Yuvraj Khanna, *Jannette* from *Obscured* (2020).
Image courtesy of the artist.

On Making Photographs in a Surveillance State

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Last summer's uprisings were likely the most photographed in history, with not only mainstream press in attendance, but near-every attendee equipped with their own networked camera,[1] live-streaming and hashtagging the protests, creating layers upon layers of unquantifiable documentation. The rampant circulation of these images—often shared in real-time—propelled the movement on and offline, allowing the summer's events to swell into a global uprising. When these images were quickly co-opted by the state, with law enforcement using them to retaliate against BLM activists, photographers online began to employ a variety of visual answers to the problem of privacy, blotting out the faces of protestors with digital ink. Though they have been largely written off as illegitimate and unethical by legacy media, the scrubbed images offered by activist photographers represent earnest attempts at a solution, functioning to describe both the protests and the contemporary surveillance landscape.[2]

By contrast, as reports of the doxxing emerged, several newsrooms issued op-ed style statements, doubling down on their ethical guidelines for "unaltered" photographs and asserting their right—and duty—to document the events. *NPR*'s public editor Kelly McBride wrote, regrettably, that most protestors "have chosen to be part of these protests fully aware they are entering a public space and at personal risk."[3] The notion that being in public constitutes consent to be photographed has long been adopted by photographers. Some of them are Garry Winogrand or Daniel Arnold types—photographers who clock miles on the streets of grungy metropolises, a camera slung over each shoulder, shoving their lenses in the faces of passersby. New technologies, which have made photography faster, easier, and far less conspicuous, have only further proliferated this method of picture-making (Winogrand's successors and epigones; Bruce Gilden's flashgun street shots; most of celebrity-paparazzo Ron Galella's archive; et al.). These are the pictures that have come to characterize the vernacular of popular street and documentary photography; busy city streets; dynamic, odd angles; the high contrast light of high noon pulling long shadows over the pavement. The previous generation of photographers pass these methods down to the next, who embolden one another and commiserate in their cool, unabashed, and sometimes aggressive pursuit. Many great pictures have been made by not asking for permission.

The problem of permission is drastically multiplied when these photographs are exploited to further the surveillance practices of the state: beyond on-the-ground threats to safety, surveillance extends danger into the undefined future. The increasingly sophisticated scraping of open-source intelligence (OSINT) data, which rummages through publicly available images and "internet breadcrumbs" in order to reconstruct events and identities, allowed law enforcement to target activists and organizers at an unprecedented scale during the protests, their tactics profoundly aided by unwitting photographers and social media users everywhere.[4] Of particular concern: the probably-very-illegal facial recognition software developed by privately-held company Clearview AI,[5] with a database of over three billion images scraped from the internet, is licensed by at least 2,400 law enforcement agencies, including the FBI, ICE,

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Top: Black Lives Matter protest in Philadelphia,
PA. Photo: Sammy Rivera (@sam.myrivera).

Bottom: Keegan Holden, *Fairfax Rebellion I*
(May 30, 2020). Archival pigment print,
20 × 30 inches. Image courtesy of the artist.

and Interpol[6] (not including a 26% increased usage of the software after the Capitol riot in January[7]).

Perhaps feeling more of a sense of duty to their subjects than to any particular written set of ethics, activist photographers took the lead in protecting the privacy of protestors. Some simply posted frames that did not highlight their subjects' faces, or relied on the convenient presence of Covid-era face coverings, which, as it turned out, functioned dually to protect against the spread of coronavirus and facial recognition technologies.[8] New York-based photographer Yuvraj Khanna utilized these strategies in a series of black-and-white portraits made specifically of people "concerned with obscuring their identities even while being active in protests."[9] Taken at night with direct flash, Khanna's subjects are pictured with their eyes closed or silhouetted, only the thin white outlines of their body visible.

Other photographers opted for more obtrusive solutions in post-production, superimposing a black censor bar across the eyes of protestors. On Instagram, filmmaker Adja Gildersleve shared a photograph of a protestor in New York City in front of bright, blurred, smoke- and fire-filled chaos. The subject stands with arms outstretched and mouth open as if to yell, his shirt inexplicably hanging around his neck, exposing his biceps and lower chest. Almost subtly, a black bar covers his eyes—his identity concealed, the power of the image contained in his singular gesture. Artist Sammy Rivera took a similar approach in sharing a black-and-white photograph of a Philadelphia protest, the faces, tattoos, and even branded logos on the clothing of protestors crudely blotted out with a shaky digital marker. In the image, a cop sprays a woman with a chemical irritant, his paper mask dangling from one ear. She turns away and toward the camera, a black censor bar added to conceal her eyes. Collaged below the photograph, a grainy, cropped detail shows only the cop's zoomed-in name badge, which

reads: "SPILLANE." The crop emphasizes the parallel shape made by the censor bar and badge, offering unmistakable commentary on whose identity need be protected.

Los Angeles-based photographer Keegan Holden proposed a broader solution, digitally cutting protestors out of his images entirely, leaving behind only their flat, whited-out silhouettes. In one photograph taken during a large demonstration in the Fairfax District, a cop holds their outstretched arm up to the face of a cut-out protestor. A mess of cop cars and a large billow of smoke populate the background, along with a number of miniature protestors, their anonymous bodies like paper dolls. As in Rivera's edits, which look like they were drawn with his finger, Holden's approach is one of utility, meant as a quick and clean solution, foregrounding function over aesthetic.[10] Still, these solutions evidence a human hand and read as gestures of care, distinguishing them from the user-friendly but blanket software solutions tech companies have offered. Amidst the protests, the encrypted messaging app Signal released a feature to auto-detect and blur faces in photographs,[11] rendering them as boxy, flesh-colored pixels. A team at Stanford developed an open-source bot that uses AI to plaster custom-sized brown emoji fists over protestors' faces, a strategy that situates these images deeply in their time, but imbues them with an inappropriately cartoonish quality.[12] Though these software solutions are encouraging, the tech is still clunky; the hand-drawn manipulations far more effective in truly obscuring the identity of the protestors.

While graphically similar to some of the tech-based solutions, Davion Alston's series *stepping on the ant bed* (2020) results from a much slower and accumulative analog process, recalling the photomontages of John Baldessari in which the artist replaced instructive portions of photographs with primary-colored stickers. In *ant bed*, grainy, black-and-white photographs taken during a Georgia protest are collaged—some images partly-obscured by

Top: Davion Alston, *stepping on the ant bed* (2020).
Image courtesy of the artist.

Bottom: Annette Lemieux, *Black Mass* (1991).
Latex, acrylic, and oil on canvas, 96 × 105 × 2 inches.
Promised gift of Emily Fisher Landau,
© Annette Lemieux. Image courtesy of the artist
and the Whitney Museum of American Art, New York.

others—with colored price stickers applied to the protestors' faces. The layering of images lends a similar effect as Annette Lemieux's painting *Black Mass* (1991), in which she replaces not the faces, but the protest signs in a civil rights march with black squares, like Polaroid backings. But where Lemieux's act of censorship feels like a despondent commentary on the never-ending battle for civil rights—the men left without a message—Alston's colored dots offer pathways through the images, the artist visually unifying the protestors and extending a form of safety to those who are seeking it.[13] Through the distinct methods by which they work to resist surveillance, these photographers offer not only functional solutions, but conceptually rigorous works that together engage the question of how photography visually answers this moment.

The spirit with which these photographers—none of whom were "on assignment"—sought answers to the problem of privacy contrasted newsrooms' perceived lack of care toward their subjects. Authority Collective, an organization that empowers lens-based artists of color and advocates for accountability in the industry, released a May 31 statement offering something of a guide to photographing police brutality protests. They wrote that, "Prioritizing your legal protection to perform the act of photography over the safety of people fighting their fatal lack of protection in society is a manifestation of privilege that defies logic and highlights photojournalism's worst inherent tendencies."[14] This privilege was only compounded by a longstanding problem: the fact that most of the photojournalists commissioned by major publications were white men. The deployment of a thousand white guys with cameras into BLM protests nationwide—some reportedly flown across the country on assignment amidst a global pandemic—is not only a question of bodies in space, but also of who gets to play record-keeper.[15] When white photographers uploaded their images online to the inadvertent aid of law enforcement, they not only doxxed their subjects, but were themselves implicated in a longstanding project of surveillance that has historically and continually targeted Blackness (and is perhaps now more dangerous than ever, given the racial biases of AI-surveillance technologies[16]). Like the camera, AI feigns neutrality, but facial recognition systems misidentify Black people at alarming rates, and decision-making algorithms are built on data that reflects racially-biased over-policing, creating a feed-forward loop that disproportionally implicates people of color.[17]

The implication of whiteness also complicates the conversation around the visual solutions proposed by photographers who edited protestors *out* of their images. In *Wired*, photo editor and co-founder of Diversify Photo, Brent Lewis, asks why so many would protest during a global pandemic "just to have their image blurred, hidden, white-washed?"[18] While Lewis somewhat conflates the desire for visibility with a desire to be photographed, he rightly acknowledges the complex implications of removing the identities of Black protestors, asserting that the issue of consent is multi-directional. Even as a form of protection, erasing the identity of protestors is a loaded and complicated act—especially for photography, which since its inception has been inequitable in its representation of non-white and marginalized peoples.[19] Selectively editing out the subject of a photograph risks re-engaging the colonial problems of the medium and gives implicit merit to the notion (propagated by a self-protective, racist state) that the protestors' actions are inherently dangerous. Lewis argues instead for a more responsible journalism—one in which journalists don't "parachute"[20] into protests without thinking about the history of photographing Black people, and understanding the stakes of the community they are entering and representing.

Still, an ethical code that has been driven by developments in photographic technology need now be driven by the

cultural and social implications of that technology. Together, the pace of today's wild-west, "new media" news-room,[21] the proliferation of social media, and the increasing capability of the surveillance state represent a revolutionary shift that demands broader photographic reform. The media has long engaged photography's false promise of neutrality, defending potential harm to its subjects on the basis of an ethical code that aggrandizes the documentary (read: "objective") ability of the medium. It has failed to reckon with photography's hierarchical visual politics, which, as writer Christina Aushana and photojournalist (and Authority Collective co-founder) Tara Pixley write in *Nieman Reports*, "are, and have always been deeply embedded in carceral systems of control."[22] Photography's story is one of dominion; its self-characterization as "a force for liberation"[23] a falsehood.

The solutions proposed by activist photographers are imperfect, and must be considered alongside questions of who holds the camera, who is being photographed, and how the dynamics of power and consent can be reconciled in a medium which so often approaches all that it sees as ripe for the taking. But rather than mourn the kinds of images that will be lost, it is worthwhile to consider the possible futures that solving the problems of privacy and protection *offer* photography, both visually and in service of a less hierarchical, exploitative future for the medium. Though still solutions-in-progress, these photographers propose images for our new era, offering photographic pathways in necessary dialogue with our contemporary surveillance culture.

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1. Nathan Jurgenson, *The Social Photo: On Photography and Social Media* (New York: Verso Books, 2019).

2. Especially since the suspicious deaths, and outright murders, of six activists connected to Ferguson, awareness around protestors' privacy has been mounting. Robert Cohen's Pulitzer-winning photograph of Edward Crawford, which propelled Crawford into the limelight as a symbol of resistance, is oft-cited in the privacy v. photojournalism debate—one year later, Crawford was arrested, and two years later, his death was ruled a suicide.

3. Kelly McBride, "Should Images Of Protestors Be Blurred To Protect Them From Retribution?," *NPR*, June 18, 2020, https://www.npr.org/sections/publiceditor/2020/06/18/879223467/should-images-of-protesters-be-blurred-to-protect-them-from-retribution.

4. Lorenzo Franceschi-Bicchierai, "A Tattoo and an Etsy Shirt Led Cops to Arrest Woman Accused of Burning Cop Cars," *Vice*, June 17, 2020, https://www.vice.com/en_us/article/bv8j8w/a-tattoo-and-an-etsy-shirt-led-cops-to-arrest-woman-accused-of-burning-cop-cars/.

5. Mass violations of privacy were committed against private citizens post-9/11 under the 2001 Patriot Act (rebranded in 2015 as the USA Freedom Act), the expansion of which is currently underway under a similar guise of public safety (e.g. contact tracing) and the full implications of which will not be known for years to come.

6. Ryan Mac, Caroline Haskins, and Logan McDonald, "Clearview's Facial Recognition App Has Been Used By The Justice Department, ICE, Macy's, Walmart, And The NBA," B*uzzfeed News*, https://www.buzzfeednews.com/article/ryanmac/clearview-ai-fbi-ice-global-law-enforcement.

7. Johana Bhuiyan, "Clearview AI uses your online photos to instantly ID you. That's a problem, lawsuit says," *Los Angeles Times*, March 9, 2021, https://www.latimes.com/business/technology/story/2021-03-09/clearview-ai-lawsuit-privacy-violations.

8. Rebecca Heilweil, "Masks can fool facial recognition systems, but the algorithms are learning fast," *Vox*, July 28, 2020, https://www.vox.com/recode/2020/7/28/21340674/face-masks-facial-recognition-surveillance-nist.

9. Kenneth Dickerman and Yuvraj Khanna, "This photographer is addressing the dilemma of how to represent protestors in an age of social media and facial recognition technology," *The Washington Post*, August 3, 2020, https://www.washingtonpost.com/photography/2020/08/03/this-photographer-is-addressing-dilemma-how-represent-protestors-an-age-social-media-facial-recognition-technology/.

10. Keegan Holden, interviewed by author, January 12, 2021.

11. Devin Coldewey, "Signal now has built-in face blurring for photos," *TechCrunch*, June 4, 2020, https://techcrunch.com/2020/06/04/signal-now-has-built-in-face-blurring-for-photos/.

12. Krishna Patel, JQ, and Sharon Zhou (stanfordmlgroup/blm), BLM Privacy Bot [source code], Github, 2020, https://github.com/stanfordmlgroup/blm.

13. Antwaun Sargent, "The Queer Black Artists Building Worlds of Desire," *Aperture*, December 8, 2020, https://aperture.org/editorial/the-queer-black-artists-building-worlds-of-desire/.

14. Authority Collective, "Do No Harm: Photographing Police Brutality Protests," May 31, 2020, https://drive.google.com/file/d/1hFvB_cGM_TfVVNuXV-Jg6mO4DIPLvNoC/view.

15. Law enforcement press pass policies function to gatekeep, limit, and control who has access and protection when covering these events—multimedia journalist Lexis-Olivier Ray wrote on Twitter that the LAPD only issued nine press passes in 2020 due to a "software issue." Lexis-Olivier Ray (@ShotOn35mm), March 9, 2021, https://twitter.com/ShotOn35mm/status/1369453461864128515.

16. David Berreby, "Can We Make Our Robots Less Biased Than We Are?," *The New York Times*, November 22, 2020, https://www.nytimes.com/2020/11/22/science/artificial-intelligence-robots-racism-police.html.

17. Alex Najibi, "Racial Discrimination in Face Recognition Technology," https://sitn.hms.harvard.edu/flash/2020/racial-discrimination-in-face-recognition-technology/.

18. Brent Lewis, "Blurring Faces Is Anti-Journalistic and Anti-Human," *Wired*, June 30, 2020, https://www.wired.com/story/opinion-blurring-faces-is-anti-journalistic-and-anti-human/.

19. This is true both in terms of colonial prospects and the actual chemistry of the medium: similar to the racial biases of AI and facial recognition technologies, one of the first erasures in photography existed in the chemical emulsion of color film, which was calibrated, by default, for white skin and could not with any nuance or accuracy capture darker skin tones. It was only after chocolate manufacturers in the 1960s and '70s complained that they "weren't getting the right brown tones on the chocolates" in their photographs that Kodak began to address the problem. Sarah Lewis, "The Racial Bias Built Into Photography," *The New York Times*, April 25, 2019, https://www.nytimes.com/2019/04/25/lens/sarah-lewis-racial-bias-photography.html.

20. Brent Lewis.

21. Daniel R. Bersak, "Ethics in Photojournalism: Past, Present, and Future" (master's thesis, Massachusetts Institute of Technology, 2006), https://web.mit.edu/drb/Public/Bersak_CMS_Thesis_FINAL.pdf.

22. Christina Aushana and Tara Pixley, "Protest Photography Can be a Powerful Tool For and Against Black Lives Matter," *Nieman Reports*, July 13, 2020, https://niemanreports.org/articles/protest-photography-and-black-lives-matter/.

23. Teju Cole, "When the Camera Was a Weapon of Imperialism. (And When It Still Is.)," *The New York Times Magazine*, Feb. 6, 2019, https://www.nytimes.com/2019/02/06/magazine/when-the-camera-was-a-weapon-of-imperialism-and-when-it-still-is.html.