

## **Justice Sub-Committee on Policing**

### **Police Scotland's digital data and ICT strategy**

#### **Written submission from the Open Rights Group**

The Open Rights Group is a digital rights campaigning organisation committed to protecting the rights to privacy and free speech.

#### **What is the Vulnerable Persons Database?**

According to reports the Vulnerable Persons Database (iVPD) is a database of more than 800,000 individual entries. The aim of the Vulnerable Persons Database is for officers to collate information about vulnerable adults and children - which offered "real opportunities" to prevent future crime.

<https://leahurst66.files.wordpress.com/2017/10/171019-police-scotland-foi-vpd.pdf>

#### **What is the Open Rights Groups' concern with the Database?**

The iVPD contains more than the data of "vulnerable" people. The Database contains individuals that are classified as No Concern / Not Applicable: these are individuals such as parents of a child, details of an interpreter or an Appropriate Adult or a witness to a crime.

A significant portion of the entries are categorised as No Concern / Not Applicable. This has led the Information Commissioner to question why the information was collected in the first place if these entries are of "No Concern". Collecting unnecessary information is a breach of Data Protection principles.

Once an individual is added they cannot be removed. This is in breach of the Data Protection Act 1998. The Information Commissioner has raised this with Police Scotland.

<http://www.bbc.co.uk/news/uk-scotland-41335762>

Some individuals added to the list have also felt stigmatised by the label of "vulnerable" (see BBC story).

Based on conversations Open Rights Group have had with Police Scotland the deletion policy has only recently been signed off and the actual deletion isn't going to be available to take place until the end of Summer.

The deletion policy is not publicly available. (A freedom of information request from Open Rights Group is currently awaiting internal review after no response was received and the deadline lapsed).

There is no equivalent database in England, Northern Ireland or Wales.

The iVPD contains over 100,000 entries for children between the ages of 1 and 11.  
<https://leahurst66.files.wordpress.com/2017/10/171019-police-scotland-foi-vpd.pdf>

## **What is the National Police Database?**

The National Police Database is available to all police forces and wider criminal justice agencies throughout the United Kingdom, allowing the police service to share local information and intelligence on a national basis.

## **What is the Open Rights Group's concern with the iVPD linking with the Police National Database?**

As far as it is publicly understood, Police Scotland is yet to delete the details of hundreds of thousands of individuals who should not be on the database. This means that the details of innocent individuals who have no relationship to a crime other than potentially a witness, or even an interpreter or support worker in a case, will be available to all Police forces in the United Kingdom.

This is a disproportionate interference with their right to privacy. Keeping in mind that Police Scotland have already breached the Data Protection Act 1998 for adding so many individuals to the database in the first place, the Police National Database status under the Data Protection Act 1998 could itself be called into question.

The very existence of the database raises question about Police Scotland's data handling practices. It is concerning that the details of 100,000 children under the age of criminal responsibility may be added to the Police National Database alongside adults as distinct policies for treatment of children in the criminal justice system have been developed by the Scottish Government (Whole System Approach for Young People Who Offend), yet this isn't reflected in the structure of the iVPD or in the proposal to link this with the Police National Database.

Linkage should not take place until the database is compliant with the Data Protection Act 1998, the deletion policy has been made public and Police Scotland have been assessed by the Information Commissioner to be operating effective policies with regard to the addition, weeding, and deletion of data in the iVPD.

## **Questions**

- How many individuals would be added to the Police National Database if this proposed linkage was authorised?
- What opportunities are Police Scotland giving individuals to request removal from the iVPD before linkage with the Police National Database?
- What assurances can you give children and the parents or guardians of children that their data is going to be kept safe and secure, up to date, and treated separately from other categories of data in iVPD?
- When can the public expect to see the deletion policy?
- Has the Information Commissioner assessed your policy and the current practice with the iVPD? Have they approved where previously they raised concerns?

## **Remarks on proposals to establish iris recognition within custody facilities**

Police Scotland's drive for adoption of technology before proper rules are in place is concerning. In the recent report from the Independent Advisory Group on the use of Biometric Data in Scotland it was pointed out that there was no legal basis for the collection of custody episode images.

As a result of the absence of the rules, Police Scotland did not have weeding policies in place to cater for the timely disposal of the photographic images of persons not subsequently charged or convicted. This has led to the collection of almost 1,000,000 + custody photographs. (page 26 of IAG report).

<http://www.gov.scot/Resource/0053/00533063.pdf>

Open Rights Group are concerned that Police Scotland are looking to adopt technology for biometric collection before suitable processes are put in place. Police Scotland needs to demonstrate a consistent ethical and human rights-respecting practice which is lacking in its current practice of collecting biometric data without suitable weeding and deletion policies.

The IAG report made explicit recommendations that a code of practice should be adopted covering the acquisition, retention, use and disposal of DNA, fingerprints, facial and other photographic images (including custody images) and all existing, emerging and future biometrics for Police Scotland. (Recommendation 2).

This code of practice would include iris recognition in custody facilities. The code of practice should be in place before procurement and adoption of further biometrics collection technology is rolled out.

The Police must show that the adoption of this technology is necessary in a democratic society. To do this it must be for a legitimate aim answering a "pressing social need" and, in particular, be proportionate to the legitimate aim pursued.

As laid out by Police Scotland in the papers: iris recognition would primarily reduce queue time and form-filling for custody officers. These do not seem legitimate reasons for the collection and storage of biometric details of individuals.

### **Questions**

- Is it reasonable to suggest a reduction in form filling is a proportionate interference with individual's right to privacy?
- What is the proposed retention policy for this type of information? How long will the biometric details of individuals be retained by Police Scotland?

Open Rights Group  
9 May 2018