against, a person who is suspected of having committed – or is in the process of committing – a criminal offence, without their knowledge (Marx, 1988). Both types of covert policing are the subject of our discussion, but we note the different ways in which those forms may be experienced, justified and used.

In official circles, covert investigation is valued and defended for its capacity to gather crucial intelligence and evidence about crime (College of Policing, 2021). Yet, the deployment of agents by the state to infiltrate the lives and organisations of those suspected of criminal behaviour or regarded as a security threat remains morally ‘dirty’ (Klockars, 1985). Necessarily secretive, and often actively deceptive, this is a distinctive style of policing that has the potential to infringe privacy rights and undermine core legal values such as the presumption of innocence and the right to a fair trial. In addition, the official sanctioning of deceptive and manipulative investigation techniques by anonymous state agents – as well as police involvement in criminal conduct – raises significant ethical issues for the police and law enforcement more generally (Marx, 1988; Nathan, 2022).

Despite being a key feature of British policing, covert methods of investigation have been largely unregulated for much of their history. This changed, however, in 2000 with the introduction of the Regulation of Investigatory Powers Act (RIPA), which established a new framework for regulating the powers of public bodies to carry out surveillance and covert investigations.² One report by the Investigatory Powers Commissioner’s Office (IPCO) suggests that over 12,500 RIPA authorisations for covert operations were granted in 2020 alone (Investigatory Powers Commissioner’s Office, 2021). However, such figures do not reveal the types of crimes the authorised operations were aimed at, or the basic demographics of the people exposed to covert interference – both active and passive (see Loftus, 2019). In addition, the public disclosure of authorisation does not tell us how successful the operations were in achieving the desired goals, which appears problematic given the notion that covert operations are indeed effective is central to claims of their legitimacy made by police and others. As we return to later, this fundamental lacuna in the evidence-base has implications for how we can understand the effects of covert investigation, both individually and collectively.

As covert investigation becomes increasingly normalised, policing becomes more secretive and the state-public relationship more complicated. Notwithstanding the historical importance of the ‘policing by consent’ principle within the UK, covert policing represents a significant departure from a commitment to visible and performative policing. It is also a mode of policing that obfuscates processes of accountability, not least because covert methods of investigation are difficult to control (Marx, 1988; Wachtel, 1992). Covert policing raises important questions about the nature, legitimacy, and transparency of contemporary policing. It also presages new developments for the exercise of police and, by extension, state power. However, we still have little understanding of the ways in which exposure to covert policing – both the more intrusive form of undercover policing

and covert surveillance – is *felt* or *experienced*, or how it may disturb the identities and life courses of those subjected to it. What are the circumstances in which people learn they have been the subject of covert policing and state surveillance? How are covert practices internalised by surveillance subjects once they come to light? How might the legitimacy of the police and the state be spoilt and (re)negotiated in the eyes of individuals who have been covertly policed? How might this disclosure shape a (former) target's sense of self, their expectation of privacy, future behaviour, and trust in the police and state? What strategies of resilience, if any, do the surveilled adopt after revelations they were exposed to covert policing, and what are the remedies available to support people subjected to unlawful or over-zealous state interference? How does covert policing operate within unequal and fragmented social landscapes characterised in terms of gender, race and ethnicity, class, and other divisions?

Such questions are particularly timely following major developments in the field of undercover investigations. The Undercover Policing Inquiry (UCPI) has drawn attention to the morally troubling culture and practices of undercover officers in England and Wales. The Inquiry is, in part, a response to a stream of national media articles about the illegal and unethical behaviour of officers from two highly secretive undercover policing units: the Special Demonstration Squad (SDS) and the National Public Order Intelligence Unit (NPOIU), active from 1968 to 2008 and 1999 to 2011 respectively. In addition to revealing how undercover policing is heavily directed towards members of social and political movements, the UCPI has confirmed and examined claims that undercover officers stole the identities of deceased children to build their fake identities ('legends'), withheld evidence in court leading to miscarriages of justice, encouraged and participated in illegal activity, and spied upon members of Justice Campaigns (Undercover Policing Inquiry, 2023; see Schlembach, 2018). A central focus of the Inquiry has been the accusation that undercover officers deceived women – some of whom they were monitoring – into sexual relationships. At least two women have given birth to children fathered by undercover officers, subsequently describing their experience as state-sanctioned rape (Evans & Lewis, 2013; Short, 2023). These scandals have prompted a public re-examination of the use and legitimacy of covert methodologies, with the UCPI providing an important opportunity to acknowledge the harms that can arise from covert policing and the need for legal and institutional reform.

For us, the trauma, confusion and suffering of those at the centre of the Inquiry has brought to light the immediate and enduring human impacts – the aftermath – of covert policing. Attending to these matters is important because the endorsement by the state of covert techniques not only provides the police with an unrivalled capacity to intrude into private spaces and private lives but, also, tacitly legitimises a working culture that eschews important aspects of the rule of law (Undercover Policing Inquiry, 2023). The recent passing of the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 also demands our attention because it grants exemptions for unethical and potentially gravely harmful activities where oversight and accountability are already difficult to secure (Walker, 2021; see also Pentney, 2021). Significantly, the Act contains provisions that authorise undercover officers and covert sources (informants) to engage in criminal conduct when undertaking of their duties. The participation by civilian informants and undercover officers in criminal conduct allows them to 'work their way into the heart of groups' that are considered a threat to public security (Lowe, 2021, p.5; see also Joh, 2009). Such developments are disquieting since, as the UCPI has already demonstrated, where officers in-the-field abuse these powers and target vulnerable communities, undercover policing can engender significant social, political and emotional fallout and raises significant questions for the policing of democratic societies. Indeed, as Menon (2020) powerfully explains: 'it is important to remember at all times that the victims of undercover policing were not just those spied on, some of whom had

their lives ripped apart by the consequences. The victims include all of us who want to see a more open, fair, and democratic society' (p.49).

This state-of-the-art review is a call for scholars to centre the experiences of those subjected to undercover policing – and, indeed, covert surveillance – as part of a future research agenda. Our purpose here is to sketch out a sociologically astute account of the harms generated by covert policing. In so doing, we argue that there is a pressing need to examine what we call the *intimacy of state surveillance* – the emotional territory and sociopolitical dimensions of covert policing practices. The article unfolds in the following manner. We begin with a short discussion on whether the use of the term 'victim' is appropriate within this context, before identifying new areas for theory and conceptual engagement to explore the hidden injuries of police (state) surveillance. Engaging with the lived experiences of the surveilled, we suggest, offers new opportunities to examine the reverberating effects of a state practice that can deeply disrupt individual life trajectories and the social fabric of societies, and which tests conventional understandings of police force, coercion and power. Here, we draw from the literature on surveillance in authoritarian and totalitarian states with a view to revealing and finding ways to better understand the human costs of such surveillance. We then set out an agenda for empirical research and attempt to directly address some of the most important methodological and ethical challenges researchers are likely to face when conducting such work. There are inherent difficulties associated with researching the closed arena of covert policing, and accessing those who have come to realise they have been placed under police surveillance is similarly rife with barriers. There are, nevertheless, several viable avenues through which empirical research in this area can be undertaken and which speak to the conceptual frames we present below. We make two appeals to criminologists and scholars of policing: first, *to directly engage with the harms and invisible injuries associated with covert policing*; and, second, *to place the surveilled at the heart of future empirical investigations into existing and emerging manifestations of covert policing to enable new forms of critique of surveillance practices*.

2 | A NOTE ON THE SURVEILLANCE 'VICTIM'

Covert investigation is deployed to deal with a range of illegal, harmful and perceived undesirable behaviours. Today, covert operations undertaken by domestic police forces within the UK are broadly directed towards the following concerns: *Serious and organised crime* (including cross-county drug dealing, modern-day slavery, serious violence and sexual exploitation); *Suspect communities* (with a focus on people suspected of radicalisation, terrorism and extremist views); and *Political protest groups and other social movements* (including those involved in environmentalism, anti-racist activism, left-wing and right-wing politics, or trade unions). It is true to say that, within these surveillance contexts, a number of individuals will be placed under police surveillance because there is robust intelligence or evidence to suggest their involvement in serious criminal activities. In many ways, we agree with Nathan (2022) that some people can, through their harmful actions, make themselves 'morally liable' to intrusions and manipulations by covert officers. This does not, however, change the fact that they continue to have rights under the law and can suffer harms as a result of being subjected to covert surveillance.

In seeking to reorient our analysis of the harms covert policing can generate, we found ourselves engaged in an extensive discussion with one another as to whether, and how far, the term 'victim' could be stretched to cover *everyone* subjected to covert investigation. On the one

hand, some people targeted by these powers cannot be reasonably considered as victims in any meaningful sense of the word – not only because of the injury and devastation they cause through their illegal actions (from child sexual exploitation to the importation of heroin and terrorist attacks, for instance), but also as a result of being on the receiving end of less invasive and less deceptive methods of covert investigation (such as being watched at-a-distance from a surveillance van, rather than being interfered with by an undercover agent acting deceptively). Inevitably, some of the people who are targets of covert methods will be dangerous individuals involved in serious crime who themselves cause irreparable harm and there is, in this way, something inherently uncomfortable about describing them as victims. And yet, it is possible that – under certain conditions – individuals can be both criminals *and* victims of covert policing. Even those suspected of the most heinous crimes have rights – to privacy, due process, freedom of thought and expression, a fair trial – and their status as suspects (or eventually convicted criminals) does not automatically prevent them from also being regarded as victims of surveillance. Indeed, this is a point that needs to be stressed in the face of the rhetoric that is often deployed by the police and other state agencies when seeking to justify particularly intrusive forms of targeted surveillance. When challenged about or defending the necessity of covert operations, it is still common for the police and other vocal proponents of these methods to refer to some of the most serious and frightening forms of criminality – violent organised crime and the threat of terrorism. By underscoring such grave and emotive crimes, the police not only skew the public debate over the costs and benefits of surveillance, but also contribute to the perception that the targets of covert surveillance are the ‘worst of the worst’, making it difficult to open up nuanced discussions about the rights of such individuals and the harms they – and those who associate with them – may suffer as a result of being targets of covert surveillance. As uncomfortable as it may be to describe some criminal suspects as surveillance victims, it is important to recognise the harms and injuries they, too, experience if we are to develop a more human-centred account of covert policing that considers its destructive qualities as well as its proclaimed benefits.

On the other hand, some people who have been targeted by undercover officers can very reasonably be construed as victims. We know from the UCPI that undercover officers perpetrated a range of harmful practices including deceiving women into intimate relationships, fathering children while undercover, potentially contributing to miscarriages of justice, as well as using the identities of deceased children without obtaining consent from families. These officers will inevitably have caused significant distress because of their actions. Outside of the UCPI, there is a body of research demonstrating that *both* close-up undercover work and seemingly passive covert surveillance results in people being deceived and manipulated. People have their privacy invaded, have their financial and material goods derailed, are encouraged to act in ways that are themselves wrong, and officers can fail to prevent harm to others. Indeed, as Nathan (2017) cogently reminds us, ‘undercover police act in ways that are, in normal circumstances, ways of wronging people’ (p.285).

For our part, we continue to have internal disagreement about the use of the term ‘victim’ and see one of our aims in this article as stimulating a conversation about what surveillance harms and victimhood within this context might look like. While we remain unable to agree on the appropriateness of the term, we believe that thinking about ideas of victimhood in the context of covert surveillance is an essential aspect of any effort to better understand and account for the harms that arise from such practices. In the context of this article, we will predominantly refer to individuals subjected to covert policing as ‘the surveilled’ to recognise the problematic use of the term ‘victim’.

3 | THE AFTERMATH OF COVERT SURVEILLANCE: THEORETICAL AND CONCEPTUAL CONSIDERATIONS

What does covert policing do to people, and how do they feel about it should they ever find out? How can criminologists, sociologists, and policing scholars begin to make sense of the lived experiences of those subjected to covert state policing? In our view, the personal – and societal – repercussions of these practices can be helpfully examined through a number of conceptual lenses and with reference to various parallel literatures.

3.1 | Surveillance and its encounters

It is, by now, cliché to state that surveillance is ubiquitous and taken-for-granted in most societies. Ideas of mass surveillance, dataveillance and the surveillance society provide important schema for understanding the surveillance imaginary and practices today. Researchers have examined where surveillance is happening, what form it takes, why it is proliferating and who it is directed towards. There is abundant evidence to suggest that surveillance is not simply a neutral exercise applied uniformly across the social landscape. Rather, organised and purposeful watching has the potential to produce and reinforce existing social divisions along axes of class, gender, sexuality, age, race and ethnicity (Coleman & McCahill, 2010).

While much research has focused on the surveillers, some scholars recognise the surveilled as social actors who can – and do – negotiate and evade surveillance practices (Prat, 2006; Yonucu, 2023). However, studies of surveillance have been largely confined to an examination of relatively *overt* surveillance practices encountered by substantial fractions of the population – such as the use of closed-circuit television (CCTV) in public spaces, the processes of data mining, or the deployment of facial recognition software. Although technologies of mass visual surveillance can routinely capture and record images of individuals as they go about their daily lives, for the most part the surveillance in question is brief and transitory. Although surveillance scholars continue to emphasise our increasing exposure to mass surveillance, it remains the case that much of this coverage is unobtrusive and well known – or at least easily knowable. As Wood & Monahan (2019) note, within most mass surveillance systems, citizens remain largely anonymous, and their personal details are not used in any meaningful way. Of course, this is not unproblematic, but it is reasonable to suggest that experiencing mass surveillance is qualitatively different from being subjected to covert investigation by the police, which is precise, up-close, and highly personal. Individuals selected for covert operations are often live targets – their ‘data’ are collected in real time and there is a lack of awareness, choice, or control for the individual within this process. Moreover, their personal details and movements are collated and scrutinised with an intensity that is inconsistent with processes of mass surveillance. A defining feature of covert policing is that the person being watched is chosen because of who *they are* or who *they are perceived to be*. Individuals may have their residence watched for days, weeks, or months on end by undercover officers stationed outside, or by hidden cameras positioned inside the home. They may be discretely followed as they move about in public spaces, and any contact with other individuals noted. Phones can be wire-tapped and electronic bugs planted in the subject’s home, enabling the police to listen to otherwise private – and sometimes exceptionally intimate – conversations and activities. In the most extreme cases – as documented by the UCPI – covert offices may make personal contact, using a false identity to gain trust and form a meaningful relationship with the subject of surveillance.

There is, in short, a need to distinguish between being watched as part of a population and being specifically targeted by the police as an individual. What is fundamentally different between the former and the latter is the nature of the intrusion, the power of the intruders, and the extent of personal violation – including its influence on dignity, bodily integrity, and the capacity to form intimate and trusting relationships.³ For us, the impact of surveillance systems should be understood in relation to how they can *interrupt and shape one's feelings about the world and the social order*. Yet, there continues to be surprisingly little research on how such targeted surveillance is internalised and experienced by the surveilled in the UK context. One exception is the study undertaken by Stephens-Griffin (2021), who conducted biographical interviews with eight spied-on environmental activists to assess the impact of undercover policing on their lives. He identified three different aspects to state interference. First, activists described a ‘fractured reality’ upon learning they had been surveilled, and this led to far-reaching implications for their sense of privacy and ability to trust people. Second, the exposure to undercover policing had a ‘derailing’ effect that pushed many respondents away from their environmental activism practices. Finally, Stephens-Griffin found strategies of ‘resilience’ among this group, with some transitioning into anti-state surveillance activism. Although this study provides an excellent starting point for examining the emotional and ontological injuries stemming from covert policing, the interview sample is small and confined to one protest community. Much like the focus of the UCPI, the research undertaken by Stephens-Griffin (2021) is principally on *political* policing, rather than *street* policing. If we include the offences and behaviours that contemporary covert policing is directed towards as a matter of routine – illicit drugs, theft, sex work – then a different, and much broader, strata of the public are implicated.

More empirical work needs to be done if we are to better understand the emotional territory and harms of covert policing from the perspective of the surveilled and, later in this review article, we suggest points of access through which researchers can begin this task. We also need to explore the differential impacts of such surveillance. We know that overt policing practices fall disproportionately on marginalised groups and visible minorities whose lives are already infused with various structural and personal disadvantages. There is, therefore, reason to expect that covert policing is similarly discriminatory and, as such, it is crucial for researchers to determine who is being surveilled, with a particular emphasis on questions of race and ethnicity, gender, sexuality, age, economic status and class. As noted, there are significant problems associated with obtaining accurate and detailed information on the prevalence of covert policing and how, exactly, surveillance powers are deployed. No available data exist on the types of offences being investigated via covert methods, on what kinds of private data were collected, or how many people were affected by the operation. There is also no accessible information on whether the covert operation led to a successful prosecution or conviction or disruption or prevention of targeted criminal activity. The lack of emphasis on prosecution in the planning of covert operations often means there is also little scrutiny by courts and the wider criminal justice system (Undercover Policing Inquiry, 2023). These points become particularly poignant when attending to the potential for disparity and disproportionality within such operations.

3.2 | Shifting the focus

The themes we have raised so far require us to engage with difficult questions about the nature of the harms arising from undercover policing and covert surveillance, who can and should be

regarded as a victim of covert policing, and whether absolute limits need to be placed on the surveillance powers of the state. By its very nature, covert policing aims to produce a comprehensive picture of the individual and their activities. Although the stated purpose of such intensive surveillance is to gather evidence of criminality – and criminal relationships – such surveillance inevitably exposes behaviour that is well outside the scope of the criminal law. As a consequence, covert surveillance does far more than infringe on individual privacy; it also has the potential to seriously undermine the dignity of the subject and compromise their relationships with others. This raises the question of whether we need to reconsider our understanding of the harms arising from state surveillance – which have typically been framed in terms of privacy – when discussing covert policing. If *dignitary* – as distinct from privacy – interests are engaged, how should researchers address this issue when talking about the costs and benefits of this increasingly normalised form of policing?

In our view, if we are to develop an account of covert policing that focuses on the experiences of the surveilled, we need to expand our framework of harm to include the myriad ways in which such surveillance can damage an individual's sense of self, their ability to form and maintain relations with others, and their trust in the police and state. People who are under police surveillance lose what we would call *consensual security* – that is to say, they lose the right to know who is intruding into their lives, why and with what implication. They also suffer the loss of an opportunity to defend themselves against criminal allegations. From a suspect's point of view, covert policing is radically different from conventional policing because the safeguards that normally accompany overt justice processes are entirely absent. Given the particular harms that can arise from covert surveillance, we can identify a number of core questions that researchers will need to grapple with in their efforts to understand how such surveillance affects those targeted. These questions include (but are not limited to): Can existing accounts of privacy capture the unique dignitary harms that can arise from covert surveillance? Do we need to distinguish between different types of surveillance subjects based on their degree of exposure, the extent and nature of their alleged criminality, or the (il)legality of the police surveillance itself? Does it matter when (and whether) a subject becomes aware that they have been a target of undercover work or covert surveillance? To what extent should any account of the harms arising from covert surveillance encompass ideas of secondary victimisation and the ongoing effects of trauma?

By engaging with issues of harm, dignity, and the individual costs of covert policing, we not only place the surveilled at the centre of our analysis, but also open up new possibilities for thinking about the (moral) limits of police surveillance. For example, if we conclude that there are certain types of surveillance harms that can never be justified – regardless of the type of criminality the subject is suspected of – then this has significant ramifications for the way in which existing approval and authorisation regimes should operate. We might argue that if there is a substantial risk that the police may observe a subject engaged in a sexual act unrelated to the purpose of the surveillance – with their partner, for example – then the surveillance should be immediately discontinued until such time as that risk has passed. Similarly, where an undercover officer suspects that their target has begun to form a romantic attachment to them, they should either withdraw from the field or find some other way to ensure that the relationship goes no further. These are not easy boundaries to draw. Establishing them requires us to make difficult decisions about how far we are willing to let the state go in terms of investigating crime and – perhaps even more problematically – to decide whether there are certain contexts in which the techniques of covert policing are simply never acceptable.

3.3 | Learning from the past

This article has been prompted by our own research on policing and surveillance in the UK, but also by the deeply troubling revelations that have emerged from the UCPI. As a result, the analysis presented here is focused primarily on the UK context. Nevertheless, as daunting as it may be to reorient our understanding of covert policing – and the harms it can cause to those under surveillance – there is a great deal to be learned from countries that have recently experienced authoritarian regimes in which state-sponsored surveillance was pervasive and highly intrusive. In many instances, part of the process of transitioning to democratic government has involved revealing and coming to terms with the human costs of such surveillance and, moreover, acknowledging just how the use of undercover agents, informants and other covert methods damages trust and intimate relationships – sometimes irreparably. We are not comparing policing practices in the UK with those of authoritarian regimes but, rather, highlight that it is in the aftermath of such regimes that the harms of covert policing and state surveillance are rendered visible.

The collapse of the German Democratic Republic (GDR) – and, with it, the release of the Ministry of State Security (‘Stasi’) files detailing the state surveillance of its citizens – most profoundly demonstrates the importance of accounting for the human costs associated with the knowledge of being under covert surveillance. Over the course of four decades, the Stasi deployed intrusive tactics that included: intercepting personal mail; telephone tapping; bugging the homes of targets; conducting covert house searches; the extensive deployment of undercover operatives and civilian informants; and the routine use of ‘sex espionage’ for the purposes of gathering intelligence (Neuendorf, 2017; Rutz, 2019). Of course, while these methods of surveillance are available to, and used by, governments of liberal democracies today – and, we could add, are significantly enhanced by recent technological developments – the German experience is notable because of the extent of state targets and the eventual decision to release the files compiled from surveillance to those who were targeted, and the plethora of research that followed on the enduring implications of secret policing. Following reunification, the passage of the Stasi Records Act 1991 provided immediate access for individuals wishing to see the files collected on them. This unprecedented process of disclosure prompted studies that focused on the lives and narratives of the surveilled. Although the term for those whose personal details were meticulously collected varies – from ‘suspect’ and ‘victim’ to ‘data subject’ and ‘object’ – it is clear that their lives within the GDR and during the collapse of the regime were characterised by a myriad of harms and injuries. These included (but were not limited to): suicide and self-harm; feelings of betrayal and self-doubt; an unstable sense of security and anxiety for the future; an incessant distrust of others; dissecting past interactions; rigorous self-policing behaviours; and a fear of the state as an overbearing entity that significantly restricted life chances (Andrews, 2003; Danielson, 2004; Glaeser, 2011; Maercker & Guski-Leinwand, 2018; Neuendorf, 2017). Collectively, ethnographic accounts and life histories have confirmed the long-standing implications and emotional pain that covert policing practices carried out by the GDR inflicted on the well-being of individuals, communities and, indeed, society as a whole.

Prior to the release of the Stasi files, many feared that citizens of the former GDR would be unable to cope with the truth about the scale and depths of the surveillance (Danielson, 2004). However, the German experience of disclosure – and official acknowledgement of the suffering engendered by state surveillance – has shown that transparency and subsequent processes of reconciliation were beneficial for strengthening democracy and creating a sense of justice for those affected (Byrnes, 2017; Pfaff, 2001; Sloan, 2016).

There is a growing body of literature based on the secret files collated by police in other countries that also underscores the point that, at the root of state covert policing and surveillance, is the

human impact. Of particular importance is the auto-ethnography by Verdery (2018) who reflected on the ontological repercussions of being watched for decades by the Romanian Securitate, noting that: 'There is nothing like reading your secret police file to make you wonder who you really are' (p.2). As Verdery explains, the reasons why citizens became victims of surveillance varied over the years, but the release of the files – including her own – were often weaponised against citizens perceived to be anti-government and tell a troubled story of people entangled in a labyrinth of deception, intimidation and human rights abuses. As an anthropologist, Verdery not only examines how reading her own file challenged her personal identity, but how it also had implications for her professional life and the production of scholarly knowledge.

Historical analyses have also examined Northern Ireland as a heavily policed/surveilled society, providing a unique perspective on the impact of surveillance on the citizen, the community, and wider society. As Geraghty (2000) highlights, Northern Ireland's troubled political context prompted the deployment of covert intelligence-gathering techniques that produced what amounted to an 'invisible cage of electronic and human surveillance, Orwellian in its implications for a liberal society' (p.74). To date, scholars examining the policing of Northern Ireland have focused primarily on the enduring effects of the use of covert civilian informers by the police and intelligence agencies, revealing how an atmosphere of mistrust came to dominate citizen interactions and created a habit of self-censorship and suspicion that led many people to retreat deeper into their own private lives (Cochrane & Monaghan, 2012; McEvoy, 2003). The violent backdrop of daily life in Northern Ireland served only to compound this fear of surveillance, suggesting that the effects of covert intelligence-gathering are heightened in sites of political conflict (Dudai, 2012). The recent revelations in the interim report on Operation Kenova (Boutcher, 2024) raises significant concerns about the use of covert policing tactics in the context of such conflict, strengthening our argument for the need to produce a better understanding of the additional harms caused by such practices.

There is also a body of literature that discusses the histories and ramifications of covert surveillance and secret policing in other world regions such as Latin America (Ginter, 2008; Gonçalves, 2014) and East Asia (Chin & Lin, 2022; Greitens, 2016). What such works demonstrate is that the tendency to focus on the use of violence and overt coercion by authoritarian states risks underplaying a critical element of their approach to governance and the exercise of power, namely: the heavy reliance on covert, low-intensity forms of repression and targeted pre-emption to control ordinary citizens, those posing a criminal threat, and political opponents. As damaging as the naked use of police power can be, these less visible, covert forms of repression can result in a myriad of harms that haunt people and communities long after the regime has fallen.

Of course, caution needs to be exercised when comparing surveillance regimes across countries, and historically the police in the UK have not engaged in levels of covert surveillance akin to those found in East Germany, Romania and other similar contexts. Nevertheless, the scholarly literature on the effects of surveillance in these countries offers important insights into just how far state surveillance can encroach on, reach into, and derail the world of the surveilled, and it reveals how the victims of such surveillance adapt, reconstruct and reconcile their lives in response. Moreover, by examining this literature and exploring the human dimensions of covert policing, we can begin to assess the *longitudinal impact* of this uniquely intrusive form of policing on individuals, communities, and society at large, moving away from a focus on specific, discrete harms to privacy and other rights. The above cases are also particularly instructive because they provide lessons for how we might understand the moral imperatives of disclosure. Today, Germany – and, indeed, several other European countries – is a provocative point of comparison with the UK due to a clause in German procedural law stating that those who have been placed under

surveillance *should eventually be informed of this* (Joubert, 1994).⁴ Historical legacies, political culture, and processes of democratisation may explain differences in approaches to disclosure – but nevertheless require much closer examination by scholars.

Capturing how covert intelligence-gathering practices affects people will deepen our understandings of the spectrum of circumstances in which citizens face – and respond to – state power. As such, adopting a human-centred approach to covert policing will require an approach that emphasises both a top-down reconsideration of the increasingly normalised place covert investigation occupies in policing practices, cultures and organisations, and a bottom-up, qualitative research-driven exploration of the lived experiences of those who have been subjected to it. We now turn to consider other conceptual lenses that may assist in framing these different approaches.

3.4 | Police legitimacy, morality, and the state

Police contact – of the visible, uniformed kind – provides many members of the public with a tangible experience of the state, powerfully shaping conceptions of citizenship (Skinns, 2019). In liberal democracies, legitimacy is the foundation of police authority and is central to securing and maintaining the public's commitment to the rule of law. Much empirical research demonstrates that when people perceive policing to be unfair and intrusive, not only is trust in the police lost, but police and state legitimacy is also damaged (Jackson et al., 2012). To date, studies exploring questions of legitimacy and trust have largely been confined to visible and sometimes dramatic displays of policing, such as stop-and-search encounters in public spaces (Scrase, 2021). As a consequence, deliberately concealed exercises of police and state power – such as those enacted through covert methods – are not adequately captured in the debates around police legitimacy. How might the legitimacy of the police, and by extension the state, be disrupted and (re)negotiated in the eyes of individuals who have been covertly policed?

Studies on 'suspect communities' – especially racialised and immigrant populations – have examined how stigmatised groups internalise and are troubled by police attention and, to an extent, can help us to partially answer this question. Such works demonstrate that extensive forms of policing and state surveillance – and how it responds to public debates around security and who constitutes a threat – cuts deeply into the social fabric, harming not only individual targets but also causing damage to the communities in which they live (Bajc, 2013; Bonino & Kaoullas, 2015). For instance, Parmar (2011) found that perceptions of being over-policed and heavily monitored unsettled Muslim communities' sense of belonging, in addition to invoking feelings of fear and distrust of people around them. Dhamoon & Abu-Laban (2009) have also shown how certain groups come to be constructed as 'internal dangerous foreigners' through a combination of discourses that intertwine racialisation and security, with far-reaching implications for the continued policing – both overt and covert – of minority groups. There are reasons to believe that internalisation – a condition where a person absorbs an adverse experience to such an extent that it becomes a core part of their character (Seet, 2021) – is particularly germane for racialised groups who experience intense and sustained police surveillance as a form of state-sanctioned racism (Abbas, 2019; see also Alam & Husband, 2013). Populations on the receiving end of overt policing practices are typically those whose lives are already infused with individual and systemic disadvantage, resulting in unequal power dynamics when it comes to interactions with the police (Fassin, 2015). Turning back to the pains of policing discourse we discussed earlier, this raises important questions about the 'depth', 'weight' and 'tightness' (Crewe, 2021) of the different guises of state power.

Looking beyond the immediate impact on police-community relations, our interest in perceptions of legitimacy and feelings of trust for those subjected to covert methods also extends to questions about the moral and cultural life of state institutions. State bureaucrats are necessary to distribute and sustain an array of public goods – including the provision of policing (Loader & Walker, 2001) – although some have been denigrated for their autocratic tendencies. In response, researchers have sought to lay bare the informal values, emotions and moral judgments embodied in the frontline work of state agents (Douglas, 1988; Fassin, 2015; Zacka, 2017). Indeed, it is recognised that the police are much more than just law enforcers; they are constantly engaged in the construction and reconstruction of the moral and social order and are expected to serve as archetypical representatives of society (Marquis, 1992). In this way, police officers are important moral agents and citizens look to them to strengthen and reflect the moral values and structures of society (Sunshine & Tyler, 2003). And yet, it is equally recognised that institutions have the capacity to – and often do – constrain the moral agency of those who work inside them. Researchers who understand police officers as moral agents have sought to expose the myriad of moral dispositions that indistinctly shapes their approach to those with whom they come into contact. While new recruits to the police often start out with good intentions, these virtues become weakened by the police mission and organisational directives, informal socialisation processes, and the real-world encounters the police have with their – challenging and often disadvantaged – publics. What, then, are the difficulties and conflicting demands associated with sustaining a public service ethos in the covert policing context? How might the underlying logics of undercover work erode the moral responsibilities of surveillance officers? Those who carry out and endure the covert role are no doubt required to deal with a range of situations where they are pulled in conflicting directions that may jeopardise their sense of selves as public servants, and their own moral compass as people. While the antecedent events and influences that led up to – and, hence, may partly explain – the types of immoral behaviour at the centre of the UCPI are coming to light, we still have little understanding of the circumstances in which these moral struggles (between the covert officer and the organisation that employs them) play out. Do police institutional narratives portray the surveilled as socially risky and morally substandard to make officers more comfortable crossing ethical – and possibly legal – lines in the course of their work? Does the explicit authorisation to commit crime contained in the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 clarify such moral dilemmas or deepen the risks of overstepping moral boundaries?

Although scholars have highlighted and explored the ethical quandaries arising from various forms of covert policing (Harfield & Harfield 2012; Nathan, 2022), more research is needed to examine how covert officers *feel* about the morally questionable work they do, and how the moral hazards they routinely face may affect them both personally and professionally. Two telling studies conducted in the US have provided a valuable window into the subjective experiences of undercover officers with respect to the question of moral distress. While one found that undercover operatives that befriend, deceive and entrap suspects do not feel guilty about what they have done (Nielsen, 2000), another noted that they can experience an uncomfortable fit between their role as undercover agents and their own sense of what is morally right versus wrong (Coghlan, 2011). These studies imply that undercover officers hold a diversity of moral outlooks and are not homogenous. In the UK, while some empirical studies have touched on these issues, they have mostly focused on exploring the stressors associated with working in covert roles and the consequences of such work for the health and well-being of officers. Curran (2021), for instance, conducted interviews with former undercover officers and noted that feelings of guilt and shame were occasionally felt ‘when the perceived vulnerability of their targets and those on the periphery were described’ (p.262). More research is needed to further unearth these kinds of admissions

and explore the normative and emotional reflexes stemming from the covert role, and we would appeal to police organisations to collaborate with academics to provide access to undercover officers and others engaged in covert surveillance to better understand the morally injurious events that they are frequently exposed to and their feelings – if any – of moral distress. While it is clear that officers engaged in covert work are not simply state puppets carrying out orders without question or reflection, it is nevertheless important to understand the factors that may contribute to the erosion or suspension of moral sensibilities of frontline agents working in challenging and ethically-fraught conditions. Put bluntly, we need to understand whether, and to what extent, covert officers are required to abandon their conscience when they leave overt policing – and their uniform – behind. To do so, we must aim to ‘humanise’ covert officers and understand the vulnerabilities and complicities of these state agents, while also generating a critical appraisal of what they do (Karpiak, 2016; see also Jauregui, 2013).

Going further, we must not lose sight of the fact that the very practice of covert methods of investigation calls into question the moral character of the state and, in particular, its ability to act convincingly as a ‘symbolic repository of societal values’ (Marx, 1988, p.9). If the state does not live up to honest, virtuous and fair standards, then its own institutions – and, indeed, citizens alike – may be prompted to recalibrate their own sense of what principles of right and wrong mean. Thus, examining the personal harms of covert policing has the potential to reveal the wider social and political costs of its use, and forces us to consider where the appropriate limits of police and state power in contemporary democracies should lie. In other words, examining the individual harms generated by the use of covert policing provides us with a window through which we can view the *heart* of the state (Fassin, 2015).

3.5 | Pains of policing

One concept we believe would significantly help to focus research and reflection on the harms of covert surveillance is recent work on what has become known as the ‘pains of policing’. Evolving from the classic pains of imprisonment schema that sought to understand the indignities of prison life (Sykes, 1958), the pains of policing has become an influential frame to describe the range of behaviours and consequences that are characterised as distressing failings, injuries, or injustices resulting from police intervention. Harkin (2015) has led the debate on this front and identified a litany of pains that are police-produced. These include: the deprivations of *liberty* and *autonomy* that arise when the police arrest suspects or take away their freedom of movement; deprivations of *goods and services* related to the role of the police in maintaining and reproducing societal inequalities; deprivations of *security* where officers over-police particular groups as suspects, and under-police others as victims of crime; and additional pains derived from how the police can stigmatise, intimidate, or kill their various publics. Allied work has offered crucial empirical insights into the infliction of suffering and the state delivery of pain in distinct arenas of policing, such as in police custody (Skinns & Wooff, 2021). Looking beyond the UK, the unjust and violent policing that has so often culminated in the murder of African American men offers a stark reminder that police officers – while presented as our best protectors and providers of security – are also a major threat to public security and can inflict unimaginable harm (Linneman, 2022).

These debates, important as they are, nevertheless pertain to policing in its overt, rather than covert, forms. This challenges us to consider what pains and deprivations might also be engendered by covert and undercover practices, and how they are experienced by those on the receiving end – and, indeed, those people close to them. Since covert policing is grounded in

secrecy and, in the case of undercover work, relies explicitly on deceit, it is difficult for researchers to examine and make visible the injuries prompted by its use. Additionally, if we are to apply a pains of policing lens to the world of covert policing, we also need to be willing to look beyond conventional notions of police coercive *force*. As Skinns & Wooff (2021) observe: 'Consideration of the pain-punishment-nexus has ... tended to focus on the use of coercion, particularly the use of force, thereby linking punishment to policing through notions of physical pain more so than emotional pain' (p.249). With the latter point in mind, we are reminded of the suggestion that governments may use undercover methods and deception as an *alternative to brute force* (Marx, 1988), although the question of whether the broad deployment of covert tactics has replaced – or even reduced – physical abuse is debatable. Nevertheless, it is reasonable to suppose that a person who realises they have been exposed to covert intelligence-gathering and state interference may experience varying levels of emotional disruption and ontological conflict. Indeed, the victims of the undercover policing scandal campaigned for the establishment of UCPI in the hope that the harms caused to them would be recognised and those responsible held to account, and clearly demonstrates the need to account for less visible forms of pain and harm.

In policing scholarship, there is widespread recognition that the brunt of conventional, overt policing practices falls disproportionately on marginalised and excluded populations – and their pains have been acknowledged and extensively studied (Bevan, 2022; Boon Kuo, 2017; Harkin, 2015). However, by overlooking the experiences of those who have been targeted by covert forms of policing, future studies are liable to produce partial accounts that do not reflect the lived realities and consequences for *all* people on the sharp end of policing practices.

On a final point, there is also merit to exploring whether there may be *different harms* of covert methods of investigation being deployed against *different groups* – such as members of political movements and criminal organisations – mirroring our earlier discussion around the appropriate use of the term 'victim'. For instance, would people who engage in climate change activism, trade unionism or anti-racist activism feel more pained and violated upon finding out they had been placed under surveillance because – at least to them – they are simply championing an important cause that they care deeply about? Conversely, might someone engaged in organised crime – for example, trafficking drugs as a member of a criminal gang – feel *as* pained since they may fully expect the police to deploy a myriad of covert techniques against them and simply see being exposed to such policing as 'part of the job'? For the latter, in other words, the disclosure of covert surveillance may not be so ontological devastating. These are empirical questions that require researchers to engage with the surveilled to explore notions of victimhood and harm within this context.

4 | TAKING STOCK

So far, we have appealed to scholars to take seriously – and think anew about – the harms and injuries prompted by covert policing, and we have identified possible areas for conceptual and theoretical engagement. While we have apparently accepted that mass surveillance and a state of permanent securitisation is a feature of liberal democracies (Lamer, 2017; Zedner, 2005), it is plausible to suggest that covert surveillance by the police has yet to become banal in the minds of the public. Recent controversies about the uses and impact of undercover policing have heightened public awareness in this area. As such, there is still an opportunity for scholars to engage in a meaningful debate about the uses, implications and limits of such policing and, perhaps, prevent us from sleepwalking into a future where undercover infiltration and seemingly

passive methods of covert surveillance have become truly and irrevocably normalised. The common pursuit of security – coupled with the inevitability of cheaper and smarter technologies for surveillance – means that covert surveillance by states is destined to retain its privileged position in contemporary law enforcement.

Establishing a debate along the lines we suggest may also elide into a broader discussion about the very purpose of covert policing and its future, within the UK and beyond. Notwithstanding the concerns we raise, we do not shy away from the benefits that covert policing can bring – and our purpose in this article is not necessarily to advocate for the abolition of this mode of policing. Nevertheless, it is befitting to raise the question: what might a policing future free from covert methods look like? In this imaginary, what other overt techniques would the police mobilise to fight crime and harmful behaviours? What might the costs be to victims – and criminal suspects – of resorting to alternatives that fall outside of covert methods? While such questions deserve serious consideration, our primary purpose in this article has been to construct a research agenda that aims to better comprehend the immediate and enduring injuries stemming from covert policing – from the personal, to the social, and the political.

5 | RESEARCHING THE HARMS OF COVERT SURVEILLANCE: POINTS OF ACCESS

The conceptual and theoretical insights we have presented here require us to reach out to the surveilled in order to reveal the complexity of, and human costs associated with, covert policing. Bringing to light the everyday harms and reverberating effects of covert operations is crucial if we are to fully evaluate the eventual and overall impact of state surveillance. This is easier said than done. As a power resource uncoupled from the visible spectacle of conventional law enforcement, covert policing is notoriously challenging to study empirically (Loftus, Goold & Mac Giollaibhui, 2023). Accessing people who have been targeted by covert policing is an especially complicated process since most people remain entirely unaware of their status within a clandestine operation. Illuminating the harms of covert surveillance is also liable to produce significant ethical dilemmas. Nevertheless, we now make our second appeal to scholars; *to place the surveilled at the heart of future empirical investigations into existing and emerging manifestations of covert policing to enable new forms of critique of surveillance practices*. In particular, we advocate for the collection of detailed empirical knowledge about the aftermath of covert policing, with a particular emphasis on how it manifests in, and shapes, everyday lives. In what follows, we focus our attention on what we believe are promising points of research access and methodologies that can highlight how practices of covert policing are experienced – and potentially resisted – by different members of the public. We contend that there is a mosaic of available sources which – if approached carefully – can be examined in a new light to understand the lived experiences of the surveilled and the extent of the social injuries that arise from covert policing.

5.1 | Documentary research/narrative analyses of evidence and testimony from the UCPI

Public inquiries have become increasingly favoured instruments for responding to public sector scandals and resulting crises in government and governance (Greer & McLaughlin, 2017). The public inquiry into undercover policing began hearing testimony in October 2020 from

Core Participants, a term used to refer both to undercover officers and people exposed to undercover policing practices. As Schlembach (2016) explains, the status of these Non-State Non-Police (NSNP) Core Participants was determined on the basis of categories of identity and belonging: political organisations and politicians; trades unions and trades union members; relatives of deceased children; individuals in relationships with undercover officers; justice campaigns; and political, social and environmental activists. While most of the participants are named, others are known only by anonymous identifiers. To date, detailed submissions to the Inquiry have been made by NSNP participants, with an emphasis on the positive duty of the state under Article 8 of the European Convention on Human Rights (ECHR) to provide information about the possible infringement of state actors into private lives (Undercover Policing Inquiry, 2023). Although the UCPI may be viewed as a government strategy to simply manage the undercover policing scandal – and, in so doing, presents an opportunity to remind the community of the importance of public security (Schlembach, 2016) – all of the evidence and interim reports that the Inquiry considers part of its investigation are publicly available. As a result, regardless of the original intentions behind the establishment of the Inquiry, it has continued to produce a rich dataset that has the potential to significantly enhance our understanding of the trauma and experiences of the surveilled. In this context, narrative analysis and ‘crises sensemaking’ (Gephart, 2007) offers a valuable methodology through which to explore these data, as these methodologies direct our focus to the stories the surveilled use to organise and comprehend their own experiences of state surveillance. Related resources and commentaries arising from the UCPI may also provide beneficial insights into the issues affecting those involved. For instance, public statements on covert surveillance made by the UCPI, the surveilled or their supporters from relevant Twitter/X accounts – for example, @ucpinquiry, @out_of_lives, @undercovernet – are another original dataset for thematic inquiry that can illuminate the concerns we have raised in this review article.

5.2 | Transparency, complaints and recompense

The police go to great lengths to shield their covert surveillance activities from scrutiny – and, in certain circumstances, this is entirely defensible (Harfield & Harfield, 2012). The Human Rights Act 1998 nevertheless led to reforms aimed at providing greater oversight of the police and other agencies that conduct covert policing operations and surveillance (Murphy, 2016). Established in 2000, the Investigatory Powers Tribunal (IPT) is a court that consider complaints by anyone who believes they have been a victim of unlawful intrusion by a public authority using covert investigative techniques. The IPT was created under Section 7 of RIPA 2000 and is the only tribunal where the surveillance activities of law enforcement agencies can be challenged on ECHR grounds (Murphy, 2016). In this respect, the IPT provides some accountability and access to remedies for people who have been targeted by covert operations. The effectiveness of the IPT is, however, hampered by the fact that law enforcement agencies in the UK are not currently required to notify individuals who have been subjected to surveillance. Indeed, it is not the purpose of the IPT to inform complainants of whether they have, or have not, been the subject of covert activity, such as the interception of communications or contact with an undercover officer. Its function, rather, is to ascertain whether the public authorities have complied with legislation and acted proportionately (Murphy, 2016). However, if the complaint is upheld, the Tribunal may be able to *disclose details of the unlawful conduct*. Although data relating to the findings of the IPT are patchy, according to one report on its website, 374 complaints were received in 2021 – although less

than 4% of these cases were found in favour of the complainant (Investigatory Powers Tribunal, 2022).

Despite its limitations, the IPT provides a potentially important avenue for exploring how people who (reasonably) believe they have been placed under surveillance have been able to seek answers and recompense. Representatives of the Tribunal are well placed – perhaps in an interview setting – to explain the nature of complaints made by members of the public and the range of remedies available to these complainants. Given that much of the information provided to the Tribunal is confidential or subject to legal privilege, securing the support of the IPT will inevitably be challenging. Nevertheless, the IPT may be amenable to playing an interlocutory role, helping researchers to identify and obtain access to complainants. At the very least, a close analysis of IPT documents, reports, and tribunal findings can enhance understandings of how the work of the Tribunal impacts the experience of surveillance victims. By focusing on the factors underpinning discretionary decisions made by the IPT (to either pursue or discontinue a case) and the eventual outcomes for complainants, we are also able to address the question of whether the Tribunal provides adequate oversight and accountability, or instead leads to the secondary victimisation of some surveillance targets.

5.3 | National level data on surveillance authorisations and local case files

There have been important changes to the landscape of oversight and the reporting mechanisms relating to the police use of surveillance powers, in recent years. The publication of data on surveillance authorisations for police covert activity currently falls to IPCO. In 2017, three organisations were merged to form IPCO – the Office of Surveillance Commissioners (OSC), the Interception of Communications Commissioner's Office (IOCCO) and the Intelligence Service Commissioner's Office (ISComm). These bodies published annual reports from the year 2000 (in line with the creation of RIPA), which included yearly statistics on surveillance authorisation activity in England and Wales. To date, there have been few attempts to aggregate the number of authorisations at the national level or explore emerging patterns – with one notable exception. In its 2014 report entitled, *Off the record: how the police use surveillance powers*, Big Brother Watch found that between 2010 and 2012 alone, there were 27,115 authorisations for directed surveillance. This is equivalent, they suggest, to '24 directed surveillance operations being authorised every day – or one every hour' (Big Brother Watch, 2014, p.3). As we discussed earlier, there are distinct problems associated with obtaining accurate information on the prevalence of covert policing. However, officially-produced data on the annual number of authorisations should be further explored with a view to identifying changing patterns of surveillance over the years.

Anonymised case files from past covert operations undertaken by the police could also be used to significantly enhance any quantitative analysis of surveillance authorisations at the national level. To add a measure of comparison to the surveillance contexts outlined earlier – that is, where the police direct covert methods towards perceived *external* threats such as organised crime, suspect communities and protest groups – it would be useful to access historic files where covert techniques were deployed against *internal* threats (e.g., police officers suspected of malpractice and corruption). Ongoing national scandals exposing the dysfunctional and misogynistic culture within UK policing have prompted a number of senior police leaders to openly state their support for directing covert techniques against their own officers (BBC News, 2023). Nonetheless, the extent to which such covert investigations targeting police officers are carried out in the UK

is largely unknown or at least has gone largely unnoticed. Police organisations may, therefore, be willing to share case files of covert operations and work with academic researchers to collectively understand the issues we have raised in this review article.

5.4 | Giving voice to the surveilled

Finally, and most importantly, any research agenda aimed at better understanding the painful impacts of covert policing must begin with the question of how to enable the surveilled to present their own narrative of surveillance. In our view, The Biographical Narrative Interview Method (BNIM) is uniquely placed to capture the voices and experiences of the surveilled. This is a method widely recognised for its ability to provide participants with an opportunity to tell their story in a safe environment while also ensuring that participants can safely set their own priorities and narrative structure (Wengraf, 2018). Without pre-empting such empirical work, observations from the UCPI suggest that the stories of the surveilled exposed to undercover agents are likely to coalesce around the following themes: how they became aware of their position within the covert operation; the emotional and ontological aspects of this disclosure in the immediate aftermath; the search (if any) for answers in the wake of the revelation; how the surveillance has impacted their relationships with those around them; their enduring understandings of the police and the state, as well as their sense of order and place within the social world; and the legitimacy of the covert operation(s) they were part of. Interviews conducted with the surveilled may also reveal whether the surveillance led to any prosecutions and convictions or other outcomes, such as an apology and compensation from the police.

By sharing their stories, some of the surveilled might experience a sense of vindication, recognition and acknowledgement. As Cook & Walklate (2019) argue, narratives of harm and victimisation are personally and existentially significant but they can also prompt social and political change. Clearly, there are profound challenges associated with accessing and engaging with people who have been covertly watched by the police. Yet, there are circumstances in which this group can – and do – come to know their status as surveillance subjects. These include, but are not limited to: disclosure through investigative journalism and media scandals; in court proceedings where the evidence presented is the result of covert operations; situations where undercover officers have vanished from a particular scene or peer group (and the people left behind have investigated their whereabouts thereby exposing the surveillance); or where a subject has stumbled across evidence of a covert operation, such as a concealed camera, tracking device, or identifying documents of a person they thought they knew. It seems to us that there are several key constituencies that may be willing to share valuable insights into their experiences of covert policing, including:

- (i) *Participants in the UCPI*: As previously noted, the public Inquiry emerged as a response to a series of media stories about unethical and illegal undercover policing tactics that included cases where undercover officers formed sexual relationships with female activists, stole the identities of deceased children to use as the basis for their fake identities, and encouraged activists to engage in criminal activities (Undercover Policing Inquiry, 2023). To date, over 200 individuals have been designated as Core Participants of the Inquiry, many of whom want to tell their story and have their voices heard. In addition to providing an opportunity to recruit a sample of research participants, the Inquiry has also produced a collection of documents that can provide crucial insights into the individual experiences of those placed

under surveillance and actively deceived by undercover officers. Although at the time of writing it is unclear as to when the Inquiry might conclude, based on the richness of the data it has produced so far – and the potential willingness of those involved to further share their stories – there is a strong and urgent incentive for researchers to engage with the Inquiry and expand on the valuable work it has done to date.

- (ii) *Campaign groups*: Following the media scandals that led to the UCPI, a flurry of civil society and campaign groups have emerged to collate evidence and testimony – principally from protestors and activists exposed to undercover infiltration. These groups include, among others, the Undercover Research Group (URG), Police Spies Out of Lives, Campaign Opposing Police Surveillance, and others. Much like those victims who advocated for the UCPI, members of these campaign groups have also consciously pressed to make their experiences with covert police known to the public. As Scraton (2013) suggests, civil society campaigns that operate in tandem with public inquiries and investigations can be regarded as ‘an alternative method for liberating truth securing acknowledgement, and pursuing justice’ (p.2). As such, the experiences of those who are part of the campaign groups can deepen understandings of the issues we have drawn attention to here.
- (iii) *Lawyers*: Evidence in court proceedings – particularly against people charged with serious crimes – can include information that is collected through covert policing (Singh, 2021). Novel forms of evidence brought into court include the data gathered from a range of covert tactics, such as interception of communications, tracking devices and video/audio surveillance. Since it is occasionally disclosed to the defence that their client has been the subject of a covert police investigation, lawyers are well placed to aid in accessing the surveilled. The support of lawyers may not be easy to secure – not least because of legal professional privilege – but such barriers are not insurmountable. First, the legality and propriety of court cases that rely on evidence obtained through covert means is a topic of concern among legal professionals (Optican, 2017) and, as such, defence lawyers may appreciate academic research that aims to expose the immediate and enduring harms generated by these tactics. Second, lawyers could potentially act as interlocutors by passing study details to their clients who could then decide whether to speak with researchers.
- (iv) *Former prisoners and ex-offenders and their families*: It follows that people who have been convicted on the basis of evidence garnered from covert investigations are likely to know this information during proceedings (Singh, 2021). As we discussed earlier, while we may not want to describe a person convicted of a serious criminal offence as a ‘victim’, understanding their experience of covert policing is important to the development of a comprehensive account of the biographical impact of such practices. Given that being subjected to persistent individualised and intrusive surveillance may (further) erode confidence in the police and trust in the state – and as such act as a barrier to rehabilitation, reintegration, and desistance, organisations that provide support for offenders in (and after) prison may be able to provide valuable insights into the consequences of covert policing. In the UK, such organisations would include the Prison Reform Trust, the National Probation Service, and the National Association for the Care and Resettlement of Offenders (Nacro). All of these organisations are well positioned to identify potential research participants, and may be able to help arrange access to interested subjects, especially if they share the concerns we have outlined.

Although the above list is far from exhaustive, we believe that it provides a practical survey of some of the avenues that may be available to researchers interested in taking a human-centred approach to understanding the impacts of covert policing. However, it is also important for

researchers to look beyond those who have been the direct targets of covert policing since these operations frequently involve the surveillance of those associated with the principal target and, as such, can contaminate others as ‘collaterals’. The College of Policing (2021, p.41) identifies three forms of collateral intrusion – inevitable (intimate associates), foreseeable (unknown associates) and general intrusion (members of the public) – and requests particular considerations of the necessity and proportionality of such operations. The family, neighbours and friends of the individual covertly targeted may be subject to intense scrutiny and there is a real possibility that they, too, may experience a number of harms if they become aware that they were watched. Finding out that a loved one or close associate has been subjected to covert policing also has the potential to result in mediated or collective forms of harm. The fallout left behind by covert policing may radiate through families and communities, impacting a wider network of people that goes well beyond the individual subject of the operation. Thus, examining what we call *collateral harms* – and their human implications – promises to deepen our understanding of the hidden costs of covert policing and its potential for excess.

Conducting research on the ramifications of a largely hidden state practice is challenging – though not impossible – and calls for a rethinking of the strategies and methods for effective data collection in what is an extreme and sensitive research environment. We therefore appeal to research funding bodies to recognise the personal, social and political importance of the agenda we have set out here, and also underline the need for university research ethics boards to provide academics with the institutional support necessary to work with the surveilled, some of whom may consider themselves to be victims of state abuse. Individual researchers will need to be particularly mindful of their own ethical and moral obligations within such a context, a subject we turn to in the final substantive section of this review article.

5.5 | Ethics in researching the surveilled

Empirically examining the harms of covert policing raises substantial ethical dilemmas. Although questions remain around what victimhood within the covert policing context might look like, and recognising that different groups within ‘the surveilled’ may experience differential impacts and variants of harm, the first ethical challenge includes the potential vulnerability of some people who have been disproportionately and adversely exposed to undercover practices and who may view themselves as victims of state abuse. The women deceived into sexual relationships by male undercover officers are especially vulnerable, and their potential role in any research project will require much sensitivity and care. Other considerations include establishing an entry and exit strategy that involves dialogue with the surveilled about the beginning and conclusion of the research. Directing vulnerable respondents to credible support helplines and organisations is common in sensitive research, particularly when the assistance that is needed exceeds the capabilities of the researcher (Mooney, 2021). In short, we would advocate a trauma-informed approach to conducting research with the latter. Here, our interpretation of trauma is the ‘destruction of basic organising principles by which we come to know self, others, and the environment; traumas that wound deeply in a way that challenges the meaning of life’ (Root, 1992, cited in Alessi & Kahn, 2023, p.121). If done well, research conducted with people who believe that they have been significantly harmed by covert policing can both create new knowledge that infuses questions of trauma and survivor perspectives into policing scholarship and complement related works that address various systemic inequalities and power imbalances. Since some research participants will have been placed under surveillance because of their involvement in (perhaps

very serious) criminal offences, a second challenge relates to potential disclosures of past illegal behaviour, or plans to commit offences in the future. This is a recognised quandary in most criminological research, resulting from the inevitable emphasis on unearthing and examining crime and criminality (Worley, Worley & Wood, 2016). A study committed to examining covert policing from the perspective of those subjected to it, is not intended to probe any previous or ongoing illegal behaviour – and it is very unlikely that any participants would offer up such information. Nevertheless, as various ethical codes of conduct within the social sciences make clear, all academic researchers have an obligation to inform participants of their duty to disclose serious crimes and behaviour that present immediate harm to others to the authorities.⁵ Similarly, there is the possibility that respondents will describe illegal behaviour by the undercover officers they encountered. As our interest here lies with encouraging scholars to examine the harms done to those on the receiving end of covert practices, we do not see exposing the behaviour of individual officers as a key priority for this research. However, we do recognise that in certain situations researchers may have an obligation to report criminal behaviour on the part of covert officers. Clear protocols for the handling of such situations should be established before entering the field.

A third ethical dilemma within this context relates to researcher safety. Some research participants may have past or ongoing involvement in the commission of dangerous and harmful crimes, including interpersonal violence. This will require a serious and measured consideration of personal safety and, while there is no easy answer, it is usual in criminological research to develop data collection strategies that seek to manage potential risk and danger in-the-field (Buckland & Wincup, 2004). The final ethical consideration – and one that is inherent in all social science research – concerns the security of the data and ensuring that research participants cannot be identified either directly or indirectly. In our case, it would be a paradox to study people who have experienced a potentially substantial loss of privacy and autonomy without embedding core ethical principles of consent and confidentiality at every stage of the research process.

6 | CONCLUDING THOUGHTS

The global trend towards proactive policing has encouraged the normalised use of covert investigative techniques, suggesting that *both* visibility and invisibility are now central to the policing and social control of people. While the police are neither homogenous nor simply agents of domination, the deployment of covert techniques nevertheless raises questions about different guises of police and state power, and its everyday impact on the lives of those exposed to hidden forms of surveillance, as well as the harms it can inflict on communities and, indeed, society as a whole.

In addition to identifying areas for conceptual and theoretical engagement, we have also proposed a roadmap for future empirical inquiry. For our part, we have begun the task of attempting to implement the research agenda set out here, but we look to other scholars to actively engage with this emergent field of social inquiry. We know from the scandals surrounding undercover practices in the UK – and, indeed, studies of repressive state surveillance in other countries – that intrusive, intimate surveillance by anonymous state agents inflicts a range of harms and existential anxiety. This goes beyond the undermining of trust and confidence in personal relationships; it also has the potential to profoundly damage communities and relationships with the very state that the police represent.

A body of academic literature has explored the complex legal, moral, ethical, and rights-based dimensions of covert policing (Kruisenburgen, Jong & Kleemans, 2011; Marx, 1988; Nathan, 2017; Ross, 2007). Yet, in official circles, the deployment of undercover policing and covert surveillance

continues to be championed and defended in narrow terms as an *essential* endeavour since the end results – catching criminals and preventing crime – justifies the ethically questionable means (College of Policing, 2021; see also HM Inspectorate of Constabulary, 2014). It is, of course, incredibly difficult to argue against any strategy that aims to protect society from those who would otherwise cause harm. Yet, the problem with the official narrative is that the police and other vocal proponents continue to draw on the spectre of the dangerous criminal to justify covert tactics, and this fails to account for the way in which covert tactics are deployed against the kinds of people at the centre of the UCPI. By its very nature, covert policing knowingly undermines privacy rights and freedom of expression. It disrespects the sanctuary of private places and creates uncertainty and distrust within personal relationships and the larger community. As noted by Marx (1988, p.106), engaging in covert surveillance also inevitably results in the police – and, with them, the state – ‘teaching a bad moral lesson’. While we do acknowledge the valuable role that covert methods can play in disrupting and responding to serious threats to public safety, the official narrative that has come to characterise the debate – put simply, that the ends justify the means – reduces what should be a consideration of a range of factors to a superficial argument about the (untested) effectiveness of covert policing and turns our attention away from the complex question of where the moral limits of policing should lie in liberal democracies.

Paying closer attention to the intimacy and emotional territory of undercover work and covert surveillance also pushes at the boundaries of how we might define police use of force, coercion and state power. The incorporation of less visible processes of control into the police arsenal raises important and difficult moral questions about the appropriate relationship between individual rights, personal dignity, and state power in democratic societies that portray themselves as moral guardians and standards setters. The personal suffering demonstrated in the testimony of those at the heart of the UCPI are less about hard, physical violence than soft forms of symbolic violence (Bourdieu, 1979) which are no less intensely felt. The question, then, becomes one of how to assess the routine deployment of covert policing against the real-world damage that can arise from its use?

For our part, we believe there is a pressing need for independent, empirical research that engages directly with the lived experiences of those subjected both to undercover work and covert surveillance. At present, police organisations are rarely required to engage either with the individual or collective human costs of conducting covert policing. Similarly, those organisations tasked with overseeing the police use of covert tactics (such as the IPT) provide little, if any, insight into how such policing is actually experienced. This failure to attend to the human dimensions of covert policing goes a long way to explaining much of the ill-treatment of citizens by the undercover officers at the centre of the UCPI. Thanks to the work of this Inquiry – and the journalists, campaigners and victims who advocated for its establishment – there is an opportunity for scholars to fundamentally reconsider whether this kind of surveillance is tolerable in a society committed to privacy, individual dignity, and meaningful limits on the power of the police. Unless researchers seize on this moment to place people at the centre of the debate about the future of covert policing, there is a danger that we will sleepwalk into a world in which such methods become normalised and unquestioned.

The agenda we have outlined here also has significant implications for policy. Academic research that draws on empirical data to represent the lived experiences of those exposed to undercover work or other methods of covert investigation can provide police organisations – and other surveillance actors – with an opportunity to rethink and potentially temper their enthusiasm for morally-questionable or overly-intrusive surveillance. A human-centred approach is currently absent from the planning of covert operations, nor does it feature prominently in existing

authorisation regimes or police governance structures. In other arenas of policing – such as those relating to substance abuse – the police have been asked to change the way they view and deal with vulnerable people, and to recognise and respond to offending behaviour as a product of social and economic forces as well as individual factors. In this article we have argued that it is time to apply a similar humanitarian turn to the world of covert policing. In our view, police organisations must acknowledge and better account for the human costs of covert surveillance – not just to those targeted, but also to those around them and the communities in which they live. This is an essential first step towards repairing the lack of trust that currently taints covert practices, and part of a project – of humanising and centring the surveillance subject – that we encourage other criminologists, sociologists, and police scholars to support and engage with.

ENDNOTES

- ¹ While undercover policing and covert surveillance can be separated conceptually, we should note that the line between whether the surveillance is active or passive is rather blurred (see Brodeur, 1992).
- ² Aside from meeting the needs of European Union law, the creation of RIPA was also a response to a growing concern about the ethics of covert policing (Loftus, Goold & Mac Giollabhui, 2023). As a consequence of RIPA, there is now guidance about the conditions under which deceptive methods are justifiable, the kinds of limits that ought to be imposed, and the most effective ways of preventing their abuse by the police. Under RIPA, the police in England and Wales are required to obtain written authorisation for most forms of covert activity, with the responsibility for public disclosure of authorisation activity falling to the IPCO.
- ³ We are influenced by scholars who argue for a reframing of human rights, namely from discourses of (socio-legal) rights to one of dignity. For these authors, human dignity encapsulates all forms of human rights, including civil and political rights, social rights, economic rights, physical integrity rights, and cultural rights, among others. Moreover, and in the context of this article, the notion of human dignity draws better attention to the range of injuries inflicted by oppressive agents and institutions (see Daly, 2020; Regilme, 2019).
- ⁴ Article 110b *Strafprozessordnung* (a German law, adopted in 1992, to address undercover infiltration and other specialist policing techniques – see Joubert (1994, p.35)).
- ⁵ See, for example, *Guidelines on ethical research* by the British Sociological Association (2017) and the *Code of ethics* by the British Society of Criminology (2015).

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