

Biometrics and Forensics Ethics Group

Note of the 8th meeting held on 12th June 2019 at Home Office, 2 Marsham Street, Westminster, London SW1P 4DF

1 Welcome and introductions

- 1.1 Chris Hughes, chair, welcomed all to the 8th meeting of the Biometrics and Forensic Ethics Group (BFEG).
- 1.2 Apologies were received from Mark Jobling. A list of attendees can be found at [Annex A](#).

2 Notes of the last meeting and matters arising

- 2.1 The note of the December 2018 BFEG meeting was approved by correspondence and published on the BFEG website.
<https://www.gov.uk/government/organisations/biometrics-and-forensics-ethicsgroup/about/membership#meeting-minutes>
- 2.2 The note of the March 2019 meeting was approved by correspondence and is awaiting publication.
- 2.2 Actions arising from the March meeting were completed, other than:
- 2.3 Action 5 for Alex MacDonald to share information on Catt judgement and Action 6 for FIND Service to provide patient leaflet pertaining to giving DNA samples. Both actions are still in progress and Home Office colleagues are liaising with the secretariat.

3 Chairs update

- 3.1 Members were thanked for their input to on-going projects relating to age-estimation in children and the Metropolitan Police Service VISAGE project.
- 3.2 Members were informed that recruitment campaigns were on-going for member and chair roles. The current Chair term of office has been extended by 3 months at Ministerial request.

4 Forensic Information Database (FIND) Service and Strategy Board- Near Match Report and updates from the board

- 4.1 The BFEG were informed that a completed pilot pertaining to Near Match Report (NMR) will proceed into practise next year. The purpose of NMR is to capture events where, although there should be a full match between DNA profiles at all values, there is not. This may be due to integrity aspects including the use of different PCR chemistries or because one of the DNA profiles in the near match had been assigned an incorrect value. Near match events were reported to the respective Forensic Unit to check whether an error could have been made, with reports amended in the event

of an error being identified. The pilot had been undertaken in 2013 to investigate any identified near matches that remained after error-checking. The results show that siblings could be identified through the use of NMR and that investigation cases benefited from the information. The pilot was not continued or widened, but in 2014 it was concluded that a review should be undertaken in 5 years.

- 4.2 Members were informed that a trial of operational utility was to be set-up entailing the release of confirmed near match groups to law enforcement authorities, co-ordinated by Greater Manchester Police, for the progression of near match investigations. Extensive confirmation of near matches would take place before the FIND Service would release any named results would be released to the police for further investigation.
- 4.3 The BFEG were asked to provide comments on the proposal regarding NMR for NDNAD retained serious crime records. To note, the standard restrictions for familial searching are applied for use of this technique. It was agreed that further criteria and process detail would be presented to the BFEG in 2020 for comment in advance of the launch of the operational trial.
- 4.4 The BFEG were thanked and informed that their advice pertaining to police communication with subjects below the age of 18 years old and their parents/ guardians had been relayed to the FIND Strategy Board. The Group was also updated that approval from the European Commission had been received to allow UK data exchange in line with the Prüm agreement.

5 Home Office policy update

- 5.1 It was noted that live facial recognition (LFR) was receiving increased parliamentary interest. Baroness Williams had appeared in front of the Science and Technology committee in March 2019, and the Minister for Policing took part in a Westminster Hall debate in May 2019. Questioning had focussed on ensuring appropriate public awareness and the potential need for a clear legal framework pertaining to the use of LFR. It was noted that a judicial review of South Wales Police's (SWP) had commenced in May 2019.
- 5.2 Members were informed that following the Biometric Commissioner's recommendation that the list of serious 'qualifying' offences should be expanded to include those biometrics for which greater powers to retain biometrics exist, a statutory instrument expanding the list was to be laid for parliamentary approval.
- 5.3 The BFEG were informed that the Scottish Biometrics Commissioner Bill had been published <https://www.gov.scot/publications/scottish-biometrics-commissioner-bill-equality-impact-assessment-egia-results/>
- 5.4 The joint review of the provision of forensic science to the criminal justice system in England and Wales and accompanying implementation plan was published by the Home Office in April 2019 <https://www.gov.uk/government/publications/joint-review-of-forensics-2018-and-implementation-plan>

The House of Lords Science and Technology committee report on forensic science and the criminal justice system was published on 1st May 2019

<https://www.parliament.uk/forensic-science-lords-inquiry> Both reports set out a series of recommendations to remediate current issues and future risk. In light of the recommendations made the Forensics Policy Steering Group had revised its terms of reference to focus on the development and implementation of solutions to address the recommendations. Given concerns expressed re the need for stakeholders to work closely the Steering Group was now co-chaired by the Home Office and the Ministry of Justice. A BFEG member raised the point that clear processes of communication, including with BFEG, needed to be developed if a national institute or board was to be created to oversee research funding. This was acknowledged by the Home Office policy representatives.

- 5.5 Home Office Policy were asked by the Group to clarify how it was decided whether it was proportionate, or not, for LFR to be used in specific areas, referring particularly to police trials for the technology. Members were informed that the impetus for trials was influenced by alignment to specific criteria, with the use of LFR being less controversial depending on the criteria used. It was stated that police and crime commissioners consulted with communities to determine what the priorities and level of deployment [of officers or technology] should be. It was noted that certain communities were more tolerant of LFR in their neighbourhood and did not consider it over-invasive under the circumstances regarding to the type of crime in that area.
- 5.6 The BFEG members requested more information to raise public awareness of their right to request the deletion of custody images. Home Office policy colleagues confirmed that a second review of custody images was planned. Members were informed that the police had committed to ensuring that people taken into custody were appropriately informed of their rights in relation to the retention and deletion of data, including images. It was stated that Home Office policy were to ask for an update from the police and that they would consider what else could be done. The Group asked for further clarification on how the public would be informed, for example via a global strategy? or whether the format would be decided by individual forces? Home Office policy colleagues responded that they were not aware yet but acknowledged that it would be good to have an on-going review from BFEG.

Action 1: Alex Macdonald to share update on raising public awareness for requesting custody image deletion with the Facial Recognition Working Group for review.

6 National Crime Agency- New biometrics voice analytics and biometrics

- 6.1 A member of the National Crime Agency (NCA) briefed BFEG on very early developments regarding voice analytics (VA). VA was defined as the comparison of noise to establish identity [noise being biologically generated sound – primarily speech], and is not currently admissible in court as evidence but has significant potential for improving public safety and security. The NCA had been engaged at an early stage with the Home Office and law enforcement partners to consider what oversight of voice analytics would be required to ensure any application would be appropriate, in terms of being legally compliant and publicly acceptable. Work in the area remains at a proof of concept stage.
- 6.2 The BFEG was asked to consider what effective oversight of voice analytics was required to ensure any application would be ethical and acceptable. The BFEG was

also asked to comment on the ethics of the use of private- and public-sector information, and whether an ethical paradigm for the technology could be developed. BFEG members noted that many of the ethical considerations for this technology would parallel those developed for LFR, and so the use, and adaptation, of that framework should be considered initially.

- 6.3 The BFEG advised that research pertaining to public opinion on voice capture needed to be undertaken. It was agreed that the NCA, the Facial Recognition Working Group and Home Office policy would liaise to discuss regulation, after which feedback would be given to the BFEG.

Action 2: Secretariat to facilitate liaison between the NCA, FRWG and Home Office Policy team to discuss regulation to be presented to the BFEG.

7 Stakeholder updates

- 7.1 Written updates from the FIND Service were shared with the BFEG
- 7.2 Dr Adil Akram provided an overview of a lecture hosted by the Department for Digital, Culture, Media and Sport (DCMS) Centre for Data Ethics and Innovation (CDEI) after attendance by himself and Dr Peter Waggett. It was noted that these lectures were part of a series and BFEG members should consider attending if they were able.

8 Genealogical databases for law enforcement

- 8.1 The BFEG were reminded that genetic genealogy is a method that can be used to identify the familial relationship between individuals. Private sector genealogical databases had been used to assist law enforcement in the USA, for example to catch the Golden State Killer. To map the genealogy required genetic markers across the whole genome to be assessed. Processing of the genome-wide data also had the potential to infer other information, as by-products, including medically relevant information.
- 8.2 As a result of the realised deleterious potential of these databases, genealogical companies have amended their terms and conditions so that customers can 'opt-in' to having their results used in police investigations rather than opting-out. However, there was concern that the use of the databases may be over-exploited, and that insufficient detail exists regarding public information and communication of utilisation.
- 8.3 The BFEG was asked by FIND Strategy Board to consider whether the use of genealogical databases would be possible or acceptable in the UK, and whether the information in the National DNA Database (NDNAD) would be sufficient for this law enforcement technique. Advice formulated by several BFEG members was presented to the wider group for comment. The BFEG noted that any legislation concerning the use of genealogical databases for law enforcement would be controversial. BFEG agreed that the advice drafted by members should be passed to the FIND Strategy Board.

Action 3: BFEG advice on use of genealogical databases for law enforcement to be shared with the FIND Strategy Board.

9 Home Office Biometrics (HOB) Working Group – working group 1

- 9.1 The BFEG were informed that the decision to pause the work of the HOB group until clarification was provided on the groups extended remit. In the event that the remit was extended to include providing advice on the ethical use of large datasets then it was likely that the membership of the working group would need to be expanded.

Action 4: Secretariat to contact HOB programme colleagues to clarify the remit of the HOB working group.

10 Large and complex databases – working group 3

- 10.1 The BFEG 2019/2020 commission included consideration of ethical issues relating to the use of large and complex datasets, and as such a new working group had been created to provide advice on the use of explainable data-driven technology. Members were informed that Dr Peter Waggett had agreed to chair the new working group. Professor Louise Amoore and Professor Dame Sue Black had agreed to be members of the group.

- 10.2 The group was to work on a number of scenarios, as defined by Home Office policy and data science teams, relating primarily to machine learning methods and applications. The working group would model the advice around existing frameworks and deliver its outcomes in a two-phase format: Phase 1 to outline what is not possible; and phase 2 to give advice on what is possible. A BFEG member raised the point that it would be prudent to develop a set of principles for this type of work before embarking on scenario evaluation.

Action 5: Secretariat to compile and share with Dr Waggett the details of BFEG members who wish to volunteer to join the working group.

Action 6: Secretariat to distribute the use-cases that are developed by the Home Office.

11 Ethical guidelines update – working group 4

- 11.1 To ensure the ethical guidelines remain sufficient following the expansion of the BFEG remit, Home Office policy had commissioned a working group to review existing guidelines. Professor Jennifer Temkin had agreed to chair this working group, with the other membership being comprised of Dr Adil Akram and Professor Tom Sorell.

- 11.2 The working group had been presented with a number of scenarios developed by the wider BFEG at its away-day in March. Before the working group can proceed with the guidelines review, the group will await initial results from working group 3 as well as clarification on the remit is requested from Home Office policy.

- 11.3 Home Office policy confirmed that they were developing a data ethics framework for the Department. The BFEG was informed that the policy team wanted to work with the working group focussing on the ethics of using datasets to test scenarios to see if the framework functions for the types of decisions they need to make. This would include use-cases based on current projects and potential future types of tools and techniques to see whether they stood up to ethical testing. Working group that will

update the ethical framework were therefore informed that they should be considering aspects within the data analytics space. BFEG members noted that there was concern that this might end up as an overly large task beyond their capacity. The Group were informed that if there were matters that came to the committee that were beyond their capability or capacity they could hand back the case or expand capability and capacity by co-option.

Action 7: Secretariat to liaise with Home Office policy for further clarification before feeding back to the ethical guidelines working group.

12 Facial recognition – working group 2

12.1 The facial recognition working group (FRWG) had received a commission to investigate the interaction between public and private technology and data; i.e. the use of public data by private companies and the use of private technology by the public sector. The group would initially work to scope use-cases for investigation.

Action 8: BFEG members asked to highlight examples of private companies working with public sector information.

12.2 Updates from the Facial Recognition Board were relayed by the working group chair. The BFEG was informed that the Board was putting together a protocol for policing trials. It was fed back to the Board that the BFEG would be in an excellent position to review the ethics of the trials, ideally with the protocols being received in advance to the trial start.

12.3 The London Ethics Policing review on the Metropolitan Police Service trial on live facial recognition technology was published in May 2019 <http://news.met.police.uk/news/london-policing-ethics-panel-final-report-on-the-mets-trial-of-live-facial-recognition-technology-370888> It was acknowledged that several pieces of FRWG work were referenced in the review, highlighting the positive impact the Group was having on the field. The FRWG chair had liaised with the Metropolitan Police Service and had suggested that further consideration of public engagement was needed to raise awareness of the use, and implications of the use, of live facial recognition technology. It was noted that the method of communication required careful consideration and that formation of a citizen jury for discussion of specific points- a method which has been very successful in past similar scenarios – might add value. It was agreed that the BFEG would be volunteered to help with facilitating public engagement at following Facial Recognition Board meetings.

13 Retrospective facial recognition trial feedback and discussion

13.1 The BFEG was introduced to representatives of the Police Digital Service in the Home Office. The team had been focussing on scenarios where missing persons are searched for in video footage taken retrospectively from locations where the person was suspected to have visited. At present, the investigating officer will manually review the footage. The Police Digital Service team have proposed a protocol to speed up the process of finding the missing person in the footage by employing facial recognition technology to suggest matches of where the missing person appears in the obtained footage. These possible matches will then be reviewed by an officer to

decide what action to take. It was noted that the missing persons are often at risk of harm and as such speed is imperative in these investigations.

- 13.2 The BFEG were asked to consider the protocol and to provide advice and comments for improvement. Two specific questions were posed for consideration in the protocol: How is facial recognition used in an operational environment; and what barriers do practitioners face when locating missing people and are there other technological aids that can also be utilised.
- 13.3 The BFEG asked for clarification on why the specific algorithm was chosen and noted that it was pleasing to see qualitative methods to review before the trial proceeded. It was acknowledged that the FRWG had previously provided comments on the protocol and no further comments were provided on this occasion. The BFEG support the trial and requested for a follow-up agenda item to report on the outcome.

14 Any other business

- 14.1 The BFEG were informed that charities pertaining to missing people were reporting situations where families were concerned about reporting loved ones as missing when other factors were at play – for example immigration. There are concerns that this may be exacerbated should information databases be compared between systems. Home Office policy acknowledged that a review into this sort of cross-over was already underway.
- 14.2 The Chair thanked everyone for coming and for their input and reminded the Group that the following meeting would take place on 25th September 2019 at 2 Marsham Street.

15 Annex A

16 List of attendees

BFEG members

Mr Chris Hughes (Chair),

Dr Adil Akram

Professor Louise Amoore

Professor Dame Sue Black

Professor Liz Campbell

Professor Simon Caney

Professor Nina Hallowell

Ms Isabel Nisbet

Professor Tom Sorell

Professor Denise Syndercombe-Court

Professor Jennifer Temkin

Dr Peter Waggett

Representative from (NCA)

Kirsty Faulkner (FINDS)

Caroline Goryll (FINDS)

Alex Macdonald (Home Office Policy)

Cheryl Sinclair (Home Office Policy)

Joanna Luck (Home Office Policy)

Carl Jennings (Home Office Policy)

Toby Smith (HO Police Digital Service)

Clare Ridd (HO Police Digital Service)

Dr Joanne Wallace (Head of Science Secretariat)

Nadine Roache (Home Office Science Secretariat)

Dr Ashleigh Johnston (Home Office Science Secretariat)