

**Information Compliance & Records Management
Unit
Information Services Branch**

S. Carlo
Via [REDACTED]

Our ref: GSA 2866/18

When emailing or telephoning
please ask for Samantha Markham

4th February 2019

Dear S Carlo

FREEDOM OF INFORMATION REQUEST REFERENCE NO: GSA 2866/18

I write in connection with your request for information dated 15/10/2018. I note you seek access to the following information:

Freedom of Information Act 2000 ("FOIA") Request

I write to request information and records under the FOIA, regarding Greater Manchester Police's use of live, automated facial recognition technology.

1. Has your police force used live facial recognition? If so, please provide details including the time period of use, locations, and which uses have ceased or are continuing.

2. Has your force collaborated with any external companies (e.g. Intu) in their use of live facial recognition? If so, please provide details including the time period of use, locations, any costs involved, and which uses have ceased or are continuing.

2a. If the answer to 2 is yes, what was the protocol arranged for the event of a match alert?

2b. How many times was your force informed of a match alert? How many of those led to further police action being taken?

3. How many true positive matches were there during your force's use, or engagement with external (e.g. Intu) use, of live facial recognition?

4. How many false positive matches were there during your force's use, or engagement with external (e.g. Intu) use, of live facial recognition?

5. Does your force have any policy guidance relating to live facial recognition and/or the retention of images resulting from the use of live facial recognition?

5a. If yes, when were the policies created? (Please provide a copy of said policies)

5b. How many images captured in the course of using automated facial recognition technology have been retained for storage?

6. Has your force completed a privacy impact assessment in relation to live facial recognition technology? If so, please provide a copy.

7. Has your force scrutinised a privacy impact assessment conducted by any external companies operating live facial recognition with whom you have collaborated? If so, please describe when and provide a copy.

8. Has your force shared facial images with external companies for the purposes of live facial recognition? If so please detail:

a. which companies the images were shared with,

b. the number of images shared,

c. from which datasets the images were drawn,

d. a full list of purposes for which the images were shared,

e. the legal basis on which the images were shared,

f. and data security/management protocols around the handling of the shared data.

Result of Searches

Following receipt of your request searches were conducted within Greater Manchester Police (GMP) to locate the requested information and I can confirm that the information requested for some of your questions regarding the **overt** use of facial recognition technology is held by GMP; however, some information is exempt from disclosure.

Section 17 of the Freedom of Information Act 2000 requires Greater Manchester Police, when refusing to provide such information (because the information is exempt) to provide you, the applicant, with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

Information relating to question 8e of your request is exempt by virtue of the following exemption:

Section 42(1) Legal professional privilege

Section 42 is a qualified exemption and as such there is a requirement to consider the public interest.

Section 42 - Factors favouring disclosure

GMP appreciates Section 42 exemption is not absolute and we have therefore considered whether the public interest in disclosure in this particular case is strong enough to equal or exceed the public interest in LPP.

One factor I have taken into account in favor of disclosure is the general public interest inherent in FOI, in respect of the assumption of disclosure. However, the ICO guidance on the application of this exemption appreciated this on its own will not be enough to override the inbuilt public interest in the exemption.

In the interests of transparency I understand there is a public interest in disclosure of the legal advice. The advice would enable the public to better understand the basis of GMP's decisions.

GMP is committed to releasing information that would contribute to the public's understanding of police decision-making. In this case, release of the legal advice received would facilitate greater public understanding and openness.

Factors against disclosure for S42

GMP is reliant upon the provision of impartial legal advice to inform and guide its decision-making. The public release of the requested legal advice would be likely to impede the free and frank channels of communication that exist between GMP and professional legal advisors. This is because, over time, those seeking legal advice on behalf of GMP and/or providing advice would be less likely to be candid in future communications owing to the risk of future release. This would affect the quality of advice provided by legal advisors to GMP and the ability of GMP to obtain open, informed and unbiased legal advice.

The client-legal professional privilege is a principle enshrined in history that must be respected. Releasing the requested information would impede that relationship by deterring the complete free and frank flow of communication that exists between GMP and legal advisors. Should the relationship be less candid in future communication due to the continued release of legal communications under FOIA requests, GMP risk the reduction of the quality of advice received on various matter. In turn this would negatively affect the ability of the service to make more effective and efficient informed decisions.

Results

Q1. Used from 3/3/18 – 25/9/18 –Trafford Centre Only, Ceased.

Q2. Used from 3/3/18 – 25/9/18 –Trafford Centre Only, Ceased. No costs involved.

Q2a. Intu security would contact Police on 999.

Q2b. One match which wasn't resourced at the time.

Q3. 1 – as above.

Q4. None.

Q5. No.

Q5a. N/A.

Q5b. One image – this was retained for future direction should we work with facial again and would be part of a presentation to the appropriate bodies. The image on the database has been removed.

Q6. No.

Q7. No data held.

Q8. Yes.

Q8a. INTU, Trafford centre only.

Q8b. 53 images provided – 2 were of poor quality. 33 wanted persons and 20 missing persons.

Q8c. GMP images and images provided by family/friends.

Q8d. For wanted persons or concerns for missing persons only.

Q8e. This data is exempt under S42 of the FOIA as mentioned above.

Q8f. There was one gate keeper from GMP for providing information to INTU – no other persons was allowed to send and INTU knew that they could only accept from the gate keeper. There were 3 gate keepers within INTU, all internally vetted. The data was stored on a unique database away from all other images. Random audit checks were conducted regularly to check the database was kept up to date and to check that all GMP requests had been conducted. The storage and security of the database came under INTU security protocols; however, there were no names or details provided other than a request to call GMP if there was a positive match.

Further to the above responses, which relate exclusively to overt use of such technology, GMP can neither confirm nor deny that we hold any other information in respect of **covert** use of facial recognition technology that may or may not take place and information relevant to this request is exempt by virtue of the following exemptions:

Section 24(2) National Security
Section 31(3) Law enforcement

Section 24 and Section 31 are both qualified exemptions and as such there is a requirement to evidence any harm confirmation or denial that any other information is held as well as consider the public interest.

Harm in confirming that Information is held

The definition of national security encompasses a wide spectrum and it is our duty to protect the people within the UK. Public safety is of paramount importance to the policing purpose and must be taken into account in deciding whether to disclose whether the information is or is not held. Furthermore, confirming if particular tactics are used and confirming policing methods which are not in the public domain may prejudice the use of this method by allowing criminals to adopt counter measures.

To confirm or deny whether we hold any further information, would allow interested parties to gain an upper hand and awareness of policing policy and decisions used to safeguard national security. To confirm or deny that any other information is held or provide details relating to what may or may not be held may be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public, and this would also impact upon any current investigation.

Public Interest Test

Section 24 - Factors favouring confirming or denying that any other information is held

Confirming or denial that any other information exists relevant to the request would lead to a better informed public and the public are entitled to know how public funds are spent. The information simply relates to national security and disclosure would not actually harm it.

Factors against confirmation or denial for S24

To confirm or deny whether GMP hold any additional information would allow inferences to be made about the nature and extent of national security related activities which may or may not take place. This could enable terrorist groups to take steps to avoid detection, and as such, confirmation or denial would be damaging to national security.

By confirming or denying any policing arrangements of this nature would render national security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure on the UK and increase the risk of harm to the public.

Section 31 - Factors favouring confirmation or denial for S31

Confirming or denying whether any further information is held would allow the public to see where public funds have been spent and allow the Police service to appear more open and transparent.

Factors against confirmation or denial for S31

By confirming or denying whether any further information is held would mean that law enforcement tactics would be compromised which would hinder the prevention and detection of crime. Security arrangements and tactics are re-used and have been monitored by criminal groups, fixated individuals and terrorists. These security arrangements and tactics would need to be reviewed which would require more resources and would add to the cost to the public purse.

Balancing Test

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The security of the country is of paramount importance and the Police Service will not divulge whether any other information is or is not held if to do so would place the safety of an individual at risk or undermine National Security. Whilst there is a public interest in the transparency of policing, providing assurance that the Police Service is appropriately and effectively engaging with the threat from criminals, there is a very strong public interest in safeguarding both National Security and the integrity of the police in knowing that policing activity is appropriate and balanced in matters of National Security; this will only be overridden in exceptional circumstances.

It is therefore our opinion that for these issues the balancing test for confirming or not that any other information is held is not made out.

Complaint Rights

Your attention is drawn to the attached sheet, which details your right of complaint.

Should you have any further queries concerning this matter, please write or contact me on telephone number 0161 856 2511 quoting the reference number above.

Yours sincerely,

Samantha Markham
Information Compliance and Records Management Unit

COMPLAINT RIGHTS

Are you unhappy with how your request has been handled or do you think the decision is incorrect?

You have the right to require Greater Manchester Police to review their decision.

Prior to lodging a formal complaint you are welcome and encouraged to discuss the decision with the case officer that dealt with your request.

Ask to have the decision looked at again –

The quickest and easiest way to have the decision looked at again is to telephone the case officer that is nominated at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

Complaint

If you are dissatisfied with the handling procedures or the decision of Greater Manchester Police made under the Freedom of Information Act 2000 regarding access to information, you can lodge a complaint with Greater Manchester Police to have the decision reviewed.

Complaints should be made in writing and addressed to:

Information Compliance & Records Management Unit Manager
Information Services Branch
Greater Manchester Police
Openshaw Complex
Lawton Street
Openshaw
Manchester
M11 2NS

The Information Commissioner

After lodging a complaint with Greater Manchester Police if you are still dissatisfied with the decision you can make an application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make an application to the Information Commissioner please visit their website at www.ico.org.uk/. Alternatively, phone or write to:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Phone: 01625 545 700