Sent 13 April 2015

FOIR to the Home Office re PND facial recognition capabilities

As per the annual report from the Commissioner for the Retention and Use of Biometric Material (Biometrics Commissioner) Section 7 of the report with reference to the Police National Database (PND) Facial Recognition System https://www.gov.uk/government/uploads/sy... and please see response from Association of Chief Police Officers (ACPO) to a Freedom of Information request (FOIR) asking about the PND facial recognition system: https://www.whatdotheyknow.com/request/254634/response/630931/attach/html/3/043%2015%20ACPO%20Response%2019032015.pdf.html

Home Office response in red found here: https://www.whatdotheyknow.com/request/263544/response/665587/attach/html/2/20150616%20Response%20Letter%2035046.pdf.html

Dear Home Office,

With regards to the above:

1) Please advise who has responsibility as data controller for the PND facial recognition system.

> Chief Officers are considered to be 'data controllers in common' for the data held on the PND. As such, those Chief Officers hold all the information on the PND that can be accessed. CC Mike Barton, Chief Constable of Durham Constabulary, is the National Police Chiefs Council (NPCC) lead for the PND as Chair of the Cross Business Area Working Group on Facial Images.

2) ACPO's response to the recent FOIR question 'Please provide a copy of the privacy impact assessment carried out.' (in relation to the facial recognition system) was:

"ACPO does not hold information captured by your request. I have consulted with colleagues who provide the following information outside of the Freedom of Information Act (FOIA). An original Private Impact Assessment (PIA) was conducted in 2009 by the National Police Improvements Agency (NPIA). It was announced in December 2011 that the NPIA would be gradually wound down and its functions transferred to other organisations. By December 2012, all operations had been transferred to the Home Office, the College of Policing amongst others.   However, an update was drafted in 2013, and I cannot confirm whether this was ever ratified. The draft implied that further PIA work was to be completed and it is believed the Home Office have commissioned this work. A consideration for you may be to make a request with the Home Office."

Please advise the current situation with any Privacy Impact Assessment carried out for the PND facial recognition system and supply a copy if available.

An initial PIA for the PND was carried out in 2008 and published by the NPIA in April 2009 following the guidance in the Information Commissioner's Privacy Impact Assessment handbook (published in December 2007) recommending PIAs as good practice for any initiative involving new or significant changes to the processing of personal information. The inclusion of and sharing of images was considered in this PIA. An audit and review was published in 2011 and a further review undertaken but not published in 2013.

The Home Office does not hold a Privacy Impact Assessment specific to the facial recognition system.

3) In the absence of information ACPO had when asked the following questions, please advise:

a) Where the images to be facially recognised (persons requiring identification) are coming from. I.e. body worn cameras, private surveillance systems, etc.

This information is not held by the Home Office but by individual forces. The images to be facially recognised – known as probe images – are only ever available in the session when the search is being run and are never uploaded into PND.

b) Where the images to be referenced against (the database of images) are coming from I.e. custody images, body work cameras, private surveillance systems, any other databases, etc.

This information is not held by the Home Office but by individual forces. In practice, only images collected as part of the custody detention process (i.e. custody images) are uploaded to PND.

c) On average how many images per months have been uploaded? (ACPO's response: This information may be held by the Home Office and a consideration may be to make a request with them.)

Data on the average number of images uploaded per month is not held. However data on the number uploaded per month is held, for example, in the last three months the numbers of images eligible to be enrolled in the facial search gallery were as follows:

March '15 94,329
April '15 85,546
May '15 120,727

The actual number of images enrolled will be slightly less as only images which meet the enrolment criteria are uploaded.

To refine your request, you may consider providing a time span for which the monthly figures can be provided, upon which you could base your calculation of an average.

d) How many images have been deleted from the database?

This information is not held by the Home Office. Images are uploaded by individual police forces and enrolled in the facial recognition gallery. Instructions to delete images are also uploaded by individual police forces when appropriate.

e) What action is being taken to address concerns voiced by the Commissioner for the Retention and Use of Biometrics (see above report, page 104). Concerns are:

 "the acceptability of creating what is, in effect, a searchable national database of custody photographs; the inclusion and processing on that database of images of individuals who have never
been convicted of a recordable offence; the scope for searching against that database other images of unconvicted individuals (including, perhaps, images derived from CCTV and/or 'body worn
video'); and, more generally, about what would constitute appropriate arrangements for the governance and regulation of the relevant database and searching process.

As well as raising my concerns about these matters with Chief Constable Barton and with senior Home Office officials, I have raised them with the Forensic Science Regulator, with the Surveillance Camera Commissioner and with the Information Commissioner's Office. It is clear from my discussions with them that they also have concerns about proper regulation in this area
and that they would, like me, be happy to contribute to the development of an appropriate regulatory regime."

A review of legal basis, regulation, governance and procedures for the use and retention of custody images is currently underway and is expected to report back to Ministers in 2015. Please see Lord Bates' written evidence to the House of Commons Science and Technology Committee available at this link:

http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/current-and-future-uses-of-biometric-data-and-technologies/written/17354.html and a response to PQ HL 5118.

f) Who has access to the facial recognition system (including employees of the Home Office)? I.e. police forces, any other organisations.
(ACPO's response: *ACPO does not hold information captured by your request. There is no record held that specifically details a definitive list of information. However, all PND users have access to the facial recognition system.*)

Avon and Somerset Constabulary, Bedfordshire Police, BTP (British Transport Police), Cambridgeshire Constabulary, Cheshire Constabulary, City of London Police, Cleveland Police, Cumbria Constabulary, Derbyshire Constabulary, Devon Cornwall Police, Dorset Police, Durham Constabulary, Dyfed Powys Police, Essex Police, Gloucestershire Constabulary, Greater Manchester Police, Gwent Police, Hampshire Constabulary, Hertfordshire Constabulary, Humberside Police, Kent Police,

Lancashire Constabulary, Leicestershire Police, Lincolnshire Police, Merseyside Police, Metropolitan Police Service, Norfolk Constabulary, North Wales Police, North Yorkshire Police, Northampton Police, Northumbria Police, Nottingham Police, Police Scotland, PSNI (Police Service of Northern Ireland), South Wales Police, South Yorkshire Police, Staffordshire Police, Suffolk Constabulary, Surrey Police, Sussex Police, Thames Valley Police, Warwickshire Police, West Mercia Police, West Midlands Police, West Yorkshire Police, Wiltshire Police, MOD, and SPCB (Service Police Crime Bureau).

There are 12,000 licences available for use of PND. At present 8,473 are activated. 3,824 users used PND in April 2015 (the highest monthly usage to date). The suppliers Cognitec (facial search software) and CGI (PND software and hardware) have access to the software but not to any of the images held on the PND.

g) What percentage (or number) of images held on the facial recognition database are of persons who have not been found guilty of a crime? Please break down by i) persons charged but not convicted of a crime and ii) persons not charged with a crime

This information is not held by the Home Office but by individual forces.

h) Which other police forces are considering using or using facial recognition systems? e.g. Leicestershire Police using NeoFace.

This information is not held by the Home Office.

i) When ACPO were asked 'How many searches have been done? Please break down by how many individuals have been positively identified and searches that have not been able to positively identify an individual?' ACPO answered "A total of 4000 facial searches were submitted between 28/03/2014 (when the functionality was released to users) and 17/02/2015." ACPO did not advise on the breakdown, therefore please break down the 4000 searches by how many individuals have been positively identified and searches that have not been able to positively identify an individual? i.e. False positives and false negatives.

While the number of searches conducted within a period can be given, information on the breakdown of searches is not held by the Home Office and is not captured as facial search is not used to make a positive identification, but to suggest lines of enquiry

4) When did the Home Office become aware that the PND was to incorporate facial recognition capabilities?

As per Lord Bates' response to the House of Commons Science and Technology Committee (link provided earlier in this letter) – "Development work for adding facial recognition functionality to the PND was initiated within the National Policing Improvement Agency (NPIA) in the summer of 2012. The PND was developed and run by the NPIA until 1 October 2012 when, as part of the programme to close the NPIA, responsibility for the PND service

5) Please provide all copies of electronic records, emails, minuted meeting, documents, and consultations, etc, with reference to the facial recognition system on the PND.

Requests for all or any information unless it is for a very specific, small and easily retrievable information store, usually makes a request too broad in nature for a public authority to process in any meaningful way. In this case, the request is for all information regarding the facial recognition system on the PND without any limitation and is essentially a request for all the information held by the Home Office on this subject. Not only would this require a very broad search of the PND unit, but potentially any Home Office unit with an interest in PND and facial recognitions. This will take this request above the cost limit set for the processing of FOI requests.

6) How much did the facial recognition system on the PND cost to implement.

The facial recognition system cost £1,168,758 to implement (assessment, functional design, procurement of hardware and software, build and release).

7) Who (name and position) authorised the facial recognition on the PND

Release of facial recognition on PND was authorised by CC Mike Barton, chief constable of Durham Constabulary, Chair of the Cross Business Area Working Group on Facial Images and Senior Responsible User for the Police National Database

8) Does the PND facial recognition system use or have access to photographs from any other databases?

PND does not access images from any other database. It is a matter for each force what images are uploaded. In practice, only images collected as part of the custody detention process (i.e. custody images) are uploaded.

9) Mike Barton stated on February 2nd 2015 on BBC Newsnight (see: https://www.youtube.com/watch?v=gmp7uk_sMlU&feature=youtu.be) "I am very proud of the number of arrests we've made cos of it [FR]" Please advise how many arrests have been made? Please break your response down to those arrested by i) how many were charged ii) how many those charged were convicted.

This is not data held by the Home Office. It is a matter for individual forces whether they collect data on which arrests are as a result in part or full of a line of enquiry initiated from use of facial search, how many of these result in charges and in convictions. In addition the

time lag between arrest, charge and conviction/acquittal will lead to a corresponding lag in the data if and where it is collected.

10) How does the facial recognition database comply with the ruling given in 'R (RMC and FJ) v MPS' point 58. Lord Justice Richards: *"In my view, the just and appropriate order is to declare that the defendant's existing policy concerning the retention of custody photographs (namely, to apply the MoPI Code of Practice and the MoPI guidance) is unlawful. It should be clear in the circumstances that a "reasonable further period" for revising the policy is to be measured in months, not years."* http://www.bailii.org/ew/cases/EWHC/Admin/2012/1681.html

Compliance with regard to the ruling is a matter for police forces and their policy with regard to retention of custody images. A review of legal base, regulation, governance and procedures for the use and retention of custody images is currently underway and is expected to report back to Ministers in 2015. See Lord Bates' response to the Science and Technology Committee referred to earlier.

Either advise on Home Office guidelines to remove innocent people's photographs from the PND or/and detail how Mike Barton's progress in this matter is developing, as he stated on BBC Newsnight February 2nd, with regards to the above ruling "…that's why I'm introducing that concept [removing innocent people's photographs] into the PND"

A review of the legal basis, regulation, governance and procedures for the use and retention of custody images is currently underway and is expected to report back to Ministers in 2015.

11) How many duplicate images, i.e. images of the same person, are on the PND?

This information is not held by the Home Office. In addition, it would be difficult to quantify, especially if we use the definition of a duplicate as an image of the same person. People who have been arrested on multiple occasions will have multiple custody images recorded on PND.

(End)