



# The surveillance of 'prolific' offenders: Beyond 'docile bodies'

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## Abstract

This article uses ethnographic research to explore how a sample of state-defined 'prolific' offenders living in Northern City (a small city in the North of England) experience and respond to a surveillance regime which includes 'appointments', 'tracking', 'interviews', 'drug testing', 'electronic monitoring', 'home visits' and 'intelligence-led policing'. While some writers have argued that the experience of 'house arrest' and electronic monitoring is consistent with 'disciplinary power' and the 'self-governing capabilities' identified by Foucault, our article interweaves surveillance theory with the work of Pierre Bourdieu to argue that the 'surveilled' are a group of creative 'social actors' who may negotiate, modify, evade or contest surveillance practices.

## Keywords

capital, 'prolific' offenders, resistance, surveillance

## Introduction

The apparent demise of penal modernism and the emergence of punitive law enforcement policies alongside risk-based strategies of social control have been widely debated in the criminological literature. Introduced to deal with the social disorders and problem populations created by neoliberal regimes, these policies involve a shift from 'clinical' to 'actuarial' justice (Feeley and Simon, 1992).

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As part of this broader shift in penalty, probation policy is said to have shifted from the old 'penal welfare' aims of understanding and reforming individual offenders, to the new concerns of public protection and risk management. Recent years for example have seen the widespread use of standardized assessment tools that are used to classify and 'separate the more from the less dangerous' (Feeley and Simon, 1992: 452). These include the Offender Assessment System (OASys) that is used to classify adult offenders (Bullock, 2011) and Asset, an assessment tool used in the context of youth justice (Moore, 2005). These developments have facilitated the introduction of intensive supervision and surveillance programmes directed at 'prolific' or 'persistent' offenders which utilize an array of new surveillance technologies and practices including compulsory drug testing, criminal profiling, electronic monitoring and police databases.

As David Lyon (1994) has pointed out, theoretical interpretations of 'new surveillance' technologies have been dominated by Foucauldian perspectives on 'panopticism' and the dispersal of 'disciplinary power'. In the context of probation practice for example it is argued that the introduction of house arrest and electronic monitoring are consistent with the 'disciplinary power' and 'self-governing capabilities' identified by Foucault (Staples and Decker, 2008). Other writers suggest that we need to move 'beyond the panopticon' because 'disciplinary societies' have been replaced by 'societies of control' (Deleuze, 1992). From this perspective, surveillance works by breaking down the body 'into a series of discrete signifying flows' such as digital images or chemicals so that it can be observed, classified and controlled (Haggerty and Ericson, 2000: 612). Contemporary penal practices, such as drugs testing, for example, extract data from the body through urine analysis, while electronic 'tagging' monitors 'risk profiles' and 'curfew violations' rather than 'real' bodies (Nellis, 2003). Moreover, with practices such as electronic monitoring it is not so much the offender's mind that is being targeted for the purpose of 'soul training', but 'the presence or absence of the offender's tagged *body* from specific premises at specific times' in order to assess 'whether or not compliance has occurred' (Nellis, 2009: 43).

In contrast to the Foucauldian-inspired literature our article interweaves surveillance theory with the work of Pierre Bourdieu to explore how a sample of state-defined 'prolific' offenders living in Northern City (a small city in the North of England) experience and respond to intensive supervision and surveillance programmes. We begin by looking at how 'prolific' offenders experience and respond to direct supervision at the Probation Centre and during home visits, before going on to explore their experience of relatively unobtrusive surveillance measures involving the use of databases and risk profiles. Next, we explore 'prolific' offender's experience of surveillance in wider public space, before spelling out some of the theoretical implications of our findings. We begin, however, by providing a brief outline of our theoretical approach which interweaves surveillance theory with the work of Pierre Bourdieu.

## Surveillance, capital and resistance

Surveillance, defined as the ‘collection and analysis of information about populations in order to govern their activities’ (Haggerty and Ericson, 2006: 3), has always been a central feature of policing and criminal justice. This includes the ‘direct supervision’ of subject populations in prisons and probation work and the accumulation of ‘coded information’ which began in the 19th century when fingerprints, photographs and files were collated by criminal justice practitioners. In recent years, however, the advent of modern computer databases and other technological advances is said to have given rise to a ‘new surveillance’ (Lyon, 1994; Marx, 1988). In the context of policing and criminal justice these developments have facilitated new practices such as ‘profiling’, ‘mapping’, ‘modelling’, ‘simulation’, ‘pre-emption’ and ‘intelligence-led policing’ (Haggerty et al., 2011: 232). These developments have also given rise to fragmented ‘surveillant assemblages’, which operate beyond the central state (Haggerty and Ericson, 2000). Indeed, for some writers, the proliferation of surveillance technologies has become so widespread that it is becoming increasingly difficult to make any kind of broad claims or generalizations about the social impacts of ‘new surveillance’ (Haggerty et al., 2011). In an attempt to get a grip on this increasingly broad concept, we suggest that it may be useful to think about surveillance as a social practice that takes place in a diverse range of overlapping ‘fields’, defined by Bourdieu ‘as a structured space of positions in which the positions and their interrelations are determined by the distribution of different kinds of resources or “capital”’ (Thompson, 1992: 14). From our perspective, Bourdieu’s theoretical framework allows us to overcome some of the limitations in the Foucauldian literature on ‘new surveillance’. To begin with, Foucault’s description of ‘the movement of panoptic principles into new settings is often presented as entirely frictionless’ and lacking any ‘sense of a surveillance politics’ (Haggerty, 2006: 34). Bourdieu’s (1999) description of the State (or the ‘bureaucratic field’) ‘as a splintered space of forces vying over the definition and distribution of public goods’ (Wacquant, 2009: 289) may be useful here in terms of explaining how ‘new surveillance’ technologies have come to play such a central role in current penal practice. For instance, the rapid introduction of ‘new surveillance’ technologies following highly mediatized crimes fits neatly with the ‘sovereign state’ strategies of ‘denial’ and ‘acting out’ (Garland, 2001) that are manifest in the ‘political’ and ‘journalistic’ fields, while the emergence of actuarial regimes characterized by pre-emption, surveillance and intelligence-led policing chimes with the ‘adaptive strategies’ (Garland, 2001) found in the ‘bureaucratic field’ (see Wacquant, 2009: 301).

Bourdieu’s work also encourages us to view surveillance as a political response designed to deal with the problem populations created by neo-liberal economic policies. New surveillance technologies for example are not dispersed evenly throughout society in the manner suggested by Foucault (Wacquant, 2009: 297). Whether one looks towards the ‘Left hand’ of the State<sup>1</sup> (e.g. education, social assistance and public housing) or the ‘Right hand’ of the State (e.g. police

and correctional administrations), new surveillance technologies are disproportionately directed towards those shorn of 'economic' and 'cultural' capital (Wacquant, 2009). Of course, in other settings, such as the 'field' of consumerism and marketing, the unequal distribution of 'economic capital' may lead to greater surveillance of relatively privileged groups through the monitoring of 'consumption habits', 'financial transactions', 'internet use' and 'credit history' (Haggerty and Ericson, 2000). However, the central aim of surveillance in the 'field' of consumerism is still one of 'social sorting' whereby those without 'economic capital' are distinguished from those with 'economic capital' and excluded from participation in the marketplace.

Another issue that has received scant academic attention is the question of how those on the receiving end of surveillance regimes experience and respond to being monitored by new surveillance technologies. In his overview of the penal transformations wrought by neoliberal regimes, Wacquant (2009: xix) explains how his approach 'does not survey efforts to resist, divest, or divert the imprint of the penal state from below'. In this article we address this important issue, because while 'those who dominate in a given field are in a position to make it function to their advantage... they must always contend with the resistance, the claims, the contention... of the dominated' (Bourdieu and Wacquant, 1992: 102). At the micro-level of probation practice, some researchers have addressed the issue of resistance by showing how the 'Right hand' of the State is not always aware of what the 'Left hand' is doing as 'risk-based' discourses are filtered through the organizational and occupational concerns of front-line practitioners who continue to be guided by the old 'welfare' mentality rather than the 'risk' mentality (Kemshall and Maguire, 2001). However, the question of whether those on the receiving end of these practices are also knowledgeable social actors who may negotiate or contest 'actuarial justice' has not been addressed in any detail.

In the context of the 'old' surveillance which took place in enclosed and controlled settings, there is a long history of research showing how relatively powerless groups utilize tacit knowledge to contest power relations at the micro-level (Gilliom, 2001; Goffman, 1961; Scott, 1990). More recently, Gary T Marx (2003) has provided a typology of neutralization strategies or counter 'moves' which enable people to avoid or challenge electronically mediated surveillance. However, interactionist perspectives on the micro-politics of resistance need to be situated in a wider context. As Bourdieu (1977: 81) argues, those working within the tradition of 'symbolic interactionism' often 'forget that the interaction itself owes its form to the objective structures which have produced the dispositions of the interacting agents and which allot them their relative positions in the interaction and elsewhere'. The ability to make resistant 'moves', for example, is likely to be heavily influenced by the distribution of capital in any given field. For Bourdieu (1986), it is not only economic capital, in the form of money or property, which influences life chances through the reproduction of class privilege and marginalization. Also important is 'social capital' such as networks and connections and 'cultural capital' like education

and certain types of cultural knowledge. Drawing upon this framework, we suggest that the distribution of ‘capital’ – economic, social, cultural and symbolic – within the ‘field of penalty’ operates as a range of goods or resources that structure the dynamics of surveillance practices and power relations, including the ability to contest surveillance.

## Methods<sup>2</sup>

In order to explore these issues, we conducted 15 one-hour interviews with seven young people (six males and one female) on the Intensive Supervision and Surveillance Programme (ISSP), six adults (five males and one female) on the Persistent and Other Priority Offenders Programme (PPO) and two offenders (one male and one female) on the Intensive Alternative to Custody (IAC) Programme. We also conducted 180 hours of observational research at the point of ‘surveillance encounter’ with a further 28 people on the PPO and IAC Programme. We did this by ‘shadowing’ probation workers and police officers as they were administering drug tests, conducting interviews or carrying out ‘home visits’. In terms of those we interviewed, all of those on the ISSP were aged between 16 and 17, those on the PPO were between the ages of 19 and 29 and the two people on the IAC Programme were aged 19 and 29 respectively. The majority of our respondents had a minimum level of education with only one of the respondents stating that they left school with GCSEs. All of the people we interviewed were unemployed with several stating that they were enrolled on, or were about to enrol on, various training courses or apprenticeships. Most of the ‘prolific’ offenders had been convicted of property crimes from a young age with many stating that their crimes were ‘drug-related’. While it was not possible to obtain detailed demographic data on all those respondents that we observed, we would say that based on dress, accent and area of residence that the majority of our respondents (those interviewed and observed) were white,<sup>3</sup> working class and lived on the most deprived council estates in Northern City.<sup>4</sup>

## Regulated liberties and the everyday strategies of resistance

Resistance to surveillance has been defined as:

any active behaviour by individuals or interest groups that opposes the collection and processing of personal data, either through the micro-practices of everyday resistance to defeat a given application, or through political challenges to wider power relations which contest the surveillance regime per se. (Coleman and McCahill, 2011: 147)

While the ‘prolific’ offenders in our study did not possess the ‘economic’ and ‘cultural’ capital required to submit a data access request or pursue a legal challenge through the courts, they were able to deploy a range of ‘localized efforts to get by in the face of monitoring’ (Haggerty and Ericson, 2006: 19). As we shall see below,

some of these everyday resistant strategies draw our attention to what Bourdieu (1990) has described as 'the unresolvable contradiction of resistance', whereby the dominated 'can resist by trying to efface the signs of difference that have led to their domination', or they can 'dominate their own domination by accepting and accentuating the characteristics that mark them as dominated' (Couzens Hoy, 2005: 135). These responses to domination, which closely resemble those adopted by the 'feigned conformist' and the 'true rebel' (Marx, 2005), were illustrated during many of the interactions between 'prolific' offenders and probation staff at the probation office and during 'home visits'.

One of the central features of intensive surveillance programmes is the use of 'tracking' which prioritizes surveillance and 'locatability' over humanistic interventions like 'probation' (Nellis, 2003: 78). 'Prolific' offenders on all three programmes (ISSP, PPO, IAC) reported that they were required to attend carefully programmed contact times and supervision at the Probation Centre and the Youth Offending Team (YOT) Centre. As part of the PPO and IAC Programme, some of our respondents were also subject to drug testing orders which, according to one of the Offender Managers, were linked to those who commit certain drug-related acquisitive offences like burglaries and thefts. The drug testing procedure worked as follows:

The probationer is given a stick with a fairly large sponge on the end... The person being tested must soak the swab with saliva by rubbing it around in their mouth. The saliva is then squeezed out of the swab with a small cage in the tube, and drops of saliva are dropped onto a testing cartridge. One side of the cartridge is for cocaine and the other side is for opiates. (Field notes, 23 March 2009)<sup>5</sup>

Interactions between the 'prolific' offenders and authority figures during these appointments and drug tests varied considerably. Some 'prolific' offenders for example overtly challenged the authorities as they implemented various surveillance-related measures by refusing to 'open up' during therapeutic interviews or questioning the accuracy of 'positive' drug tests. In contrast, others said that they went along with the regime but only to avoid further surveillance or appointments. Ed (PPO), for example, decided to take 'voluntary' drug tests (they were not a part of his programme) because, as he put it, 'I'm in for anything what will make my appointments cut down' (Interview, Ed, PPO). These contrasting approaches of 'affirming identity' and 'effacing difference' during surveillance encounters are illustrated in the two case studies below involving Terry (PPO) and Michael (ISSP).

While many 'prolific' offenders engaged in what appeared to be friendly banter with the police and probation staff, Terry (PPO) expressed a negative attitude towards most aspects of the programme. During interview he said that the probation staff can 'pinpoint where you're moving by your phone number' and during observations he said that DNA samples could be taken from the mouth swabs that were used for drugs testing and used inappropriately by authority figures. Terry refused to have 'home visits' and asked for any 'positive' drug tests to be sent to the

laboratory to see if they were ‘false positives’. He was also reluctant to divulge personal information that he thought would be ‘put on the computer’:

Denise [drugs worker] said that if the probation staff did home visits they could find out about relationship problems and help with any of those type issues. Terry said that he did not have any issues and that he did not want people writing things down about him. He said that ‘everything I say to you [PPO staff] goes on the computer’ . . . Denise said that probation was only connected to the courts, the probation service and the police. Terry said, ‘exactly’. (Field notes, 23 November 2009)

Terry’s attempts to raise issues concerning ‘privacy’ and ‘home visits’ however were interpreted as an indication of problem behaviour and led to further suspicion and surveillance. According to the police and probation staff, Terry’s attempt to raise the issue of ‘privacy’ is because he is ‘difficult’ and ‘paranoid’ and his refusal to have ‘home visits’ is because he is probably ‘dealing from home’ (Field notes, 23 November 2009).

Other ‘prolific’ offenders, seemingly aware that ‘embodied’ resistant strategies or overt displays of non-compliance were likely to be counter-productive, adopted a different approach by effacing the signs of difference. Michael, a 16-year-old on the ISSP, described how he dealt with the staff on the ISSP:<sup>6</sup>

A lot of the kids in here are daft, they haven’t got their heads screwed on . . . Like me, if I was to miss a couple of appointments and I needed to go to them, I’m pretty cush with these, I don’t swear at them, I’m all right with them, they’d be all right with it. (Interview, Michael, ISSP)

In the example above, Michael explains how he accepts the surveillance regime but only to avoid further surveillance. He does not swear at the staff and is polite and friendly during interactions with those who work at the YOT Centre which allows him to avoid surveillance by missing appointments. Similar resistant strategies were also evident in relation to ‘electronic tagging’. All seven of the people we interviewed on the ISSP and four of those on the PPO were either currently on or had previously been on an ‘electronic monitoring’ programme. The electronic tag is attached at the ankle and ‘acts as a transmitter, sending signals to a monitoring unit that detects whether the tag is in range of a specified location’ (Moore, 2005: 22). But while electronic monitoring serves to mark the body ‘in order to make it surveillable’ (Nellis, 2009: 49), several respondents explained how they had managed to get rid of their ‘tags’, including Karl who said ‘I pulled it off twice. . . I went back to court and got another one put on. . . till 9 o’clock then I pulled it off again’ (Interview, Karl, ISSP), and Tom who said ‘I just cut it off. . . they know straight away, but they don’t know where you are’ (Interview, Tom, ISSP). Others simply ignored the fact that they were ‘tagged’ and breached anyway, including Mark (ISSP) who said ‘I breached it loads of times’, and Tony (ISSP) who said, ‘I’ve only been on it once but I kept breaching it and breaching it’. In contrast,



Michael (ISSP) was aware that if he maintained good relations with the authorities he might be given some leeway in relation to curfew violations:

My worker said to me . . . if it was half-six and I needed to go to the shop for milk or summat, and it come to like half-seven he wouldn't mind because . . . I've been doing so well on me order. (Interview, Michael, ISSP)

Many of those on the PPO and IAC Programme were also subject to scheduled and unscheduled 'home visits' by probation officers and police officers. The home visits lasted between 10 and 15 minutes and were carried out mainly to gain 'intelligence' about criminal activity or evidence that the person was using drugs which may be indicated by the presence of 'drug paraphernalia' such as bonges, foil and cooking spoons. The police officers also monitored 'prolific' offenders 'life-style', with some commenting on the number of beer cans in the bins and the tied up bin bags (Field notes, 9 December 2009). Many home visits took place during intimate family routines when family members were still dressed in their nightwear or had friends and family around to visit (Field notes, 16 December 2009). Some respondents said that they felt that these 'home visits' were an 'intrusion' into their personal space:

I always keep my flat tidy do you know what I mean, but it's not nice having em come round every week and that invading my privacy looking in my bedroom and stuff like that, but what can I do about it until my licence finishes I can't do nowt about it can I? (Interview, Barry, PPO)

While those on the PPO had no choice but to endure the home visits which made up part of their programme, they still found ways to 'affirm identity' by challenging the home visits at the point of surveillance encounter. Tracy and Darren, the two PCs who were seconded to the PPO team, often suspected that people had deliberately gone out when a visit was due or were at home but refusing to answer the door. Those 'prolific' offenders who did answer the door often relied on the 'manipulation of space' to control the interaction with the surveyors (see also Staples, 2009). This included keeping police officers in the kitchen or hallway during conversations rather than inviting them into the main living room. Others used 'behavioural cues' designed to let the police know that they were 'not welcome' and that the invasion of privacy was resented. Some, for example, on answering the door immediately turned their backs on the police officers and walked away swearing and leaving the surveyors to find their own way in to the room:

Nathan (PPO) came to the door, opened it, and immediately turned into the house and walked through the kitchen and into the sitting room, leaving us to trail behind him. He sat on the arm of the sofa in a position furthest from us and stared ahead at the television. (Field notes, 22 January 2010)



Other 'behavioural cues' involved the 'prolific' offenders refusing to relax or sit down which let those visiting know that the interaction was not expected to last very long, or making a gesture which indicated that the interaction was over. Some of those we observed also avoided communicating with the police, either verbally or through eye contact. During several home visits, for example, Natalie answered with short sentences that answered the question but did not give much more information (Field notes, 9 December 2009); Nathan sat with his arms folded and looked at the television (Field notes, 22 January 2010); and Mick refused to answer questions as he watched an old World War Two programme on the History channel (Field notes, 4 February 2010).

A common theme in the existing literature on the experience of house arrest and electronic monitoring is how these programmes reflect the self-governing notions of the 'enterprising self' that are consistent with Foucauldian perspectives on 'disciplinary power' and 'governmentality' (Staples and Decker, 2008: 133). However, while many of the 'prolific' offenders did comply with various aspects of the programmes, these were often attempts to avoid other forms of surveillance, such as cutting down the number of appointments or home visits. Those who were subjected to home visits meanwhile were not 'passive subjects' or 'docile bodies'. While they lack the economic and cultural 'capital' possessed by relatively privileged social groups, 'prolific' offenders utilized interactional cues and cultural capital in its embodied form (e.g. demeanour, accent and bodily comportment) to challenge the authorities at the point of surveillance encounter.

### **Surveillance against surveillance – contesting 'actuarial justice'**

While 'tracking', 'drugs testing' and 'home visits' are very explicit, overt forms of monitoring that take place in enclosed settings, other forms of surveillance, such as the use of databases and risk profiles, are relatively unobtrusive or covert. However, as Bourdieu (1990) has argued, the exclusion of marginalized groups from certain realms of privilege can accord them a certain critical insight into the structures that oppress them (see McNay, 2000). In relation to our research, the 'lucidity of the excluded' (McNay, 2000: 54) provided 'prolific' offenders with an experience of surveillance that those with 'capital' are denied. This was the case in wider public space, as we shall see shortly, but also in relation to the use of intelligence-led policing and police databases.

The classification of 'prolific' offenders on the PPO is based on a non-negotiable scoring matrix that 'assigns a numerical value to a range of characteristics against which each PPO can be measured' (Dawson and Cuppleditch, 2007: 3). At the Probation Centre in Northern City, points are scored for three or more acquisitive offences, a positive drug test on arrest, previous offences in the last 12 months and intelligence from the last three months. The points are totalled up and everyone who scores more than 100 is placed under consideration for PPO (Field notes, 23 March 2009). The database also processes the information coming in from the local

police stations and any recent criminal activity. It is also up-dated on a regular basis with information gleaned during inductions, interviews, appointments, drugs tests and home visits. During one home visit, for example, an Offender Manager explained how he saw a man three doors down put a £20 note into the letter box and a package dropped down so he recorded the address and licence plate number of the vehicle parked outside and fed the information back to the police (Field notes, 26 March 2009).

Despite the 'unobtrusive' nature of some of these practices, 'prolific' offenders talked knowledgeably about the use of these forms of surveillance. Some said that they were aware that probation officers shared information with other agencies because of what they had read on the induction forms that they were required to sign (Interview, Rita, IAC). Others knew the police and probation officers worked closely together because their 'drugs workers' knew when they had been stopped by the police on the street (Interview, Karl, IAC). Others were aware that any information they might give away during interviews was likely to be stored on the database. Kevin (PPO) summed it up when he said:

It's the police innit, that's why they've got the police with them. Like the police that work with me make out that they're not the police and they work with probation and that, but they're full on undercover coppers. The quicker you get to learn that the better innit? You don't want to be an idiot and pretend that they're not proper police. (Interview, Kevin, PPO)

Some PCSOs who were seconded to the Probation Office to conduct 'home visits' believed that they could use their 'PCSO-status' to gain information that a police officer might not be able to receive (Field notes, 12 May 2010). However, 'prolific' offenders were also aware that home visits by PCSOs were mainly carried out for intelligence gathering purposes. As Barry (PPO) explained, if they see 'a laptop and a plasma TV then they're gonna start radioing through and checking to see if it's stolen or not' (Interview, Barry, PPO). 'Prolific' offenders also used the cultural know-how that is acquired through first-hand experience of power relations to challenge the very same power relations:

Denise [drugs worker] then asked if they could talk about his drug use. Terry said that he does not use drugs and that all of that was in his past. . . . Terry said that if she wanted to know that, she should go look it up in his file. (Field notes, 23 November 2009)

In the extract above, Terry uses his knowledge of the existence of one form of surveillance (the database) to avoid another form of surveillance (providing personal information during interview). One of those on the ISSP meanwhile used his knowledge of the 'risk profile' to avoid 'direct supervision' in the form of appointments at the YOT Centre: 'With me being on "low" now, you can get away with more; not blowing my order, but you can get away with quite a bit now. It's not as intense as what the "high" was' (Interview, Michael, ISSP).

Others used the existence of 'new technologies' to evade monitoring by keeping text messages sent by the probation staff to prove that they had not missed or were not late for appointments. Nigel (PPO) used the data that had been extracted from his body to his advantage when he requested photocopies of any 'negative' drug tests to take home and show his partner that he is not using drugs (Field notes, 2 December 2009). Family members of 'prolific' offenders also used *surveillance against surveillance* to support their case when confronted by the police. Ollie's mum kept a diary in which she documented her son's whereabouts to show to police officers when they arrived to question her son about crimes committed in the neighbourhood. She also kept fragments of Ollie's 'digital persona' (electronically recorded consumer transactions) to challenge police decisions to question or arrest her son (Field notes, 2 December 2009).

### **Surveillance in public space – resistance and social reproduction theory**

With his notion of 'habitus', Bourdieu (1977: 85–87) explains how class identities become inscribed not only on the mind, but also on the body and include 'a way of walking... facial expressions... a tone of voice [and] a style of speech'. The fact that 'bodies display the insignia of unequal possession of cultural capital' (Bennett et al., 2010: 169) is not something that goes unnoticed by the authorities. As Nayak (2006: 820) has shown, the 'body capital' of young working males in Newcastle led to their exclusion from the 'new corporate leisure spaces of the city' not simply because of how they were dressed, but also because of how they 'hold their head' and 'arch their backs when walking'. Similar findings have been reported in the context of 'interface' surveillance (Lyon, 2007) which has shown how surveillance camera operators disproportionately target those who walk with their 'head up, back straight, upper body moving too much' (Norris and Armstrong, 1999: 122).

All of our respondents stated that they were aware of the presence of public-space CCTV cameras in their neighbourhood and the town centre and that they were conscious of camera movement and tracking. Six respondents stated that they had seen CCTV cameras 'move' and then 'follow them', including Mark (ISSP) who said they 'do your head in', and Neil (PPO) who said 'I was getting followed in town today'. Barry (PPO) said that he has been followed by public-space CCTV operators and that he has CCTV cameras in his flat<sup>7</sup> which allow the police to see what time he comes and goes. While a distinction is often made between the 'soft' surveillance that is experienced by everyday citizens (e.g. CCTV cameras) and 'coercive' surveillance that is directed at 'offenders' (e.g. 'fingerprints' and DNA samples), for some 'prolific' offenders these two forms of surveillance work in tandem. As one of the police officers seconded to the Probation Office explained, if a series of crimes take place that fit a particular PPO offence pattern that is stored on the database, the police 'will go back through the CCTV looking for that person specifically' (Field notes, 26 March 2009). Neil (PPO) supported this statement when he said that the police 'don't stop me all the time and stuff like that cos

they mainly come to me house. . . when they've seen me on CCTV' (Interview, Neil, PPO). Similarly, Nathan (PPO) explained how the police came to his house and arrested him because they had CCTV footage of a burglar on the roof and he 'used to be a climber' (Field notes, 30 November 2009).

While they were perfectly aware of the existence of 'new surveillance' technologies such as CCTV cameras, the 'prolific' offenders did not always try to avoid them. As Michael (ISSP) explained, he was less concerned with the presence of cameras in his neighbourhood and more concerned with how familiar he was with the area. The deterrence potential of surveillance was also limited because most of the crimes committed by 'prolific' offenders (especially those on the PPO) were 'drug-related'.<sup>8</sup> During a discussion with one of the 'drugs workers' at the Probation Centre, Barry (PPO) stated that benzos make you feel invincible to the point that even if you are stealing a car in the middle of the street, you think no one can see you (Field notes, 30 November 2009). The 'prolific' offenders were in broad agreement about the limits of CCTV surveillance in this respect:

I used to walk in I'd look at the cameras to see where they all was and then do it, just daft really. (Interview, Ed, PPO)

CCTV was always there cos it was always shoplifting and that, but I was on heroin and crack wan't I? So I wan't thinking about that I was just thinking about getting money to go score. (Interview, Neil, PPO)

In terms of contesting public space CCTV surveillance, 'prolific' offenders explained how they watched the cameras move and avoided the gaze (Interview, Neil, PPO), wore hats and scarves to cover the top half of their face (Interview, John, PPO) and threw 'bricks at em' (Interview, Karl, ISSP; Mark, ISSP): 'That's the way it is innit, smash em all up. . . Someone did on [names street], smashing them. . . I've thrown bricks at em' (Interview, Mark, ISSP).

However, those who obscure their faces with clothing or who oriented their behaviour to camera operators through confrontation and abusive gestures are often singled out for attention by surveillance camera operators (Norris, 2003: 265). In this respect, the embodied resistant strategies adopted by 'prolific' offenders are likely to be counter-productive and potentially lead to further surveillance. These findings echo the work of 'social reproduction' theorists (Willis, 1977) who have argued that while structures may oppress agents, social agents themselves may also 'contribute in a pyrrhic fashion to their exclusion and oppression' (Young, 2007: 52–53).

### **Managing a spoiled identity**

As some of the previous literature on electronic monitoring and house arrest has shown, these programmes can often serve to undermine 'economic' and 'social' capital. It has been reported, for example, how some 'prolific' offenders have

refused 'requests for overtime or shift work rather than declare they are tagged' (Dodgson et al., 2001 cited in Nellis, 2009: 51). In another study, it was reported how one mother of a 'prolific' offender stopped inviting grandparents for visits while her son was 'tagged' (Mair and Mortimer, 1996 cited in Nellis, 2009: 51). Research has also shown how intensive supervision programmes can have a negative impact on family members who live with the person under house arrest. Staples (2009) describes the 'back up work' that is carried out by family members who 'may end up functioning as ancillary "watchers", keeping an eye on the offender's behaviour and prodding him or her to stay in compliance with program demands' (Staples, 2009: 34). For some of the family members in our study, this 'back up work' began to take its toll. Ollie's (PPO) mother said that she wished they would send her son to jail for a couple of weeks rather than extend his probation. This way she would not have to keep track of all of his appointments or have the police 'knocking at all hours' (Field notes, 22 January 2010). Meanwhile, three of those on the ISSP said that they were forced to leave the family home due to tensions that arose while on the electronic monitoring programme:

I've got five sisters, no brothers, my mam and her bloke. I don't get on with my mam, her bloke, and not one of my sisters. So you can imagine what it would be like. And I swear to God we would be arguing like hell, every day... That's why I had to get my flat really, my mam had to kick me out. (Interview, Michael, ISSP)

These programmes have also been reported to reinforce '*negative symbolic capital*' (Bourdieu, 1999: 185, emphasis in original) due to embarrassment and stigma associated with being 'tagged' (Nellis, 2009). One of the central themes to emerge in our discussions with 'prolific' offenders was how aspects of the programmes were felt to be stigmatizing and reinforced perceptions of them as 'criminals', 'poor' or 'junkies'. Will (ISSP) said that he did not tell some of his 'college friends' that he was 'tagged' because 'I don't want people to think that I'm a criminal'. Nathan (PPO), when informed by Tracy (PC) that he could get bus tokens to help pay for his bus fares into the town for appointments, said that he was not going to 'go up to a bus driver with bus tokens' (Field notes, 14 January 2010). Similarly, when asked if he wanted any second-hand furniture for a flat he was decorating, Terry (PPO) said 'no offence' but that he did not want second hand (Field notes, 23 November 2009).

The stigma of being on the programmes was compounded by the 'harassment' that most of the 'prolific' offenders reported in relation to 'public' and 'private' policing:

When you first come out [of prison]... they're proper on ya and the police all watching ya and all that... they wind you up and that as well don't they oh 'we'll have you back in jail soon' and all that. So it's like... a big game or summat. (Interview, Kevin, PPO)

Nine of the 'prolific' offenders reported being watched and followed by private security guards in shops, convenience stores and shopping malls, including Karl

(ISSP) who said ‘it’s how you dress and that innit?’ In relation to the feelings of ‘injustice’ felt by young people subject to intense police scrutiny, Jock Young (2007: 62) has argued that ‘the classic combination is to be marginalised economically and treated as a second rate citizen on the street by the police’. For those with ‘*negative symbolic capital*’ (Bourdieu, 1999: 185, emphasis in original), the experience of marginalization, misrecognition and humiliation culminated in the shopping mall where they were required to prove that they were not ‘flawed consumers’ by showing their money to private security officers: ‘They follow us and say, “we think you’re pinching”, so we just show them our money and they just go’ (Interview, Tom, ISSP). Some of the ‘prolific’ offenders perceived this monitoring to be unfair and on occasions responded angrily to intense police scrutiny:

As I walk in there [convenience store] there’s like five of them [private security officers], like walking around... So I seen her [cashier] looking over and I grabbed the chocolate bar and I just bolt! Dropped all my stuff and just walked out. I was like ‘STOP WATCHING ME!’ (Interview, Michael, ISSP)

As many criminologists have shown, one of the crucial processes involved in ‘desistance’ from crime is the ‘subjective’ changes that take place among ‘prolific’ offenders and in particular the ability to develop ‘a new perspective on the self’ (Shover, 1985: 92–96). But as we have seen the ‘prolific’ offenders in our study not only have to find a way of leaving the ‘old’ self behind; they must also contend with the existence of the ‘digital self’ that is generated by the use of ‘new surveillance’ technologies. As we saw earlier, CCTV footage is reviewed retrospectively when crimes have been committed that fit the PPO offence profile that is stored on the database. The administrative worker at the Probation Office explained how some ‘prolific’ offenders are kept on the database for six months after they are taken off the programme so that their activities can continue to be monitored (Field notes, 23 March 2009). One of the advantages of ‘electronic tagging’ is that when a crime takes place in the community, the monitoring done by the private security company enables the police to cut their suspects down from five local persistent offenders to two local persistent offenders, because the monitoring can show that the other three were in their home at the time (Field notes, 12 May 2009). For some criminologists, these developments can lead to a ‘revolving door’ (Padfield and Maruna, 2006) whereby ‘prolific’ offenders can end up back in prison for violating the terms of licence; violations which are of course much more likely to be detected because of the growth of multi-agency working, intelligence-led policing and the use of ‘new surveillance’ technologies.

## Conclusion

The most influential description of the ‘social impact’ of surveillance was provided by Foucault (1977: 201) when he said that the major effect of the ‘panopticon’ was ‘to induce in the inmate a state of conscious and permanent visibility that assures



the automatic functioning of power'. However, even in the institutional setting of the prison, this 'totalizing vision' of 'panoptic' power never really provided an adequate description of the experience of surveillance. As many writers have shown, while discipline may proceed 'from the distribution of individuals in space' (Foucault, 1977: 141), the institutional arrangements in schools and prisons designed to prevent interaction, can contribute towards the development of resistant subcultures (Mathiesen, 1965: 12).<sup>9</sup> The 'prolific' offenders in our study were (at the time the fieldwork was conducted) not confined in an enclosed and controlled setting. In some respects the intensive supervision programmes resembled not the 'panoptic' prison but the 'emergency plan' which, as Foucault has shown, was designed to control the outbreak of leprosy in 17th-century France (see Elden, 2003; Norris, 2003). Under the 'emergency plan' people were required to stay in their homes while inspectors patrolled the streets collecting information that would be stored in a centralized information system (Elden, 2003: 242). However, as we saw earlier, 'prolific' offenders were not 'passive subjects', but active agents who refused to answer the door when 'inspectors' arrived and used a range of interactional cues to challenge surveillance at the point of encounter. Other forms of 'identity affirming' behaviour included refusing to answer questions at the Probation Office, pulling off electronic tags and throwing bricks at CCTV cameras. Here the body becomes both a 'performance' and a 'straitjacket' as the 'bodily hexis' (dialect, accent, dress, body posture and demeanour) conveys resistant impressions that potentially lead to further surveillance and exclusion. For Bourdieu (1990) these processes reflect the 'unresolvable contradiction of resistance' whereby the dominated 'try to dominate their own domination by accepting and accentuating the characteristics that mark them as dominated' (cited in Couzens Hoy, 2005: 135). While Bourdieu argues that these forms of contestation do not look 'much different from giving into domination' (Couzens Hoy, 2005: 135), we suggest that these everyday strategies of resistance can serve to 'enhance dignity' (Marx, 2009) and allow marginalized groups 'to generate a sense of themselves with value' (Skeggs, 1997: 162).

While our research has focused on the use of new surveillance regimes in the 'field' of penalty, Brighenti (2007: 326) has written in more general terms about transformations in the 'field of visibility' where the emergence of new surveillance technologies, such as video surveillance cameras, have served to enhance 'visibility asymmetries':

When a transformation in reciprocal visibilities occurs, i.e. when something becomes more visible or less visible than before, we should ask ourselves who is acting on and reacting to the properties of the field, and which specific relationships are being shaped.

As we have shown, the ability to shape or manage visibility is highly dependent upon the distribution of capital in any given field. Within the contemporary 'field of visibility', the 'prolific' offenders in our study spend much of their time in the 'zone of supra-visibility' (Brighenti, 2007: 330) where they are constantly



monitored by new surveillance technologies. This includes the increased visibility created by intensive supervision and surveillance programmes and those deployed in wider public and private spaces. As Brighenti (2007: 332) points out, 'one of the main distinctions in modern western socio-political culture is the dichotomy between the public space, associated with visibility, and the private space, associated with invisibility'. However, as we have seen, 'prolific' offenders were monitored in both public and private spaces through the use of home visits and surveillance cameras in their neighbourhoods, retail outlets and shopping malls. Added to the increased visibility of this group generated by panoptic surveillance in public and private spaces, is the enhanced visibility generated by mass media coverage where images captured by panoptic surveillance regimes are displayed synoptically to the watching millions. One local newspaper in Northern City for example had a 'Caught on Camera' campaign which between 2000 and 2009 synoptically displayed 278 separate photos from CCTV footage. A trawl through the photos shows that young working class men dressed in tracksuits and baseball caps are the 'face' of CCTV crime prevention (Finn and McCahill, 2013).

However, any attempt to document the experience of surveillance in contemporary society must go beyond the 'field of visibility' and the 'ocular' because 'new surveillance' technologies 'are as likely to detect presence, gather digital data and register sound as they are to "see" appearances' (Nellis, 2009: 61). We saw for example how 'prolific' offenders must contend with the existence of the 'digital self' which not only follows them around, but also measures and classifies them before they arrive at the Probation Office so that interactions with authority figures may be partly influenced by judgements made concerning the 'digital self' that appears on the screen rather than the person sitting before them. Our attention was also drawn to the 'political economy of interiority' whereby 'the body interior of the surveilled subject is more open to division, classification and scrutiny' (Ball, 2009: 640) with 'prolific' offenders being encouraged to 'open up' during therapeutic interviews and having data extracted from their bodies through DNA sampling and drug testing.

As we argued earlier, however, marginalized groups are not passive subjects who are completely unaware of these relatively unobtrusive forms of surveillance. As Bourdieu (1990) has argued, the exclusion of marginalized groups from certain realms of privilege can accord them a certain critical insight into the structures that oppress them (see McNay, 2000). In relation to our research, the 'lucidity of the excluded' (McNay, 2000: 54) provided 'prolific' offenders with an experience of surveillance that those with 'capital' are denied. Moreover, these marginalized groups can utilize the cultural know-how that is acquired through first-hand experience of power relations to challenge the very same power relations. 'Prolific' offenders, for example, kept negative drug tests to prove to family members that they were 'clean' and held on to fragments of their 'digital persona' (e.g. consumer transactions) to confirm their whereabouts when confronted by the police. Also, while some writers have suggested that digital information stored on the database can be treated as the source of 'truth' that overrides personal testimonies

(Monahan and Fisher, 2010), some ‘prolific’ offenders used the existence of the ‘file’ or ‘database’ to avoid ‘opening up’ and answering questions during ‘face-to-face’ interviews. While these forms of tacit knowledge and cultural know-how may not be easily translated into other forms of ‘capital’, it does provide ‘prolific’ offenders with a degree of ‘agency’ in local and specific settings. In this respect, our findings provide a corrective to much of the existing literature which continues to portray the surveilled as ‘docile bodies’, rather than social actors who can contest power relations in situations that are very much skewed against them.

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### **Notes**

1. As Wacquant (2009: 102) has shown, ‘the mandatory activities purported to instil the work ethic in welfare recipients... look like a first cousin of intensive supervision programmes for probationers and parolees’.
2. In total we conducted 90 interviews with six groups and 720 hours of observational research of ‘surveillance encounters’ in a variety of settings, including political demonstrations, shopping malls, probation centres, private homes and public streets.
3. We interviewed one ‘Black’ male on the ISSP and one of the males on the PPO Programme that we observed during ‘home visits’ was ‘mixed race’.
4. An ‘examination of the first PPOs (N=7,801) allocated to the schemes’ in September and October 2004 revealed that ‘they were predominantly young... male (95%) and white (88%)’ (Dawson, 2005: 2).
5. Some prolific offenders said that they managed to avoid giving a positive drug test, including Tony (PPO) who said that he does ‘drugs on a Thursday, Friday, Saturday stop taking em Sunday, Monday, Tuesday, Wednesday and then Thursday I passed the test again, perfect then you just go back into the cycle’.
6. In this case we do have observational notes from the YOT Centre to compare the information provided during interview.
7. Barry is referring to the council-operated surveillance system which is used in some of Northern City’s high-rise flats (see McCahill, 2002).
8. According to Home Office research, three-quarters of offenders on PPOs ‘stated that their primary reason for crime was to fund a drug addiction’ (Dawson and Cuppleditch, 2007: 12).
9. This was something that Foucault (1977) recognized when he suggested that ‘power... can produce the very thing which comes to resist it’ (Pickett, 1996: 459).

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