

To:

Tony Porter

Surveillance Camera Commissioner

From:

William Perrin

By email

Automatic Number Plate Recognition System - concerns about governance and legality of data retention

I was a member of the Crime and Justice Sector Transparency Panel, hitherto a formal part of the UK's governance regime for open data and transparency. You are aware through our correspondence of my FOIA request to the National Police Chiefs' Council about the national governance of ANPR.

NPCC have today replied at this link:

https://www.whatdotheyknow.com/request/automatic_number_plate_recogniti_6#incoming-730763

The NPCC response raises serious concerns about which I seek your views and I should be grateful for a meeting to discuss.

In principle, I support ANPR as a necessary system for public safety and crime fighting. ANPR is huge - as many as ten billion number plate reads a year spread across a sprawling system loosely joined together. ANPR could be one of the world's largest non-military surveillance systems and probably contains more data about people than the NHS. Governance of such a system is central to its safe operation. Governance should be broadly based, expert, involving lay voices with clear lines of accountability and where possible take place in public.

The lack of a published governance structure prompted me to make my request to the NPCC. I am disturbed that they have responded that:

'there is no record which details the structure and governance of the ANPR system.'

<https://www.whatdotheyknow.com/request/289438/response/730763/attach/html/3/NPCC%20Response%2009112015.pdf.html>

The FOI response reveals the police's proposed increase in the data retention period from two years to seven years, about which there is little public awareness or debate. It appears that the police are already retaining data for greater than two years with questionable legality. Item 6 at

<https://www.whatdotheyknow.com/request/289438/response/730763/attach/html/6/03%20ANPR%20NUG%20Minutes%2003062015.pdf.html>

The Information Commissioners Office sets out in their letter copied to you of 30 June 2015 a range of concerns about governance, retention and processing that are very serious indeed when applied to a data set comprising 10 billion reads per year, in the ICOs estimation.

Of particular concern is the section:

As things stand at present, it is virtually impossible for a motorist using the road network to determine who is the data controller operating the ANPR cameras and who might be holding the data obtained. This not only engages concerns about fair processing it frustrates other important data protection rights such as being able to make a subject access request. This lack of transparency needs rectifying as data is

being collected by an ever expanding network of cameras, retained on a national system for two years and the vast majority of the retained records are about the use of vehicles which cause no concern to the police either immediately or over time. We have estimated that approximately 10 billion records are acquired annually – if you move into a retention period of between seven and ten years this is a significant amount of data being retained recording the movements of individuals as they go about their lawful day to day activities. There is very little transparency for the motorists who use the road network and have their vehicle movement details harvested in this way.

Demonstration of pressing need and proportionality will be particularly important as there is a very stark contrast to the retention of other data generated by individuals as they go about their normal lives such as with communications data which the police also believes satisfies a pressing need. In that case the retention is for a period of twelve months, the data is not retained by the police themselves and is subject to separate legislative safeguards set out in the Data Retention and Investigatory Powers Act and allied Data Retention Regulations. These safeguards include specific audit powers for the

I agree with the ICO's conclusion that:

So, to summarise, we do not believe that the paper demonstrates sufficient evidence to justify the extension of the retention period beyond the two years already in place based upon necessity. We are happy to provide further advice should the 'pilot' go ahead but it is important that there is appropriate independent oversight of that process and that the parameters are sufficiently robust to stand up to external scrutiny. Lastly, we will continue to keep the MPS retention of the 'national' feed under review as we do have concerns about how this sits with police service's publicly stated national ANPR retention policy.

Whilst the ICO criticisms are made in the context of extending the retention period the principles apply to the ANPR system as is. Such weaknesses are unacceptable in a system comprising billions of reads a year. I note with some curiosity that the ICO has been taking part in the current governance arrangements for some years.

I note that your own response on the increased retention proposals were due to the DUG in July this year, I should be grateful if you could publish that document.

The ICO's concludes that that legislation could be required if the retention period increases to seven years:

Further, the proposal may mark such a step change in the State's ability (through the police) to retain data about its citizens' lawful activities that this may also now warrant similar specific legislation to enable full parliamentary scrutiny and debate and to put specific additional legal safeguards in place. We are happy to explore with you the option of putting to ministers a case for specific legislation to cover the NADC including detailing retention periods and compensatory safeguards and how this would fit with the DPA's requirements.

This seems like closing the stable door after the horse has bolted, legislation should have been in place years ago.

It appears that the new 'NASP' may well contain improved future governance structures, but the NPCC refused to disclose these to me as they are in draft and won't be finalised until summer 2016. Preparing such structures and guidelines in relative secrecy without involving a broad range of civil society actors is counter productive.

The several references in the released documents to the Metropolitan Police's 'Olympic Feed' concern me. In the ICO letter of 30 June

<https://www.whatdotheyknow.com/request/289438/response/730763/attach/10/10%20Letter%20ICO%20to%20ANPR%20Portfolio%2030602015.pdf>

Lastly, the MPS continue to receive the 'Olympic' data feed from the NADC. This started in 2012 when we were originally advised that it was only going to be done during and just after the Olympic Games. The feed continues and now the MPS are holding data which is over two years old.

Correspondence from a Detective Superintendent to the ICO of 23 April 2015 suggest that the ICOs guidance to the police on processing the 'Olympic Feed' data could be unlawful.

<https://www.whatdotheyknow.com/request/289438/response/730763/attach/html/15/18%2019%20Email%20ICO%20to%20ANPR%2023042015%201714.pdf.html>

The line I have held around accessing the older ANPR data no longer seems sustainable. We've not looked at the data at all as the threat-to-life scenario didn't emerge, but I now have regular requests to access it where I feel a clear responsibility to do so under CPIA.

I don't think the conditions we agreed, which I have stuck very firmly to, are lawful or in the public interest.

I note that in this case the officer concerned was trying to find a way to act lawfully, in receipt of requests to view the data. The officer here seems to give little weight to the millions of other reads that counter balance the public interest in favour of disposing of the data in this case.

Overall I am concerned that the governance of the ANPR system is inadequate for billions of records, of which the vast majority will relate to innocent people's private journeys. The police may well be acting unlawfully in storing data past their agreed two year period, the proposals to extend to seven years are implausible against this background. If new guidelines are being drawn up it is wrong in principle to do this in secrecy. The 'Olympic Feed' appears troubling.

I should be grateful if you could share your views on these matters. I am uncertain as to what powers you have in law to remedy the situation in the complex web of legislation in this area but I should be grateful also if you could advise what steps you are taking.

I am copying this letter to Paul Maltby Director of Data in the Cabinet Office, Sir Nigel Shadbolt on the new data advisory panel and I am publishing it on my website at <http://talkaboutlocal.org.uk/blog/>

Yours ever

William Perrin