



No CCTV

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OPEN LETTER

To the Information Commissioner, the Chief Surveillance Commissioner, the Interim CCTV Regulator

CALL FOR A JOINT INQUIRY INTO THE USE OF BLANKET SURVEILLANCE ON PUBLIC TRANSPORT

We are writing in light of recent developments in surveillance on public transport throughout the UK and the concerns of members of the public who have contacted us.

You may be aware that many councils around the country are requiring the installation of surveillance cameras into private hire vehicles as a condition of license. Many of these surveillance systems are required to operate at all times that the engine of the vehicle is running (and in some cases a period of time after the ignition has been switched off). Some of the systems are also required to record sound as well as images.

Meantime several bus companies equip their buses with more surveillance cameras than would once have been found in a city centre and many of these cameras also record sound as well as images¹.

We are deeply concerned about the blanket use of surveillance and feel that its use to constantly record both images and sound is creating a "just in case" mentality that treats everyone as suspects. The principle of innocent until proven guilty is an important cornerstone of our society and privacy is a value long cherished throughout the UK despite claims to the contrary from technology companies. A healthy society depends on the law-abiding majority being respected and trusted as they go about their daily lives.

1 <http://www.independent.co.uk/news/uk/home-news/cctv-taxi-plan-a-staggering-invasion-of-privacy-6262221.html>

This issue of taxi CCTV has been around for some time. In the UK CCTV cameras in taxis were first trialled in Bolton in 2001² – cameras, recording images and sound, were fitted to ten taxis for six weeks. In 2002 the then MP for Bolton South East, Dr Brian Iddon raised the trial in the House of Commons³, calling it a “brave experiment” and asking Home Office Minister John Denham whether he agreed it should be spread throughout the country.

In the House of Commons in July 2007⁴ it was reported that the Southampton Safe City Partnership was sponsoring CCTV in taxi cabs. They became a condition of license in 2009⁵.

In November 2010 a driver, Kevin May, who runs taxi firm K & K Hire, began legal action in the Southampton Magistrates’ Court against the City Council’s imposition of a condition requiring the installation of a taxi camera in one of his licensed hackney carriages. In April 2011 the court found in May’s favour⁶. In December 2011 it was announced that Southampton City Council had won its appeal against that decision on the basis that the court had no jurisdiction to overturn the licensing condition⁷. However the appeal court agreed with the April 2011 judgment that the cameras were unlawful and Mr May now intends to judicially review the council.

The December 2011 ruling states:

“The condition does not correspond to a pressing social need, is not proportionate to the legitimate aim pursued and is not necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

(Southampton City Council v Kevin May, paragraph 71 as quoted by Big Brother Watch⁸)

In light of this ruling the need for clear guidance on this issue is even more paramount. We feel the ruling does not go far enough as it does not even consider the paucity of evidence that cameras are the solution to the problems that Southampton City Council claims they address.

Much evidence exists to show alternatives to taxi CCTV that have much less impact on the freedoms of passengers and drivers, and are more effective. A 1999 report 'The Effectiveness of Taxi Partitions: The Baltimore Case'⁹, prepared for The Southeastern Transportation Center University of Tennessee Knoxville found that partitions (as found in hackney carriages) or shields (which can be fitted to other vehicle types) significantly reduce assaults.

Surely the use of intrusive surveillance should only be considered when all other options

2 http://www.securitypark.co.uk/security_article1846.html

3 <http://www.theyworkforyou.com/debates/?id=2002-02-04.587.3#g588.0>

4 <http://www.theyworkforyou.com/wrans/?id=2007-07-24b.151058.h>

5 <http://www.southampton.gov.uk/modernGov/Data/Licensing%20Committee/20091126/Agenda/ShowDocumentaspPKID11361.pdf>

6 http://www.dailyecho.co.uk/news/8990482.Judge_backs_taxi_boss_in_dispute_over_spy_cameras/

7 <http://www.bbc.co.uk/news/uk-england-hampshire-16007201>

8 <http://www.bigbrotherwatch.org.uk/home/2011/12/court-audio-recording-taxis-invasive.html>

9 <http://www.taxi-library.org/stone99.pdf>

have been tried, there is a proven case that such a measure would be effective, and if it will not impact significantly the freedoms of drivers and passengers.

An insight into why local authorities choose cameras over other measures is spelt out in a 2009 report of the Canadian 'Surveillance Camera Awareness Network (SCAN)'¹⁰, which looked at the introduction of cameras in taxis in Ottawa, Canada. The report states:

“Cab camera companies are entrepreneurial and in addition to cameras must sell the very idea of surveillance. This may require making claims regarding the deterrent effect of cab cameras, as well as the value of the footage in prosecuting crimes.”

(p7 'Camera Surveillance in Ottawa Taxicab', 'A Report on Camera Surveillance in Canada Part Two', 2009)

There have been challenges to the use of CCTV in taxis in other countries, most notably the United States. In October 2005 the Attorney General of Nevada issued an opinion on the constitutional implications of recording images and sound using taxi cameras¹¹. The twelve page opinion concludes that taxi cameras that record sound and images are a breach of United States Fourth Amendment.

The campaign group Justice in their recent report 'Freedom from Suspicion'¹² point out that it was an English Common Law principle, laid out in Lord Camden's speech in the 1705 judgment in *Entick v Carrington*, upholding the rights of property owners against unlawful searches by the executive that became the basis for the guarantees of the Fourth Amendment to the US Constitution.

A similar respect of this unwarranted search principle can be seen in the more recent case of *McArdle v. Wallace* [1964] which found that: “In the absence of a search warrant, a policeman has no right to remain on premises once he has been asked to withdraw by a person who has express or implied authority to make such a request.”¹³

You will no doubt currently be involved in discussions regarding the drafting of a new Surveillance Cameras Code of Practice as laid out in the Protection of Freedoms Bill that is still making its way through Parliament. We are concerned that the Home Office consultation document on the Code of Practice, whilst threatening that "modern digital technology is on the cusp of revolutionising the use of CCTV", goes on to blithely suggest that: "New uses for systems, for example in taxis, are a natural part of industry growth"¹⁴. Furthermore the hysterical political point scoring by many parliamentarians with regard to cameras during the passage of the bill, with no reference to proper evidence or facts, leaves little hope that the legislation will live up to its name.

Ultimately the creation of a total surveillance society goes beyond the Data Protection Act, RIPA or the so-called Protection of Freedoms Bill. There are societal values that are being discarded in what is presented as the following of the letter of the many regulatory statutes, whilst the spirit and the Rule of our Common Law are ignored. A wrong is a wrong.

If the unquestioned blanket installation of CCTV cameras in taxis and other forms of public

10 http://www.sscqueens.org/sites/default/files/SCAN_Report_Phase2_Dec_18_2009.pdf

11 <http://milestonesforlife.com/thetaxistand/CameraRegsAGO.pdf>

12 <http://www.justice.org.uk/resources.php/305/freedom-from-suspicion>

13 'Assaulted PC was not 'in the course of duty' - Guardian 30th May 1964, Law Reports, page 3

14 <http://www.homeoffice.gov.uk/publications/consultations/cons-2011-cctv/code-surveillance-cameras?view=Binary>

transport, recording images and now sound, is permitted it signals the creation of a society where the only privacy will be the thoughts in your head. If a line is not drawn here then what is to prevent employers, parents, cinemas and retail outlets from doing the same.

As regulators you have a real opportunity, not to mention a duty, to restrain the surveillance society. We urge you to put the freedoms of the people above the commercial interests of the many security companies who lobby government and have far more access to regulators than the ordinary public (often at the public expense).

We propose that you launch a joint investigation and produce a report into the legal and moral implications of blanket surveillance on public transport. We will of course be happy to assist and give evidence to such an investigation.

In the past regulators have let such moments of opportunity slip, but there can be no excuse now. We urge you all to take action against the spread of blanket surveillance into every facet of modern day life.

Yours sincerely,

Charles Farrier
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Simon Davies
Privacy International

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