



Home Office

Baroness Williams of Trafford
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The Rt Hon Norman Lamb MP
Chair of the Science and Technology Committee (Commons)
House of Commons
London
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Dear Norman,

01 FEB 2018

BIOMETRICS STRATEGY AND FACIAL RECOGNITION

Thank you for your letter of 19 December.

You ask for further information on how the recommendations of the Custody Image Review (CIR) are being implemented and what plans the Government has to embed these in legislation, what guidance has been given to forces on the use of images, and for further information about the Biometrics Strategy.

How the recommendations of the Custody Image Review (CIR) are being implemented

The CIR is being implemented by means of an addition to Authorised Professional Practice (APP) on the Management of Police Information (MoPI), which the College of Policing published in March 2017 at:

<https://www.app.college.police.uk/app-content/information-management/management-of-police-information/retention-review-and-disposal-of-police-information/#custody-images>

This states that 'An individual should have the facility to apply to chief officers to request deletion of their custody image. Deletion may be requested where the individual was not charged, not convicted of the offence for which the image was taken, or convicted and a predetermined time has elapsed since the conviction. Where an application is made by an individual who has not been convicted, there should be a presumption in favour of deletion. Chief Officers have the discretion to retain a custody image where this is necessary for a policing purpose and there is an exceptional reason to do so. Examples might include where the individual is considered to pose a substantial risk of harm when assessed against National Retention Assessment Criteria'. The section refers to the CIR for further details.

Plans the government has to embed the CIR in legislation

The APP is a Code of Practice rather than legislation. Section 39A(7) of the Police Act 1996 requires chief officers to 'have regard' to such Codes of Practice – in other words, they should normally follow them unless there is a reason not to. We have no evidence that forces are not following the APP in relation to deletion of custody images. Therefore we do not see a need to embed the CIR in legislation at this time. Use of a Code of Practice has the advantage that it is easier to update than legislation, particularly as no legislative vehicle is likely to be available soon. However, we retain an open mind on legislating in the future, if evidence of a need to do so is presented.

Guidance or instructions given to police forces

The Surveillance Camera Commissioner (SCC) and the Information Commissioner (ICO) have issued guidance that reference Automatic Facial Recognition (AFR) in associated documentation.

The Protection of Freedoms Act 2012:

- requires the Secretary of State to issue a code containing guidance about the development and use of surveillance camera systems and / or the use or processing of images obtained by such systems
- requires relevant authorities including PCCs and chief officers of police forces to have regard to the code
- requires the Secretary of State to appoint an SCC who will encourage compliance with the code and review its operation.

This code was issued in June 2013 and is published at:

<https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

It lays down twelve principles and explains what the practical steps are to achieve these. The SCC has published a short guide to these principles and a self-assessment tool allowing users to determine whether they are meeting the principles.

The ICO has also published a code of practice entitled 'In the Picture: a data protection code of practice for surveillance cameras and personal information':

<https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

This explains how the principles laid down in data protection legislation apply to surveillance cameras, and how these relate to the principles in the Surveillance Camera Code of Practice.

The extended remit of the Biometrics and Forensics Ethics Group (BFEG)

This group was originally the DNA Ethics Group. Its remit was defined as 'To ensure that all decisions relating to the forensic use of DNA (obtaining, storage, retrieval) are considered in the light of ethical and human rights principles, and that individuals may only have their DNA taken for lawful forensic purposes and at all times be treated fairly and with dignity and respect.'

In line with the recommendations of the triennial review of Home Office science bodies, the remit of the Group was extended to cover 'ethical issues associated with all forensic identification techniques including, but not limited to, facial recognition technology and fingerprinting'.

Date for publication of the Biometrics Strategy, and its relationship with guidance on and oversight of facial recognition

I understand the Committee's concern about the delay and aim to publish the Strategy later this year. I realise the Committee is particularly concerned about facial recognition, and am therefore progressing policy on this separately. I recognise that greater co-ordination and transparency is needed on how the current guidance provided is implemented and have therefore instructed officials to discuss with the National Police Chiefs' Council, the SCC, ICO, BFEG, Biometrics Commissioner and other stakeholders a mechanism for doing this. I hope to be able to make an announcement about this very shortly.

I look forward to discussing these issues with the Committee on 6 February.

A handwritten signature in black ink, appearing to read 'Susan', with a large, stylized flourish above the name.

Baroness Williams of Trafford