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18 January 2008

In response to the Queensland Parliamentary Travelsafe Committee's Issues Paper (No. 12) on Automatic Number Plate Recognition Technology

Submission by the Australian Privacy Foundation

About the Australian Privacy Foundation

1. The Australian Privacy Foundation is the main non-governmental organisation dedicated to protecting the privacy rights of Australians. Relying entirely on volunteer effort, the Foundation aims to focus public attention on emerging issues which pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions. The Foundation uses the Australian Privacy Charter as a benchmark against which laws, regulations and privacy invasive initiatives can be assessed. For information about the Foundation and the Charter, see www.privacy.org.au

General comments

2. The Australian Privacy Foundation welcomes this opportunity to submit comments in relation to the Inquiry into Automatic Number Plate Recognition Technology (ANPR).
3. Our submission focuses only on the privacy aspects of the inquiry, and does not otherwise comment on the suitability of the discussed scheme.

The Privacy Impacts of ANPR

4. ANPR has very substantial negative impacts on privacy, the seriousness of which is not adequately reflected in the Issues Paper.
5. ANPR, implemented in the manner conventional in, for example, the United Kingdom, generates a data trail for every vehicle that passes a control-point. This trail is attractive to all manner of organisations, in the public and private sectors alike. As a result, the pressure for function creep is enormous.
6. Actual privacy breaches are a great concern; but ANPR's impacts go much further than that. The knowledge that it is undertaken shapes behaviour; indeed, even the suspicion that it **may** be undertaken creates a 'chilling effect'. Clearly, there are benefits from such deterrent effects, such as when people are dissuaded from performing criminal acts because of the fear of being caught. On the other hand, the impact is indiscriminate, and is likely to chill a great deal of perfectly legal behaviour as well.
7. In short, ANPR represents a direct breach of human rights, particularly the right to liberty of movement enshrined in the International Covenant of Civil and Political Rights (ICCPR) Article 12.1. Exceptions recognised under that article must be, not only authorised by law, but must also be "necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others".
8. Because of the gravity of ANPR's negative impacts on privacy, which are far greater than is recognised in the Issues Paper, any proposal to implement it must be subject to very careful prior analysis.

Purpose(s)

9. The first step in an the careful analysis of a proposal to implement ANPR must be a clear definition of the purpose(s) to which it is intended that it be put, including any that are 'background', 'potential future' or 'speculative' uses.
10. Several wide ranging arguments favouring the use of ANPR were presented in the Issues Paper. This can be seen to hint at a lacking clarity of purpose; what is the real purpose for introducing ANPR? Increasing traffic safety or fighting terrorism? To the extent that ANPR is another technical tool in the "war on terror", it should be presented and discussed as such, and would then be better dealt with in a paper issued by an authority with a wider brief than the Queensland Parliamentary Travelsafe Committee, which can only take a very narrow perspective.
11. The Foundation submits that the Committee needs to require the proponents of ANPR to expressly bound the proposal, in such a manner that it applies to "traffic enforcement" (or possibly to "road safety"), but in either case defined in a clear and precise way.

12. Further, the design put forward needs to be required to be such that there are barriers to its wider application, and especially to unforeseen or previously undiscussed 'creep' to additional functions. The barriers need to be of both a legal and a technical nature.

The Effectiveness of ANPR in Achieving Those Purposes

13. There are many limitations on the effectiveness of ANPR. These derive in part from the imaging technologies, in part from the conditions in which they are applied (including lighting, weather, the surroundings and the density of traffic), in part from the techniques used to extract the vehicle registration 'number' (such as reflectivity of the surface, dirt, damage, unusual scripts, and active attempts to prevent accurate capture), and in part from the inaccuracy and incompleteness of databases on which subsequent activities depend.

14. Having read the Issues Paper, our first concern relates to the expected accuracy levels of ANPR. We question the value of a technology with accuracy rates as low as 70%. How is data with such a low accuracy level going to be treated, assessed and used? It certainly can not be used as the basis for criminal prosecution demanding proof beyond reasonable doubt. Thus, the very useability of the gathered data is questionable.

15. The Foundation submits that it is essential that a sober assessment of the various aspects that make up effectiveness be undertaken. Reports that emanate from technology providers are inherently untrustworthy; but serious doubt also exists about information provided by over-enthusiastic law enforcement agencies glossing over important details. We note, for example, that the extensive use of ANPR in the UK, with "a national intelligence gathering network that monitors and records almost every journey of every vehicle in Britain"¹, does not seem to have had any great impact on safeguarding against terrorism.

16. In light of the above, we submit that the advantages of ANPR need to be evaluated by reference to traffic safety only.

17. Further, an even greater concern arises from the vast amount of inaccurate data that will be collected about individuals. Data collections of inaccurate data are one of the greatest privacy concerns in our modern society.

Evaluation

18. Once the purpose has been clarified, and the effectiveness assessed, it may well be already apparent that the proposal should not be proceeded with.

19. If, on the other hand, the proposal satisfies the test of effectiveness for defined purpose, it needs to be subjected to two further forms of assessment.

¹ Issues Paper No. 12, at p. 3.

20. Firstly, the Government has a commitment to the conduct of Privacy Impact Assessments (PIAs) on major projects of a privacy-invasive nature. It is crucial that independent advice be used to ensure that the PIA is comprehensive, open and consultative, and based on reliable information.

21. Secondly, the proposal needs to be submitted to Cost-Benefit Analysis, in order to enable the comparison of the both the financial costs and non-quantifiable disbenefits against the financial and other benefits that it is argued will be gained from the project. Once again, open and consultative processes based on reliable information is essential if the public is to be satisfied that the proposal is appropriate, and to ensure that the investment does not fall flat because of public disaffection with it.

Conclusions

22. The Foundation recognises that arguments have been put forward that favour the use of ANPR. However, many of those arguments are suspect, and need to be carefully tested.

23. Any use of ANPR represents an enormous interference with people's legitimate expectation of privacy. It is therefore critical that the purposes for which ANPR is being considered be defined. Any usage outside those purposes needs to be precluded by law.

24. Further, any ANPR system put in place in Queensland needs to be designed in such a manner that only data that relates to targeted vehicles is collected. If that is not technically possible, the ANPR system needs to be structured in a manner that ensures that data collected about non-targeted vehicles is automatically, immediately and permanently destroyed, and under no circumstances ever becomes part of a long-term data collection. Indeed, data collected under any ANPR system must only be stored temporarily as no traffic concerns justify long-term storage.

25. Assessments need to be undertaken of the effectiveness of the scheme in achieving the defined purposes. A comprehensive PIA is essential. And a Cost-Benefit Analysis needs to be performed. Any application of ANPR will be privacy-invasive, and the Parliament must be sure that the damage is justified before permitting any application of the technology.

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