

ADVICE RELATING TO ETHICS COMMITTEE BRIEFING NOTES - NDAS

Issue

I have been asked to provide legal advice regarding a project by the National Data Analytics Solution (NDAS) that seeks to address the issue of, and is focused on violent crime.

During the course of this advice I will consider any human rights matters associated with the project as well as the issues of necessity and proportionality in light of the proposed use of data, which is in direct support of law enforcement activities.

I will also consider legislation and case law where necessary regarding the issue of using data in the course of this project.

Background

The Ethics Committee will already be aware of the purpose of NDAS due to previous submissions and projects focusing on high priority use cases including modern slavery. However, the aim of NDAS is to become the centralised advanced analytics capability for UK policing and as such undertake a number of projects and taskings to support police forces across the country.

Aside from this the National Police Chiefs' Council's "Policing Vision 2025" describes the need for technology to be central to how law enforcement operates with forces innovating so that policing can adapt to new threats and opportunities posed in the current climate.

The intent of this project is to support a number of different stakeholders to tackle issues around violent crime. This project is distinct from the earlier most serious violence use case as its purpose is to provide information to end users based on current information rather than predictive modelling.

Further, it seeks to support the work of the Violence Reduction Unit, and other departments involved in policing violent crime by gaining relevant insights from police data. It will also support the work of the Serious Violence Policy Unit in the Home Office by helping to answer key policy questions.

In order to prepare for and deliver this project NDAS has consulted with various subject matter experts involved in serious violence and as a result identified a number of themes to develop the violent crime capability, with the intention of operationalising it over the forthcoming year.

It will also "explore the typologies and nominal involvement within violent crime hotspots to assist a strategic understanding of the factors that contribute to violent crime, and insight to guide operational users on key factors, nominals and networks contributing to harm in these hotspots". This will permit Forces to deliver operational capabilities in the most efficient and effective manner.

Analysis

The data that will be used to achieve this will come existing police sources already held across the partnered police forces and as such it was obtained and processed for criminal law enforcement purposes under Section 3 of the Data Protection Act 2018. The data that will be used will originate from a variety of sources including intelligence logs, crime reports and custody reports and analysis will be at a geospatial, network and an individual level.

Further, the acquisition, processing, and retention of data by the NDAS on behalf of West Midlands Police is governed by an information sharing agreement (ISA) between partner agencies.

In addition a full Data Protection Impact Assessment has been conducted and will be regularly updated as the project progresses.

The violent crime project will assist a strategic understanding of the factors that contribute to violent crime, and provide insight to guide operational users on key factors, nominals and networks contributing to harm in various hotspots.

This will enable a better understanding of the scale of such networks to improve intelligence, guide investigations, and inform the delivery of interventions by the police and partners for potential victims and perpetrators. It will also provide insights into complex crime, which in the past has been very difficult to identify links between multiple nominals as well as the part the nominals play within networks.

As with the previous projects NDAS will rely on relevant legislation to recover and process information including for the purpose of law enforcement activities, which this project will directly support and facilitate.

However, in order to make use of that information it must be strictly necessary and in the current case for judicial and statutory purposes - for reasons of substantial public interest.

The Ethics Committee will have noted within the NDAS briefing paper that the main effort of this project is to deliver effect against various pillars directly aligned with violent crime.

In light of the fact that the purpose of this project is to understand violent crime, in a way which has not been possible in the past, in order to deliver operational capabilities or preventative measures it may be assessed that there is a substantial public interest in this information being used.

With regard to the issue of being strictly necessary, this means that the processing has to relate to a pressing social need, and it cannot reasonably be achieved through less intrusive means.

The pressing social need is met by the purpose of the project and in addition NDAS will be directly supporting law enforcement activities and operations on a regional, national and strategic level.

With regard to the issue of making use of less intrusive means the information to be analysed has already been recovered during the course of day to day policing operations. To try and recover this material from other sources would be impractical and could also be assessed as being more intrusive in light of this material already being available.

Proportionality

When considering the issue of proportionality of the activity four questions must be addressed.

Is the legislative objective sufficiently important to justify limiting a fundamental right?

The threat posed by violent crime across society is significant. It is clear that it has a devastating effect on the lives many including vulnerable people and the wider community.

In light of this the legislative objective should be considered sufficiently important to limit the fundamental right to privacy, which can be interfered with in accordance with the law. In this instance personal data will be processed by means of legislation with the purpose of the activity being law enforcement.

Are the measures which have been designed to meet it rationally connected to it?

The legislation provides a means whereby personal data may be processed whilst being subject to strict controls. In addition the violent crime project will process data to directly support and facilitate law enforcement operations.

Are they no more than are necessary to accomplish it?

This issue has been considered by the “strictly necessary” test. The pressing social need of this project is to address violent crime across all levels of society in a manner that has not been previously possible.

Do they strike a fair balance between the rights of the individual and the interests of the community?

The information that will be recovered will come from a variety of sources and some of it may be considered to be private. However, the right to privacy is not absolute. It may be interfered with in accordance with the law. As such when considering the balance to be struck between the right to privacy, against the use of lawfully obtained data and existing law enforcement datasets to address violence, including what operations and interventions are required, it may be considered that a fair balance would be struck when conducting this project.

Conclusion

The purpose of this project is to understand the root cause of violent crime and make use of lawfully obtained material in order to directly support law enforcement operations and interventions relating to it.

Whilst it is essential that the rights of the individual must be considered and addressed against the purpose of the project, including the issues of necessity, proportionality it is assessed that interference in this qualified right is justified in the current case.

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