



# Minutes

<b>Title of meeting</b>	Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board		
<b>Date</b>	24 <sup>th</sup> September 2018	<b>Time</b>	12:30-14:30
<b>Venue</b>	Home Office, 2 Marsham Street, London SW1P 4DF		
<b>Chair</b>	CC Mike Barton	<b>Secretary</b>	Carl Jennings
<b>Attendees</b>	Mike Barton (MB) (Chair)		Chief Constable, Durham Constabulary
	Christophe Prince (CP)		Director – Data and Identity, Home Office
	Teresa Ashforth (TA)		Operational Communications in Policing, Home Office
	Nigel Ball (NB)		Digital, Data and Technology (DDaT), Home Office
	Lucy Bradshaw-Murrow (LBM)		Office of the Biometrics Commissioner
	Sean Byron (SB)		National Law Enforcement Data Service
	Neil Cohen (NC)		Defence Science and Technology Laboratory
	Eileen Coulter (EC)		Department of Justice, Northern Ireland
	Ian Daft (ID)		National Crime Agency (non member)
	Bernie Galopin (BG)		Metropolitan Police (MPS) (non member)
	Carrie Golding (CG)		Home Office Biometrics Programme (HOB)
	Dr Nina Hallowell (NH)		Biometrics & Forensics Ethics Group (BFEG), chair of sub-group on facial recognition
	Carl Jennings (CJ)		Police Forensics and Biometrics Policy Team, Home Office (non member)

Bukola Efunshile (BE)	Police Forensics and Biometrics Policy Team, Home Office (non member)
Scott Lloyd (SL)	South Wales Police (SWP) (non member)
Alex Macdonald (AM)	Head of Identity Policy Unit, Home Office (non member)
Jeremy Jones (JJ)	Police Forensics and Biometrics Policy Team, Home Office (non member)
Rebecca Masters (RM)	Metropolitan Police (MPS) (non member)
Tony Porter (TP)	Surveillance Camera Commissioner
Jake Hawkins (JH)	Digital, Data and Technology (DDaT), Home Office (non member)
Toby Smith (TS)	Digital, Data and Technology (DDaT), Home Office (non member)
Elaine Hamilton (EH)	Scottish Government
Simon Iveson (SI)	Forensic Science Regulator's Office
David Munro (DM)	Police and Crime Commissioner, Surrey
Nigel Nelson (NN)	Metropolitan Police (MPS) (non member)
Katie Scotton (KS)	Office of the Surveillance Camera Commissioner
David Shaw (DS)	Home Office Biometrics Programme (HOB)
Amanda Williams (AW)	Information Commissioner's Office

## Apologies

Paul Wiles (PW)	Biometrics Commissioner
Gill Tully (GT)	Forensic Science Regulator
Darryl Preston (DP)	Association of Police and Crime Commissioner
Johanna Morley (JM)	Metropolitan Police (MPS) (non member)
Peter Merrill (PM)	Metropolitan Police (MPS) (non member)
Umar Hussain (UH)	National Crime Agency (NCA) (non member)
Brendan Crean (BC)	South Wales Police (SWP) (non member)
	Home Office Biometrics Programme (HOB)

## **Welcome and opening remarks; minutes of and actions from previous meeting**

1. MB welcomed attendees to the second meeting of the Board. Some comments had been received on the first version of the minutes of the previous Board; the secretariat had amended the minutes accordingly and circulated a revised version on 21 September. This version would be circulated for final agreement. Actions from the previous meeting would be discussed under the appropriate agenda items.
2. The Board noted that the TOR stated that minutes would be published. This was agreed, subject to attendees having the opportunity to correct the draft minutes.

## **Item 1: Consideration of work in progress.**

3. SL described developments on the SWP project since the last meeting. They had:
  - Provided an overview of AFR to HM Chief Inspector of Constabulary Tom Winsor
  - Implemented the recommendations of the Mayor of London's Office of Policing and Crime on use of AFR
  - Met the UN Special Rapporteur on privacy and liaised with Cardiff University on evaluation
4. There had been 867 positive identifications since last October including a case where a suspect identified on a victim's phone was later convicted for murder, and a robber of a taxi driver who was matched against a custody image taken 10 years ago. The next steps would be for AFR to be used at the Elvis festival on 27-29 Sept, international sporting fixtures, and the Winter Wonderland festival.
5. AW asked what the process was to move from trials to business as usual. SL said this had not yet been decided; they would seek guidance from this board.

## **Action from 25 July: BG to let the Board have sight of MPS' plan for implementing the RMC judgment on retention of custody images.**

6. BG said since the RMC judgment in 2012, MPS had loaded only a limited number of images (63,000, all convicted persons over 18) to the Police National Database (PND). MPS now planned to upload the current backlog of images by the end of January 2019; upload images collected while the backlog was being dealt with; then upload images to PND on a business as usual basis. The images would not be weeded before uploading to PND. To comply with the RMC judgment, it would be necessary to ensure that MPS applied Management of Police Information (MoPI) policy, supplemented by its own weeding policy, to all images it held, whether locally or on PND.

## **New action: BG to report to the next meeting of the Board on how MPS would apply weeding to custody images.**

7. TP asked how confident we were that forces across the country were applying MoPI policies to weeding. TA said most forces were struggling to comply with MoPI, mainly because of the volume of material to be reviewed. MB asked about the effect of the Data Protection Act and General Data Protection Regulation on retention. TA said that MoPI incorporated data protection principles so if forces adhered to it, they should be compliant with the DPA and GDPR. CP considered that the DPA increased responsibilities on chief officers.

8. MB suggested that he write to Ian Dyson as the relevant national policing lead on the need for MoPI compliance, copying in other chiefs. DM supported this and said he would like to see MB's letter before it went out, so he could alert PCCs to the issue. TP pointed out that forces were now required to disclose non-compliance with the Surveillance Camera Code in court proceedings.

**New action: TA to brief DM on force compliance with MoPI, and to draft a letter for MB to send to Ian Dyson, to be shared with DM before circulation.**

9. JH said his team was working with forces to develop use cases and trial plans for the missing persons detection project. The timetable was yet to be agreed. He would discuss plans with the Board when they were more developed.

10. CG said a contract for the replacement of the PND algorithm should be awarded shortly.

### **Actions from 25 July:**

**TA to bring together force learning on watch lists into a single guidance document, involving BC. CJ to supply contact details if necessary. TS to liaise with TA re watch lists, and with JM re evaluation.**

**BFEG Working Group to provide the Board with its report by the end of October. MPS and SWP to liaise on common language and put a paper to the Board.**

11. These actions would be taken forward at later dates.

**Action from 25 July: Secretariat to circulate link to the Scottish government consultation on their proposals.**

12. This was done on 26 July.

### **Item 2: Terms of Reference**

#### **Actions from 25 July:**

**AM and CJ to consider what changes to the TOR might be necessary to reflect points made in discussion and confirm them with the next meeting of the Board  
AM to consider what information the Board should regularly publish, as part of the ToR.**

13. AM said there had been two changes to the TOR to reflect members' comments on the fact the Board did not have a statutory basis, and that lessons learned in the law enforcement domain should be conveyed to the borders and immigration domain and vice versa. The Board was content with these changes.

### **Item 3: Evaluation**

**Action from 25 July: JM to provide the Board with a paper on how evaluation is being carried out, in collaboration with SWP.**

14. Evaluation would be considered at the next Board. CP said work on evaluation needed not only to look at existing projects but also to assist other forces with how to evaluate their systems.

#### **Item 4: Legal issues**

##### **Action from 25 July: CJ to provide Board with a report on the legal framework**

15. CJ summarised his draft paper. It stated that the police have broad common law powers to prevent and detect crime which must be exercised in accordance with the Surveillance Camera Code, data protection legislation and human rights jurisprudence, and all these areas of legislation needed to be taken into account when considering whether police use of overt surveillance cameras is lawful. The draft paper went on to describe current litigation.

16. The Board noted that MOPI, the Custody Image Review and public inquiries also needed to be taken into account. SI said there was a need to distinguish surveillance cameras and AFR, and 'live' AFR and other uses. MB noted that chairs of inquiries had written to forces in very strong terms about their duty under the Inquiries Act to preserve relevant material and as a result some chiefs had stopped weeding. This should be discussed at a future meeting. CP was not convinced it was for this Board to resolve issues with the Inquiries Act.

17. MB asked for the statement of the legal framework to be revised to take account of these points with a view to issuing to forces as guidance, though the Inquiries Act point would need to be dealt with separately.

##### **New action: CJ to provide Board with a revised draft report on the legal framework as discussed.**

#### **Item 5: New Biometric Modalities**

18. LBM presented a draft paper from the 'commissioners' (the Information Commissioner, the Surveillance Camera Commissioner, the Forensic Science Regulator and the Biometrics Commissioner). In particular it proposed at paragraph 4 that 'In the absence of any specific legislation applying to a new biometric modality or use case proposed then a starting point should be that rules about the capture, use, retention and deletion of that biometric should follow the rules established in the Protection of Freedoms Act (PoFA) and any relevant case law both now and in the future. If the proposed rules in relation to a particular new biometric deviate from these established rules, then there should be good and specific reasons for doing so in the particular case which should be stated in the governance protocols'. MB said he accepted that as a broad principle, given Parliament's decision to pass PoFA, though further debate would be needed on the future of facial searching vis a vis PoFA.

19. SI drew attention to paragraph 3 which stated: 'The validation of any application of a new biometric modality should follow the risk-based approach laid down in the Forensic Science Regulator's Codes of Practice and Conduct and that this should be carried out prior to any live deployment of a new biometric, including in any live trials. The results of trials should be objectively evaluated and clearly documented'. MB asked whether this is different depending on whether the evidence is for intelligence or prosecution. SI said the

Regulator did not distinguish between intelligence and prosecution as the former often fed into the latter. ID and MB agreed on the need for validation but queried the lack of a distinction between the level of validation required for intelligence and prosecution evidence. MB said there should be bilateral meetings outside this Board to explore the issue further. CP said nobody should use a technique without knowing its boundaries.

20. TP said this was a good draft but needed further development particularly on validation, which the commissioners would discuss further outside this meeting. DM said the note should also cover equity and community reception. MB agreed, noting the reference in the TOR to the Board having an objective to build public trust.

21. SL said SWP had looked for evidence of ethnic bias in the way their facial recognition algorithm worked and had not been able to find any. NH asked if SWP had access to the logic and data sets the algorithm was based on. SL said they did not but had looked at how it had worked in practice.

22. AW encouraged forces to approach the ICO as early as possible when considering a project about the Data Protection Impact Assessment.

23. MB concluded by broadly accepting the paper which would be a basis for further discussion.

## **Item 6: Summary of future work and any other business**

24. CJ summarised future work:

- SWP and MPS to produce a paper on evaluation of their current AFR pilots
- This should include best practice about the conduct of trials. MB said SL was aware of relevant work being done by Cambridge University.
- The paper on legal aspects would be expanded to go to forces.
- MPS would report on weeding custody images.
- The Biometrics Strategy had included a commitment to a review of governance which the Home Office was currently scoping. Those who wished to be involved should approach CJ.

25. MB agreed with this description of future work.

26. TA said the Custody Images Review had committed to review the subject again in 2020. She asked if this should be brought forward to clarify what forces were expected to do. MB asked TA to pull together the views of policing on this.

**New action: TA to pull together policing views on whether there was a need for a further review of Custody images and if so why.**