



Home Office



Minutes

Title of meeting	Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board		
Date	4 th June 2019	Time	11:00-13:00
Venue	Room G1 New Scotland Yard London SW1		
Chair	Christophe Prince (Acting)	Secretary	Carl Jennings
Attendees	Teresa Ashforth (TA)	Operational Communications in Policing, Home Office	
	Ivan Balhatchet (IB)	Metropolitan Police (MPS) (non-member)	
	Nigel Ball (NB)	Digital, Data and Technology (DDaT), Home Office (non-member)	
	David Barke (DB)	Digital, Data and Technology (DDaT), Home Office (non-member)	
	Rhonda Bradley (RB)	Department of Justice, Northern Ireland	
	Lucy Bradshaw-Murrow (LBM)	Office of the Biometrics Commissioner (non-member)	
	Sean Byron (SB)	Operational Communications in Policing, Home Office and Staff Officer to NPCC Lead	
	Nikita Cannan (NCa)	International Criminality Unit, Home Office (non-member)	
	Simon Chapman (SC)	Defence Science and Technology Laboratory	
	Brendan Crean (BC)	Home Office Biometrics Programme (HOB)	
	Ian Daft (ID)	National Crime Agency (non-member)	
	Gary Dodds (GD)	Department of Justice, Northern Ireland	

Paul Dutton (PD)	Association of Police and Crime Commissioners (APCCS) (non-member)
Carrie Golding (CG)	HO Biometrics Programme (non-member)
Dr Nina Hallowell (NH)	Biometrics & Forensics Ethics Group (BFEG), chair of subgroup on facial recognition
Elaine Hamilton (EH)	Scottish Government
Richard Hartell (RH)	Police Forensics and Biometrics Policy Team, Home Office (non-member)
Jake Hawkins (JH)	Digital, Data and Technology (DDaT), Home Office
Colin Holder (CH)	West Midlands Police (non-member)
Patrick Holmes (PH)	Kent Police (non-member)
Umar Hussain (UH)	South Wales Police (SWP) (non-member)
Carl Jennings (CJ)	Police Forensics and Biometrics Policy Team, Home Office (Secretariat)
Jeremy Jones (JJ)	Police Forensics and Biometrics Policy Team, Home Office (non-member)
Jeff Logan (JL)	Police Service of Northern Ireland biometrics programme manager (non-member)
Joanna Luck (JL)	Police Forensics and Biometrics Policy Team, Home Office (non-member)
Alex Macdonald (AMa)	Head of Identity Policy Unit, Home Office (non-member)
Johanna Morley (JM)	Metropolitan Police (MPS) (non-member)
David Munro (DM)	Police and Crime Commissioner, Surrey
Daniel Murray (DMu)	Investigatory Powers Commissioner's Office (IPCO) (non-member)
Tony Porter (TP)	Surveillance Camera Commissioner
Darryl Preston (DP)	Association of Police and Crime Commissioners (APCC) (non-member)
David Shaw (DS)	Home Office Biometrics Programme (HOB) (non-member)
Gill Tully (GT)	Forensic Science Regulator

Martyn Underhill (MU)	Dorset PCC (APCC lead on forensics and biometrics)
Geoff Whitaker (GW)	Defence Science and Technology Laboratory
Andy White (AW)	Information Commissioner's Office
Paul Wiles (PW)	Biometrics Commissioner

Apologies None

Item 1: Minutes of and actions from previous meeting

1. CP explained he was acting chair for today's meeting as the NPCC had yet to decide the replacement for Mike Barton, who was retiring from policing on 7 June. MU wanted a discussion about whether the police should be chairing this Board; he suggested it was inappropriate for the police to chair a Board which was making decisions on the acceptability of police uses of new biometrics, as this did not demonstrate sufficient independence. MU also said members should declare any interests. CP said that discussion of the future chair should be taken outside this meeting, and that declarations of interest could be considered before the next meeting.

Action: APCC, NPCC and Home Office to discuss chairing of meeting. Secretariat to ask Board attendees if they had interests to declare.

2. JM requested an amendment to the draft minutes of the March meeting. The minutes were agreed with this amendment.
3. Update on actions:
 - a. CJ to obtain details of Kent/Essex project – action closed (update provided by PH)
 - b. CJ to liaise with MOJ/ NOMS re further information on use of LFR in prisons – action open (Discussions ongoing. It is proposed to present a paper to the December meeting. It was requested that MOJ be asked to cover both voice and facial recognition.. PW said the Board should consider the courts' use of evidence; CP said that the Board's considerations should cover law enforcement rather than the criminal justice system as a whole).
 - c. SB and BC to provide a paper on Custody Images retention – action open (SB provided an update under item 4)
 - d. CJ to speak to the NPCC leads' staff officers re the Catt judgment – action open (discussions are ongoing)
 - e. CJ to draft the next forward look paper – action closed (paper has been provided for this meeting).

- f. MPS to provide paper on evaluation of their projects – action open (Essex University has provided a report to which MPS has a right of reply. It is expected the report will be published shortly)
- g. CJ to discuss with members who could provide paper on bias generally to either September or December meetings – action open (paper currently planned for September meeting)
- h. Papers on iris and voice recognition – action open (papers currently planned for December meeting)

Action: For next Board meeting, secretariat to provide action log with closed/open status.

Item 2: Police guidance on LFR and evaluation of projects

Paper 1: Operational advice for live trials of LFR

4. SB explained that the document was ‘advice’ rather than ‘guidance’ as it did not yet have College of Policing badging. It was NPCC advice for trials only, not business as usual. It would be distributed to forces when this Board had agreed the final version. The plan was to sign it off at the September meeting, though timing might be affected by the South Wales Police’s (SWP’s) judicial review. IB said publication of the advice could encourage other forces to go ahead with trials. Careful stakeholder management would be needed in this event.
5. PW welcomed the fact that this advice was for trials only. It needed further development on the process and standards by which trials are conducted. There should also be a mechanism for comparative review and evaluation of trials carried out by different forces. Construction and sourcing of watchlists were also issues - if they were constructed from sources other than custody images, they could be more subject to legal challenge. The rationale for construction of watchlists was clearer for, say, sporting events, than for city centres. It was desirable that forces should create local oversight panels but there also needed to be national coordination.
6. GT will send more detailed comments to SB, especially on technical issues. There needs to be a clearer link between the trial design and the evaluation, with clear success criteria. Further detail was needed on what skills and training operators need. The wording about compliance with legislation and codes of practice is currently loose.
7. NH said that the section on public engagement needed to be strengthened. Police forces needed to do more than simply place information on their websites, which many people did not know about. There needed to be a communications and media strategy for more intense engagement. BFEG could also be asked to advise on public engagement proposals.
8. CG said the section on data retention needed more clarity, as pressure groups are unsure what is being deleted and what kept, and what exactly a match/alert is. MU said there needed to be tighter advice about the use of non-custody images and

watchlists needed to be signed off at an appropriately senior level in the force. The section on engagement strategy needed more work, and to reflect the role of PCCs.

9. AW agreed with the points already made. The ICO will issue guidance on meeting the 'strictly necessary' threshold for both public and private sector use of the technology. The timing on this guidance will depend on the SWP judgment.
10. DM felt the document was too cautious - the purpose of trials was to push boundaries to see what works. Use of LFR should be considered for low level police activity as well as serious crime. We needed to consider the views of ethnic minorities who were more sceptical about LFR, as shown in the LPEP report.
11. SB welcomed these comments. He felt that some of the comments made assumed that the trials should adopt the procedures used in academic research. While lessons could be learnt from such research, it was bound to differ from trials with an operational dimension which could after all lead to people being arrested. . The section on watchlist construction had been carefully considered; it would be helpful to arrive at a consensus from the Board. He agreed with the points made about the differences between types of event and operator skills. On ethnic bias, software is becoming more accurate across ethnic groups though less so with gender; however, he agreed this was an important issue for maintaining public confidence.
12. UH said many of the issues raised were considered during the judicial review, so the judgment should provide clarity. TP said that LFR advice should be as detailed as the standards for ANPR. It should refer to his guidance on police use of AFR. The advice should not be released ahead of the judicial review outcome.
13. PW said that field trials are a hybrid of police activity and research which makes it hard to test extreme cases. He thought Parliament should be legislating rather than waiting for judges to make the law through a judicial review. GT said trials should aim to show whether LFR was more effective than other policing methods or not, which would answer the question on proportionality. MU said that he agreed that judges shouldn't be making the law. Policing should be cautious in using LFR, rather than pushing boundaries, which risk creating more judicial reviews. GW drew attention to the relevant ISO standards. The advice need not replicate the technical detail in these but should refer to them.
14. CP thanked SB and his colleagues for their work on the advice, and others for their comments, and summarised the discussion. The advice covered trials carried out in an operational environment; there is a need to ensure comparability between trials; and to consider use in different scenarios. The aim remained to finalise the advice by the September Board. The Board would need to decide if the JR judgment was still not available by then if it should issue interim advice. SL noted that the court had seen version 17 of the advice as work in progress.

Action: The Board should provide detailed comments to SB in two weeks' time (18 June).

Paper 2: London Policing Ethics Panel (LPEP) report

15. IB provided an overview. LPEP is an Independent panel that advises the Mayor's Office for Policing and Crime (MOPAC). LPEP had previously provided an interim

report with recommendations that were implemented. The survey findings were of interest - in general people weren't against LFR, and supported it more when it was used to combat serious crime, although there was less support from BAME groups.

16. NH said that it was a very good report. Page 35 outlines a way forward for public engagement. The results of trials should be made public. PW did not consider that public opinion settled issues of proportionality, as that is a concept of justice, and public perceptions can change rapidly. TP said that the Surveillance Camera Day on 20 June would generate public debate which included LFR. AW said that ICO had also conducted a small survey which found that the public were more supportive of the police use of LFR than of private sector use.

Item 3: Review of LFR pilots in progress/ planned work

Paper 3: LFR Activity Table

17. CJ said the main changes to the table related to work being done by Kent and Essex. PH provided an update on their planned use, which related to use of the database of facial images rather than LFR. CP said this was relevant as the Board's remit included facial image storing and matching systems.
18. JM noted the table included proposed collaboration between GMP and the private sector and wondered whether the advice needed to cover this. AW said ICO would issue guidance that would include this. NH said BFEG were looking at issue of partnerships between law enforcement and private sector use. PW said that consideration of such partnerships should cover not only facial recognition but also law enforcement use of private sector DNA genealogical databases. GT said that offline comparison of crime scene images and custody images moved close to her area of responsibility. JM said NIST in the US were working on standards for this.

Item 4: Custody Images and Missing Persons

Paper 4: Missing persons on LEDS

19. DB provided an update on work being done on a National Register of Missing Persons, including an image facility, for the Law Enforcement Data Service which was due to replace PNC. NH advised that it would be useful to have engagement upfront to address charities' concerns about which organisations can use and upload images. DB said he was planning to meet stakeholders and civil society representatives in July.

Update on HOB retention of duplicate images

20. BC provided an update – a proposal was to go to police chiefs, then to this Board in September. SB said he still opposed retention of the duplicate images.

Item 5: Legal and policy update

Paper 5: Governance review (Annex: Scottish Biometrics Bill)

21. JJ provided an update. There was a commitment in the Home Office Biometrics Strategy to consider options to simplify and extend the governance and oversight of biometrics across the Home Office sector. In part, the issue of overlapping governance arrangements had been addressed by the establishment of the Board. The aim was to update Parliament in the summer on progress. The Strategy also made a commitment to update the SC Code and this would also be taken forward; it would be aligned with the update to the ICO's guidance, to minimise any possible confusion for users. TP said he was disappointed with the lack of progress by the Home Office on updating the Code.
22. EH gave an overview of the Scottish Biometrics Bill. Its main aim is to establish an independent Biometrics Commissioner. The Commissioner will be appointed by the Queen, on the nomination of the Scottish Parliament, and will be accountable to that Parliament. The Bill should take 9 to 10 months to go through the Scottish Parliament so she expected that the Commissioner would be in post by the autumn of 2020. Their role will be to ensure lawful and proportionate use of biometrics data. The Commissioner can make recommendations. If they are disregarded, the Commissioner could name and shame but did not have enforcement powers, because the Scottish Parliament did not have the ability to create such powers, and there was an issue with duplication of the ICO's enforcement powers.
23. PW noted that the Bill defined biometric data as 'information about an individual's physical, biological, physiological or behavioural characteristics'. This was similar to the definition of biometric data at section 205 of the Data Protection Act, 'personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of an individual, which allows or confirms the unique identification of that individual, such as facial images or dactyloscopic data'. So the meaning of 'biometric data' is extended beyond the police use of biologically-based systems to their use of person-centred behavioural data. This data can potentially be obtained much more readily than in the past by the application of machine learning to the large databases held by both government and private companies. GD noted that Northern Ireland would be left as the only part of the UK without a Biometrics Commissioner.

Discussion of commissioners' paper of September 2018

24. PW said the commissioners' paper had proposed that PoFA retention should apply to new biometrics unless there were strong reasons to the contrary. NPCC had opposed this on the grounds that facial images were operationally different from DNA and fingerprints as they were used for intelligence rather than directly for prosecutions. However, he was not convinced that this distinction was meaningful as intelligence use feeds into prosecution. It also did not take account of the need for protection against the risks of misinformation. NPCC's secondary argument was based on the technical difficulty of deleting images. However, he noted that the European Court of Human Rights had rejected a similar argument in the Catt case. MU said he supported PW's view. CP said that there needs to be further debate including the effect of data protection legislation.

Item 6: Forward look

Paper 6: Forward look

Action: Board members to provide CJ with any comments or additional items.

Item 7: Any Other Business

25. No other business was raised.