

Rt. Hon Priti Patel
Secretary of State for the Home Department
Home Office
2 Marsham Street
London
SW1P 4DF

cc. Tyson.Hepple@homeoffice.gov.uk;
Julia.Dolby@homeoffice.gsi.gov.uk

Dear Home Secretary,

We are writing to raise concerns about the use of GPS monitoring for people on immigration bail.

The most recent Home Office bail policy¹ sets out its plan to transition from radio frequency monitoring to GPS monitoring for people on immigration bail. Whereas radio frequency monitoring can verify whether a person is where they should be at a given time, GPS monitoring provides 24/7 real time location monitoring, tracking an individual's every move: it tells you where someone has gone, where they have shopped, what GP's practice they have been to, and much more. Those who are being monitored in this way do not know when the ordeal will end because there is no time limit for how long people will be tracked.

Electronic monitoring of any kind already amounts to a significant interference with individual liberty and privacy. The psychological harm caused by electronic monitoring is well-documented – tag-wearers report that tags have an impact on almost every area of life including the ability to participate in society; relationships; financial and emotional stress; sleep; feelings of dehumanisation and stigma.² The Supreme Court has accepted that curfews (which are part and parcel of electronic monitoring immigration bail conditions) amount to a form of detention³.

GPS monitoring is far more intrusive, and closer to imprisonment, than curfews. It may well have a greater psychological impact upon the wearer. It effectively amounts to an extension of immigration detention outside the physical walls of immigration removal centres or prisons. This regressive and authoritarian policy is wholly inappropriate in a country that claims to uphold the right to liberty.

How the data will be used

The Home Office has given itself almost unlimited discretion to retrospectively access 24/7 geolocation data. This data will be collected, processed and retained by the private subcontractor –

¹ *Immigration Bail* Version 7.0 Published for Home Office staff 15 January 2021

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952910/immigration-bail-v7.0-gov-uk.pdf

² See Bhatia, Monish "Racial surveillance and the mental health impacts of electronic monitoring on migrants"

³ *The Queen (on the application of Jalloh) v Secretary of State for Home Department* [2020] UKSC 4, 12 February 2020, where the Supreme Court found that unlawful curfews of this nature amounted to false imprisonment.



Capita – and may be accessed by the Home Office under certain circumstances including “where it may be relevant to a claim by the individual under Article 8 ECHR⁴”.

Article 8 claims relate to a person’s family or private life and may involve considerable personal and private details about an individual’s life. A fundamentally dangerous implication of this proposal is that people who make human rights claims will now be required to give the state *carte blanche* to access highly personal and sensitive geolocation data—simply because it “may be relevant” to their claim. Worse still is the fact that it appears that individuals may not even be made aware of this when it happens.

This attempt to harvest immense volumes of geolocation data for purposes that go far beyond monitoring compliance with bail conditions was neither foreseen nor debated by parliament. This is in stark contrast with the use of electronic monitoring in the criminal justice system, where electronic monitoring data must only be “processed for specified, explicit and legitimate purposes”⁵.

Crucially, the act of making a legal claim about one’s human rights has never—and should never—entitle the state to engage in surveillance over one’s entire private life. This policy is unprecedented and has worrying implications for everyone’s ability to fight for their rights.

Net-widening

Given that GPS monitoring is far more invasive than its predecessor one might logically assume that it would be used more sparingly. Instead the government plans to vastly increase the number of people monitored. According to FOI data obtained by Leigh Day there are currently 269 people have been fitted with a GPS tag⁶. The government is currently preparing a Statutory Instrument to make electronic monitoring compulsory for all those facing deportation except where one of two exceptions apply, meaning thousands of additional people will likely be subject to this far more invasive form of monitoring⁷.

Additional concerns

Immigration bail is an administrative tool for contact management of people liable to be detained. It should not be used to coerce or punish and bail conditions must be proportionate in order to be lawful. This policy change is punitive, disproportionate and potentially unlawful.

The government has failed to demonstrate the purpose or necessity of switching from radio frequency to GPS monitoring. It is not using a pilot to evaluate the impact, cost or unintended consequences of mass GPS surveillance. There has been no consultation and we are not aware of any impact assessments that have been made to consider the equalities or data protection implications. The

⁴ Page 23, Home Office bail policy

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952910/immigration-bail-v7.0-gov-uk.pdf

⁵ Code of Practice: Electronic Monitoring, Electronic Monitoring Directorate, October 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/926813/em-revised-code-practice.pdf

⁶ Data is correct up to 10th May 2021, FOI response provided on 17th May 2021

⁷ Disclosed to BID via FOI response provided on 8th February 2021



policy change was not announced but rather introduced by stealth via a change to the immigration bail policy. That is inappropriate for a change that will interfere with the right to liberty and privacy for thousands of people⁸.

At no point has the invasiveness of GPS monitoring been acknowledged by the Home Office. This policy further isolates already marginalised people and leads to development or worsening of mental health conditions⁹. It widens state surveillance and allows the Home Office to access, with minimal safeguards, people's most sensitive, personal data. Those people who will be harmed by this policy have not been consulted. We urge the government to reconsider, to enable those who are not detained to live with dignity in the community.

We look forward to hearing from you

Yours sincerely,

Annie Viswanathan, Director, Bail for Immigration Detainees
Sam Grant, Head of Policy and Campaigns, Liberty

We have shared a draft of this letter with the following organisations who have each indicated their shared concern and support for the matters we raise:

Ali McGinley, Director, AVID (Association of Visitors to Immigration Detainees)
Alphonsine Kabagabo, Director, Women for Refugee Women
Anna Pincus, Director, Gatwick Detainees Welfare Group
Dorian Leatham, CEO, Migrants' Rights Network
Emma Ginn, Director, Medical Justice
Frances Webber, Vice-Chair, Institute of Race Relations
Isik Oguzertem, Director, Refugee Action Kingston
James Wilson, Acting Director, Detention Action
Joanne MacInnes, Director, West London Welcome
Jodie Blackstock, Legal Director, JUSTICE
Jonathan Ellis, Project Director, Detention Forum
Kat Lorenz, Director, Asylum Support Appeals Project.
Kerry Smith, Chief Executive Officer, Asylum Aid
Kerry Smith, Chief Executive Officer, Helen Bamber Foundation
Leila Zadeh, Executive Director, Rainbow Migration
Lisa Matthews, Coordinator, Right to Remain

⁸ A more detailed briefing is available here on Bail for Immigration Detainees' website

<https://www.biduk.org/articles/805-bid-s-briefing-on-electronic-monitoring>

⁹ The harm caused by GPS monitoring has been acknowledged by the Ministry of Justice, see *Process evaluation of the Global Positioning System (GPS) Electronic Monitoring Pilot Qualitative findings*, Ministry of Justice Analytical Series 2019, page 46

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779199/gps-location-monitoring-pilot-process-evaluation.pdf



Lubia Begum-Rob, Director, The Prisoners' Advice Service
Maya Esslemont, Director, After Exploitation
Mia Hasenson-Gross, Executive Director, René Cassin
Nazek Ramadan, Director, Migrant Voice
Nicolas Hatton, CEO, the3million
Sarah Teather, Director, Jesuit Refugee Service UK
Silkie Carlo, Director, Big Brother Watch
Sonya Sceats, Chief Executive, Freedom From Torture
Avril Sharp, Policy and Casework Officer, Kalayaan
Bethan Godley, Acting Project Director/Coordinator, Morton Hall Visitors' Group
Camilla Graham Wood, Senior Legal Officer, Privacy International
Chai Patel, Legal Policy Director, JCWI
Sahdya Darr, Immigration Policy Manager, Open Rights Group
Sheila Mosley, Steering Group on behalf of Quaker Asylum and Refugee Network
Susan Cueva, Trustee, Kanlungan Filipino Consortium
Zoe Connel, Project Coordinator for Arriving, Curious Monkey
Deighton Pierce Glynn solicitors
Diana Baxter, Alison Hunter & Barry O'Leary, Partners, Wesley Gryk Solicitors LLP
Tom Giles, Turpin Miller LLP
Toufique Hossain, Public Law Director, Duncan Lewis
Stephanie Hill, Leigh Day
Larne House Visitor Group
Liverpool Law Clinic
Race & Health

