



OFFICE OF THE BIOMETRICS
AND SURVEILLANCE
CAMERA COMMISSIONER

Applications for Biometric Retention: What You Should Know

Office of the Biometrics and
Surveillance Camera
Commissioner

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Introduction

When someone is arrested the police may take their fingerprints and a DNA sample. Those fingerprints, and a 'DNA profile' which is obtained from that sample, may then be loaded onto the national fingerprint and DNA databases. The DNA sample will usually be destroyed as soon as a DNA profile is obtained from it.

If a person who has been arrested is not charged with an offence and has no previous convictions, their fingerprints and DNA profile will in most cases be deleted from the national databases. In some cases, however, the police can apply to the Biometrics and Surveillance Camera Commissioner for permission to keep that material.

This document explains the application process and what it means for you. It also explains how you can have your say.



When can the police make an application to the Biometrics and Surveillance Camera Commissioner?

The police may make an application to keep fingerprints and/or a DNA profile when a person without previous convictions has been arrested for, but not charged with, a qualifying offence. They may do so if:

- the victim of that alleged offence was under 18, vulnerable or associated with the person arrested; and/or
- the police consider that it is necessary to keep the material to assist in the prevention or detection of crime.



What is a qualifying offence?

Qualifying offences are serious violent or sexual offences, terrorism offences and burglary offences.



How long can my fingerprints and/or DNA profile be kept for?

If the police make an application to the Biometrics and Surveillance Camera Commissioner and that application is successful, they may keep your fingerprints and/or DNA profile for 3 years. That 3 year period will usually run from the date that you were arrested.

If the police's application to the Biometrics and Surveillance Camera Commissioner is unsuccessful, your fingerprint/DNA records should be deleted from the databases within 28 days of the Commissioner's decision.

What does the application process involve?

If the police want to keep your fingerprints and/or DNA profile, they must give their reasons to the Biometrics and Surveillance Camera Commissioner. The police must also notify you of the application.

The Biometrics and Surveillance Camera Commissioner will consider the application and decide if your fingerprint/DNA records should be kept.

How will the Biometrics and Surveillance Camera Commissioner decide my case?

The Commissioner will only allow the police to keep your fingerprints and/or DNA profile or if he is satisfied that there are compelling reasons to believe:

- that keeping that material may help to prevent or detect crime; and
- that allowing the police to keep it would strike a fair and proper balance between your rights (such as your right to privacy) and the public interest in the prevention and detection of crime.

The Commissioner will assess each case on its merits. He will consider the particular circumstances of each case and make a decision on the evidence available to him.

Information about the principles which the Commissioner will apply and the factors he will take into account can be found in the document entitled *Principles for Assessing Applications for Biometric Retention*. A copy of that document should be enclosed with this booklet.

What information will I be given?

When the police tell you that they intend to apply to the Commissioner they should also inform you, at least in general terms, of the reasons for that application and of the information on which it is based.

Can I have a say?

Yes. You have the right to make representations to the Commissioner explaining why you think your fingerprint / DNA records should be deleted.

Your reasons should be in writing on the form provided. You should send the completed form to the Office of the Biometrics and Surveillance Commissioner. Alternatively, you can download a copy of the form from the Commissioner's website and email your completed representations to him.

The Commissioner's postal, e-mail and website addresses are given below.



How long do I have to make representations?

You have **28 days** following the receipt of the notice of application from the police to make your representations to the Commissioner.



Can someone help me to make my representations?

Yes. A solicitor or other representative may make representations on your behalf. If you name a representative, the Commissioner will only deal with that person.



What should my representations include?

The Commissioner will give equal consideration to your representations and to the reasons given by the police. Before you make your representations you should carefully read the reasons given by the police in their notification letter to you.

You should try to respond to the reasons given by the police when explaining why you believe your fingerprints and/or DNA records should be deleted. You should in particular include any relevant information that you want the Commissioner to know about:

- the incident which led to your arrest
- any other incidents which have been referred to by the police
- your personal circumstances
- why, in your view, it would be wrong to allow the police to keep your fingerprints and/or DNA profile.

Try not to miss out any important information that you would like the Commissioner to consider. You should remember, however, that the Commissioner is making a decision about whether it is appropriate to keep your fingerprints and/or DNA profile and not about your guilt or innocence of the offence for which you were arrested.

Further information on how the Commissioner will make his decision can be found in the document entitled *Principles for Assessing Applications for Biometric Retention*. If a copy of that document has not been provided to you, you should contact the Office of the Biometrics and Surveillance Camera Commissioner to obtain one.



Do I need to include documents with my representations?

No. You do not have to provide documents to support your representations. However, if you do have documents that are relevant to your representations, you can include copies of them with your completed representations form.

Will I be told the decision?

Yes. The Commissioner's office will write to you or your representative to tell you his decision.

Who can I contact for advice?

For further information about the application process, you can contact the Office of the Biometrics and Surveillance Camera Commissioner on the email address below. **The completed representations form should be sent via email to the email address below. The form can also be posted to us if email is not possible.**

Email: Enquiries@obscc.org.uk

Postal:

**Office of the Biometrics and Surveillance Camera Commissioner
2 Marsham Street
London
SW1P 4DF**