Biometrics and Forensics Ethics Group

Notes of the 7th meeting held on 13 March 2019 at
Home Office, 2 Marsham Street, Westminster, London, SW1P 4DF.

1.0   Welcome and introductions

1.1   Chris Hughes, chair, welcomed all to the 7th meeting of the Biometrics and Forensics Ethics Group (BFEG).

1.2   Apologies had been received from Liz Campbell.

1.3   Kit Harling had stepped down from the BFEG ahead of the conclusion of his term in July 2019. He was thanked in absentia for his contributions to the work of the BFEG.

2.0   Notes of the last meeting & matters arising

2.1   The note of the last meeting of the BFEG had been approved by correspondence and published on the website.[1]

2.2   Actions arising from the December 2018 meeting were discussed.

2.2.1   *December 2018 Action 5: Secretariat to contact FIND SB to obtain information on familial STR searches.* This was currently in progress. A representative of the Forensic Information Databases Service (FINDS) was gathering this data and would share it with the BFEG when it became available.

2.2.2   All other actions were complete.

3.0   Chair's update

3.1   The recruitment round for a new chair and four new members was now live. The closing date was the 29 March 2019. Members were encouraged to invite colleagues or contacts to apply if they met the criteria. It was confirmed that members could also apply for the chair post if they wish to do so.

4.0   Reflection on away day and 2019 commission

4.1   An away day was held for BFEG members on 12 March 2019 in order that the group could discuss the newly extended remit[2] and conduct work planning for 2019.

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[1] Available from: https://www.gov.uk/government/organisations/biometrics-and-forensics-ethics-group/about/membership#meeting-minutes
[2] On 12 February 2019 the remit of the BFEG was expanded to provide independent review of the use of large data sets by the Home Office. See: https://www.gov.uk/government/news/ethics-group-to-oversee-use-of-large-data-sets-by-the-home-office

The BFEG members felt the away day was a huge success. It was felt to be a good way to bring members of the BFEG together to discuss the upcoming issues confronting the group and the future BFEG work streams. Three different data ethics scenarios had been developed by the Home Office Data Strategy team as a way to provide context to the group in the types of issues that might be encountered by Home Office officials. The group felt these and that it would also beneficial to use these scenarios for the induction of new members to the BFEG.

4.2   Members discussed the next steps for the BFEG and which work streams from the 2019 commissioning letter should be prioritised by the group. Members agreed that liaising with different teams across the Home Office to map data analytics activities and priorities would be helpful, especially in reference to developing a tailored data ethics framework for the Home Office. Continuation of the BFEG's work on live facial recognition (LFR) was also viewed as priority and topics that would be covered included:

- public/private partnerships, such as where police provide a watchlist to a shopping centre using commercial surveillance facial recognition technology; and
- use of LFR to locate vulnerable missing persons.

4.3   It was felt by some members that since the remit of the BFEG would now include more cross-departmental, strategic issues outside of traditional forensics and biometrics, the group should be very conscious of this and consider which topics should be prioritised and how the group meet these challenges with their current and future resources. The head of the science secretariat agreed to work with members before the next meeting, to consider this and present something at the next meeting.

Action 1: Head of Science Secretariat to work with Tom Sorell to map priority issues and how the membership of the BFEG would meet demands before the next meeting.

4.4   A member highlighted that although the BFEG would now be considering datasets that were not traditionally considered to be biometric, these other types of data were encompassed by behavioural biometrics, the measurement of patterns relating to human activity. Another member concurred and pointed out that the ISO definition of biometrics included behavioural data. This would be shared with other members of the group for reference.

Action 2: Secretariat to circulate the ISO definition of biometrics with members.

5.0   Home Office Data Ethics Framework

5.1   A paper was circulated to the members before the meeting. The paper discussed the types of issues that may be considered under the Home Office Data Ethics Framework.

5.2   The members discussed the fusion of data sets, for example fusion of crime and immigration databases. There were concerns on whether the data had been prepared in a way to allow combination of data sets and which data sets are suitable for fusion.

5.3   The use data analytics in policing was also discussed. The specific issues raised concerned 'predictive policing' which could be used identify high crime areas and appropriate interventions made to attempt to reduce crime in those areas. There were concerns this could alienate those who are incorrectly singled out as suspects through geographical or other profiling. The AI-assisted harm assessment risk tool (HART) trialled by Durham Constabulary used to assist custodial decisions was also discussed.

5.4   A discussion was held around the requirement for a tailored Home Office Data Ethics Framework. A member suggested that the 'ALGO-CARE' framework[3] developed by Mariam Oswald of the University of Winchester for the HART could be consulted as it considered ethical issues for data analytics. Another member agreed and suggested it could be used to supplement the Department for Digital, Culture, Media and Sport Data Ethics Framework[4], which was fairly high level and did not fully address the risk of repurposing data, for example.

5.5   It was felt for any ethical framework developed by the Home Office, rights to privacy and consent should be included. It was suggested that ethical principles could be developed from real scenarios, similar to those the BFEG had considered at their away day. These could then be tested more widely and amended or expanded if required. Another member suggested using the BFEG principles which had been developed for biometrics and forensics purposes could be applied to wider data ethical issues within the Home Office. It was recommended that the BFEG Ethical Principles could be tested against practical challenges faced by the Home Office and police and amended if required. A group formed of two or three individuals could conduct this work over the next two to three months and update the BFEG on their progress. The group would apply the BFEG principles to data ethics scenarios.

Action 3: Secretariat to contact volunteers to update BFEG Ethical Principles.

5.6   It was also suggested that it would be useful to engage with the Ada Lovelace Institute, a research body which ensures data and AI work for people and society.

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[3] See: https://www.tandfonline.com/doi/full/10.1080/13600834.2018.1458455
[4] See: https://www.gov.uk/government/publications/data-ethics-framework/data-ethics-framework

Action 4: Secretariat to facilitate links with the Ada Lovelace Institute and the BFEG

6.0   BFEG three-year policy view

6.1   This item was presented by the BFEG policy sponsor and head of Data and Identity Directorate who aimed to outline some of the key areas that the BFEG might be asked to advise on in the next three years and beyond. These were:
- The biometric elements of the future borders and immigration system and its alignment with law enforcement processes.
- Processing of digital evidence and management of digital forensics.

It was also explained that a biometrics governance review is underway and that the group will be asked for their views as this work develops.

7.0   Home Office policy update

7.1   This item was presented by the BFEG policy sponsor and head of the Data and Identity Directorate. Members were provided with an update on *Catt v. the United Kingdom* in which a judgement that had recently been issued by the European Court of Human Rights (ECHR). Mr Catt was a 94-year-old peace movement activist, who had attended a peaceful demonstration against an arms company in Brighton. The ECHR ruled in Mr Catt's favour.

Action 3: Alex Macdonald to share further information on the Catt judgement with the group.

7.2   Members were provided with an update on the judicial reviews ongoing concerning police use of LFR. The civil rights group Liberty was supporting a Cardiff resident in his application against South Wales Police use of LFR. The Information Commissioner's Office (ICO) had not yet received permission to intervene but were planning on circulating their submissions on the 29 March 2019. The court hearing was expected in late spring/early summer this year. In addition, the civil liberty group Big Brother Watch were supporting Baroness Jenny Jones' application against the Metropolitan Police Service (MPS) for their use of LFR. This was currently suspended pending evaluation of MPS pilots.

7.3   The judgement in the *Gaughran* case from the ECHR was expected in later in the year. The case concerned indefinite retention periods for DNA and biometrics taken from convicted individuals. If the court ruled in favour of *Gaughran* a review would be required into biometric retention periods.

7.4   The joint review of forensics provision was in the process of being published. The aim was to publish as soon as possible. The review will address quality and stability issues.

7.5   UK Research and Innovation would be developing an oversight and coordination over forensic research and development.

8.0   FIND Strategy board – Burials at sea project

8.1   Views were sought from the BFEG on a proposal for DNA profiles obtained from people electing to be buried at sea, which would be loaded to the missing person's DNA database (MPDD). The proposal would also include adding a condition to existing licensing conditions, namely that the person opting to be buried at sea must consent to providing a post-mortem DNA sample before a licence would be issued and their burial can take place. This will be a condition of the licensing and those individuals who do not provide consent will not be able to be buried at sea.

8.2   Members were supportive of the proposal. A member suggested that a leaflet should be provided to individuals who wished to be buried at sea explaining the benefits of providing their DNA profile. Examples of benefits could include saving police time and money and preventing inconvenience and distress.

8.3   A member queried what the process would be if a family wished to bury a family member at sea, and the family member did not provide consent before they died. Another point raised was around once a body part washed up ashore had been identified via the MPDD, what would happen to that body part, where would it be buried and who would be responsible for the body part. The members also queried how long the DNA profile would be retained on the MPDD.

9.0   FIND Strategy board – Sexual Assault Referral Centres (SARCS) and the Contamination DNA Database

9.1   The BFEG was asked to highlight any ethical issues that ought to be considered prior to the retention of the DNA profiles of sexual assault victims and attendees at Sexual Assault Referral Centres (SARCs) on the Contamination Elimination Database (CED) as DNA elimination profiles. It was confirmed around 1,000 DNA profiles had been removed from the National DNA Database (NDNAD) after they were identified as contamination profiles from police officers and staff. The aim of the proposal would be to ensure DNA profiles generated during analysis as a result of a contamination event were removed from the NDNAD.

9.2   Initial feedback received from SARC staff and patients on the proposal had highlighted concerns around consent and the possibility for patients to be deterred from attending a SARC if asked to submit a sample to the CED. It was confirmed patients that provides a sample to the CED would be optional and this would be stated clearly in the guidance.

9.4 Members also queried the reason for relatives or friends of the patient being asked to provide their DNA samples. It was explained due the sensitivity of the DNA tests, there is high risk of contamination. A leaflet had been produced explaining the contamination risks and benefits of providing a sample for patients and their friends and family. The Forensic Information Databases Strategy Board (FIND SB) representative would be happy to provide the members with a copy of the leaflet provided to patients for their feedback.

Action 4: FINDS SB representative to share a copy of the leaflet provided to patients regarding providing their DNA samples.

9.3 Members were generally supportive of the proposal and made the following recommendations:
- The individual obtaining the DNA sample should be a healthcare professional and not a police officer. Members were reassured the sample would be taken by a healthcare professional.
- It was suggested the information provided to patients and attendees being asked to provide their DNA samples for elimination purposes should be clear, informative and explain the benefits of providing the DNA samples;
- Members also suggested manufacturers should be encouraged to provide their staff's DNA samples to ensure their samples do not appear on the NDNAD.

10.0 IDEPP report on West Midlands Police Predictive Analytics

10.1 A representative from The Alan Turing Institute presented this item. The Alan Turing Institute Data Ethics Group (ATI DEG) was contacted in March 2017 by West Midlands Police Force (WMP) with a request for advisory scrutiny and ethical advice on their plans for a National Analytics Solution (NAS) involving intensive use of data sources and analytical techniques in pursuit of law-enforcement objectives. WMP was unable to provide a full plan of the NAS, and the ATI DEG team was provided with a redacted version. The ATI DEG team provided ethical advice on the information made available to them by WMP.

10.2 The report produced highlighted several ethical issues that included, accuracy of machine learning, how they had been conducting risk assessment, accountability and governance and how ethics slotted into the program. When conducting risk analysis to predicting criminality it was felt that a large amount of data outside of traditional policing remit would be gathered. This data included education, social-work, and housing. This raised concerns regarding where and how data would be obtained, shared and how this would be managed. The ATI DEG group was

supportive of the National Analytics Solution proposal but strongly recommended strong ethical principles and ethical frameworks.

10.3   The ATI DEG representative provided the BFEG with key areas to consider when providing ethical advice on their expanded remit. Police engagement with the public was very important, as well as knowledge of the law, legalisation, governance, and codes of practice for that specific area.

11.0   Facial Recognition working group update

11.1   An update was provided to the BFEG by the chair of the Facial Recognition Working Group (FRWG) Professor Nina Hallowell.

11.2   The interim report Ethical issues arising from the police use of live facial recognition technology produced by the BFEG FRWG was published on 26 February 2019[5].

11.3   The FRWG had received a presentation from the Police Digital Service (PDS) on their proposed trial on using Person Recognition Technology to assist in the search for missing and vulnerable people. The trial would test the effectiveness of using Assisted Facial Recognition (AFR) to locate missing and vulnerable people when viewing live video footage. Actors would be used to play the missing people, and AFR would be used to locate them on the live video footage. The FRWG had made some recommendations based on the initial proposed trial. The PDS accepted the FRWG recommendations and were included in their updated proposal for the trial. The BFEG was invited to provide feedback on the proposed trial.

11.4   The BFEG believed the trial had merit and agreed to support the trial. The BFEG further recommended including more ethnic groups for the actors used in the trial.

12.0   BFEG Annual Report 2018

12.1   The members had been presented with a draft copy of the BFEG annual report 2018. Members were invited to provide comments on the factual accuracy of the report. The members had no further comments on the report, and agreed the report could be published.

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[5] https://www.gov.uk/government/news/ethical-principles-to-guide-police-facial-recognition-trials

Annex A – List of attendees

Present

- Chris Hughes - Chair
- Adil Akram - BFEG Member
- Louise Amoore - BFEG Member
- Sue Black - BFEG Member
- Nina Hallowell - BFEG Member
- Mark Jobling - BFEG Member
- Isabel Nisbet - BFEG Member
- Thomas Sorell - BFEG Member
- Denise Syndercombe-Court - BFEG Member
- Peter Waggett - BFEG Member
- Kirsty Faulkner (teleconference) - FINDS Unit, HO
- Jennifer Temkin - BFEG Member
- Alex MacDonald - Identity Unit, HO
- Simon Caney - BFEG Member
- Nadine Roache BFEG Secretariat, HO
- Penny Carmichael - BFEG Secretary, HO
- Joanne Wallace - Head of Science Secretariat, HO

Apologies

- Liz Campbell - BFEG Member