



Home Office

# The Use of ANPR by Law Enforcement Agencies

Lawful Interference with the European Convention on Human Rights - Article 8

The Data Protection Act 1998 (DPA)

The Regulation of Investigatory Powers Act 2000 (RIPA)

December 2014

# 1 Introduction

- 1.1 Automatic Number Plate Recognition (ANPR) systems are designed capture an image of a vehicle registration mark as a vehicle passes an ANPR camera within the system and then to read that number using optical character recognition (OCR) technology. When operated by Law Enforcement Agencies (LEA) a record of that vehicle registration mark (VRM) as identified by the system is then stored. Information processed by ANPR systems is “personal data” within the meaning of the DPA.
- 1.2 Compliance with the requirements arising from the DPA and associated data protection principles is required for all aspects of ANPR systems, which includes the deployment of ANPR number plate reading devices (NRD) and the use of data obtained from those systems. It is the responsibility of the “data controller” to ensure compliance.
- 1.3 In addition to the requirements arising from the DPA in some circumstances compliance with requirements arising under the RIPA may be required.
- 1.4 Article 8(1) of the European Convention on Human Rights (ECHR) guarantees the right to respect for private and family life, home and correspondence. Under Article 8(2), interference with the right by a public authority (such as state law enforcement officers) must be justified as being in accordance with the law and necessary in a democratic society in furtherance of one or more of certain legitimate aims (for example, the prevention of disorder or crime and the protection of the rights and freedoms of others).The DPA and RIPA provide the framework to support Article 8 ECHR.
- 1.5 The purpose of this document is to provide guidance to support LEA in the lawful use of ANPR and in particular the determination of whether authorisation under provisions of RIPA is required.

## 2 Deployment of ANPR NRD

- 2.1 The requirement for ANPR at a location must be assessed in the context that it is to be deployed. LEAs have agreed a structured approach to infrastructure development that supports compliance with the requirements of DPA and the Surveillance Camera Code (SCC) issued under provisions of the Protection of Freedoms Act 2012. The SCC provides for regulation of overt surveillance using ANPR such that the use of ANPR in accordance with that Code is regarded as “surveillance by consent”. These procedures

are particularly relevant where permanent fixed site infrastructure or an extended period for deployment of temporary ANPR capability is proposed.

- 2.2 Circumstances may arise where the deployment of ANPR in support of a short term event or as part of a policing surveillance operation to combat organised crime is required. In those circumstances the considerations outlined within the structured approach remain relevant, however in this type of deployment an absence of consultation is more likely to be justified.
- 2.3 A directed surveillance authority (DSA) under provisions of RIPA may be required for the deployment of ANPR, if that device is being used to obtain private information about a person. The essential consideration is whether private information is obtained; if it is not then a DSA will not be required.
- 2.4 Private information includes any information relating to private or family life and may include a record of their movements and activities. Clearly whether information obtained from a NRD is 'Private information' needs to be considered in the context of relevant ANPR NRD in each case.
- 2.5 The use of ANPR does not generally result in the obtaining of private information. Registration plate detail is not in itself private information. A vehicle registration number plate (VRM) is a deliberately overtly displayed marker, which can be seen, and is intended to be seen. Every person who drives a car voluntarily accepts that they are likely to be capable of being linked to a particular vehicle by reference to the VRM in the context of other data, and that ANPR technology on the roads will allow LEA to determine presence of a vehicle at a location. In general road users have no reasonable expectation of privacy in relation to ANPR being able to determine their presence on the road. Where the location is such that no expectation of privacy can arise then surveillance at that location is not covert and no DSA will be required for the deployment of a NRD at that location.
- 2.6 In some circumstances a proposed deployment may be focussed primarily to gather information in relation to a suspect in real time that is not simply that the individual is on a particular road, but extends to details of their movements at that location. E.g. Recording them leaving or arriving home, then this may amount to private information. This is most likely to arise in relation to covert deployment of ANPR at a location that may have infrequent public access, or to monitor movements from a private road. The determination of whether a DSA is required will depend on the particular facts however in

these circumstances authority for the deployment of ANPR for the purposes of supporting a covert policing operation against specific persons or groups may be required.

## 3 Research and monitoring of ANPR Data

- 3.1 Surveillance is not given an exhaustive definition by RIPA but is expressed to include (by s.48(2)) monitoring, observing or listening to individuals or their activities, making records of such monitoring observing or listening, and surveillance by or with the assistance of a surveillance device. The Investigatory Powers Tribunal in *Re A Complaint of Surveillance* IPT/A1/2013, said that the ordinary English meaning of surveillance is extended by the statutory provisions without changing its “essential meaning as a covert intelligence gathering activity”
- 3.2 The examining of recorded ANPR data does not amount to surveillance and a DSA is not required.
- 3.3 On occasions the research of data may be conducted using a list of vehicles of interest (VOI), such that data concerning a vehicle, and as a consequence a specific individual, is provided from the ANPR system in real time. The use of a VOI list in this way is capable of being considered as a covert intelligence gathering activity. It is necessary to consider whether this activity is likely to result in the obtaining of private information.
- 3.4 Private information considerations are detailed within section 2 (ante). The circumstances where a DSA may be required are outlined such that the requirement for RIPA authorisation is in relation to the deployment of infrastructure to collect ANPR data. The use of a VOI list does not require a DSA in circumstances where authority is not required for the deployment of ANPR NRD.
- 3.5 The use of a VOI list as part of an intelligence gathering activity requires justification and must be done consistently with obligations arising under the DPA to be lawful.

## 4 Managing Sexual and Violent Offenders

- 4.1 The circulation of a vehicle linked to a sexual or violent offender on Police National Computer (PNC) as an ACTION Report (ACT) with the intention that action of some kind is required, dependent upon the circumstances that the vehicle comes to notice is not directed surveillance and no authority is required.

- 4.2 Research and monitoring of ANPR, including the use of a VOI list, as outlined within section 3 above, in support of the management of sexual offenders and violent offenders is not inherently different from that process for other offenders. Private information is not generally likely to be obtained by ANPR and a DSA is therefore not required for that activity.
- 4.3 The use of ANPR for the monitoring of sexual offenders and violent offenders requires justification and must be done consistently with obligations arising under the DPA to be lawful, which should be considered in the context of each case.
- 4.4 Where monitoring is considered relevant as part of an offender management plan, in the absence of any circulation for executive action to be taken, then there would in most circumstances, be no basis for relying on the exemptions contained within S29 DPA and in compliance with the data protection principles, the offender should be informed how their data is to be handled. The offender should therefore, be informed that their movements will be monitored and analysed.<sup>1</sup>
- 4.5 The offender should be told that their movements will be monitored which will include the monitoring of the movements of any vehicle used by him, and whilst the precise policing tactics to be used need not be disclosed, the offender should be told the intended period of monitoring and when it will be reviewed. This may be part of the offender management plan process. The offender should be notified when any overt monitoring has ceased.
- 4.6 In circumstances where a vehicle used by an offender, is known to also be used by other persons, then it is appropriate for them to be advised that the movements of the vehicle will be monitored<sup>2</sup>, together with information regarding review and when monitoring is ceased.

## 5 Assessing the need for a DSA

- 5.1 The determination of whether an authorisation is required will depend on the particular facts. Most ANPR use will not require a DSA but authorising officers should always

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<sup>1</sup> If the police are satisfied that the provision of information to the offender would be likely to prejudice the purposes within S29 DPA, then reliance on the exemptions within that section is appropriate. This should be determined on a case by case basis. If an offender is not to be told that they are to be monitored then a record of that decision with reasons should be recorded.

<sup>2</sup> NB. If the other persons are unaware of the offending history of the person to be monitored then they should not be advised of the monitoring unless the offender consents to them being told of that they are a sex offender subject to monitoring.

consider the precise circumstances, stepping back and asking themselves whether it amounts to covert surveillance which is likely to result in the obtaining of private information. Circumstances in which a DSA may be required (and therefore in practice officers should seek such an authorisation) are where:

- a. There is a live monitoring through ANPR of an individual's movement in real time (i.e. covert surveillance going beyond what an individual would routinely expect from ANPR use); **and**
- b. The individual has not been informed that this type of live monitoring is being or will be conducted; **and**
- c. The purpose of the live monitoring is not simply to take executive action in response to live events; **and**
- d. The information that is being obtained in real time amounts to private information because the individual has a reasonable expectation of privacy in relation to that information. (For example, covert ANPR have been installed on a road leading to a suspect's house, so that the information being obtained in real time is not simply that the individual is on a particular road, but is information that the individual is leaving home or arriving home.)