



# Minutes

<b>Title of meeting</b>	Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board		
<b>Date</b>	4 Sep 2019	<b>Time</b>	13:00-15:00
<b>Venue</b>	Conf Room 5a 2 Marsham Street London SW1P 4DF		
<b>Chair</b>	Christophe Prince (Acting)	<b>Secretary</b>	Carl Jennings
<b>Attendees</b>	Nigel Ball (NB)	Digital, Data and Technology (DDaT), Home Office (non-member)	
	David Barke (DB)	Digital, Data and Technology (DDaT), Home Office (non-member)	
	Lucy Bradshaw-Murrow (LBM)	Office of the Biometrics Commissioner (non-member)	
	Sean Byron (SB)	NPCC Staff Officer to NPCC Lead	
	Simon Chapman (SC)	Defence Science and Technology Laboratory	
	Lindsey Chiswick (LC)	Metropolitan Police (MPS) (non-member)	
	Brendan Crean (BC)	Home Office Biometrics Programme (HOB)	
	Alex Cummins (AC)	Digital, Data and Technology (DDaT), Home Office	
	Ian Daft (ID)	National Crime Agency (non-member)	
	Ben Davies (BD)	South Wales Police	
	Gary Dodds (GD)	Department of Justice, Northern Ireland	

Paul Dutton (PD)	Association of Police and Crime Commissioners (APCCS) (non-member)
Dr Nina Hallowell (NH)	Biometrics & Forensics Ethics Group (BFEG), chair of sub-group 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)
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 (JLu)	Police Forensics and Biometrics Policy Team, Home Office (non-member)
Alex Macdonald (AMa)	Head of Identity Policy Unit, Home Office (non-member)
Daniel Murray (DMu)	Investigatory Powers Commissioner's Office (IPCO) (non-member)
Andrena Murray (AM)	Department of Justice, Northern Ireland
Paul Newcombe (PN)	South Wales Police
Tony Porter (TP)	Surveillance Camera Commissioner
Darryl Preston (DP)	Association of Police and Crime Commissioners (APCC) (non-member)
Georgina Preston (GP)	International Criminality Unit
Chris Sims (CS)	HO Biometrics Programme
Gill Tully (GT)	Forensic Science Regulator
Sanaya Thethy (ST)	Data and Identity, Home Office (non member)
Geoff Whitaker (GW)	Defence Science and Technology Laboratory

<b>Apologies</b>	Steve Wright (SW)	Information Commissioner's Office
	Teresa Ashforth	Operational Communications in Policing, Home Office
	Nikita Cannan	International Criminality Unit
	Neil Cohen	Defence Science and Technology Laboratory
	Umar Hussain	South Wales Police
	Scott Lloyd	South Wales Police
	Johanna Morley	Metropolitan Police (MPS)
	Martyn Underhill	Dorset PCC (APCC lead on forensics and biometrics)
	Paul Wiles	Biometrics Commissioner

## Item 1: Minutes of and actions from previous meeting

### *Minutes of 4 June meeting*

1. A version with one amendment had been circulated. This was agreed.

### *Action log*

2. Update on actions:
  - a. Action 1 – Liaise with MOJ/NOMS on use of LFR in prisons. A paper is planned for the December meeting (**action open**)
  - b. Action 2 – Provide paper on duplicate custody images issue. A paper is planned for the December meeting (**action open**)
  - c. Action 3 - Liaise with NPCC leads' staff officers re Catt judgment (which may affect MoPI rules which impact on custody image retention). This issue will now be covered in the Custody Images Review (**action closed**).
  - d. Action 4 – MPS to provide paper on evaluation of their projects. An MPS technical evaluation report on the trials is in the process of being drafted, and will be published in due course (**action closed**).
  - e. Action 5 – APCC, NPCC and Home Office to discuss chairing of meeting. DP queried whether the action was still open as no agreement had been reached. CP said that the action from the last meeting had been completed as discussions had taken place (**action closed**).
  - f. Action 6 – Secretariat to ask attendees if they had interests to declare. The Secretariat is researching the form of words used by similar bodies (**action open**).

## Item 2: Court Cases and guidance (update)

3. JJ gave a summary of the judgment in the judicial review of South Wales Police's use of live facial recognition (LFR), which had been handed down that morning.
4. CP thanked South Wales Police (SWP), HO Biometrics, his own team, and the ICO and SCC for their diligent work on this case. It was expected that Liberty would appeal.
5. SW said ICO would release a press statement after they had considered the judgment in full. The ICO will use the judgment and findings of their investigation of police use of LFR (which had now finished) to inform their guidance. The judgment should not be seen as a complete 'green light' – any use of LFR must still be within the terms of the Data Protection Act (DPA). They will also consider what was said in the judgment with regards to what an appropriate policy document should look like under Part 3 of the DPA, and what 'codify the relevant legal standards' means (in para 97 of the judgment).
6. TP noted that the Court accepted the importance of the Surveillance Camera Code within the legal framework. He is looking forward to working with ICO on the relationship between the DPA, the Code and the Protection of Freedoms Act. LC said that the Met welcomed the judgment although it was too early to comment further. LBM said SWP had adopted a thoughtful approach to trialling LFR and others wanting to conduct trials might want to consider their approach.
7. GT said the judgment mentioned this Board at para 44. This Board needs to conduct proper oversight and the advice document should be more specific. SB said it could not be too directive. BC asked whether the Board's role was to authorise trials or to advise on the trials that are being run?
8. CP said the Home Office welcomed the judgment. It was specific to SWP; other forces could learn best practice from them. His team would look at the role of the Board in relation to authorising trials and issuing guidance.

**Action: Home Office Data and Identity to put forward a paper at the next meeting on the role of the Board.**

## Item 3: Policy issues (update)

### *Paper 1: Policy developments*

9. JJ gave an overview of policy developments. The Home Office had spoken to the relevant regulators about the work on biometrics governance. The Commons Science and Technology Committee had called for a moratorium on the use of LFR. The Government will provide a formal response.
10. ST introduced herself as the person leading the new Custody Images review. She advised that a working group has been set up and they will be requesting data from police forces.

11. JJ said the Home Office was working on updating the Surveillance Camera Code, which would need Parliamentary time to come into effect. The Home Office had met the ICO to discuss aligning their guidance on surveillance cameras and data protection with the Code. SW said the ICO was working on updating their guidance, which will no longer be statutory following changes in the 2018 Act. TP welcomed plans to update the Code.
12. NH said BFEG would produce an interim report early next year on collaboration between the police and private sector on facial recognition. GT advised that a code of practice on gait analysis would shortly be published. She requested an update on what areas of governance are being looked at. AC will discuss with DSTL how to align work Home Office DDaT are doing in this area with theirs.

#### **Item 4: Review of pilots in progress and planned work (review)**

##### *Paper 3: LFR activity table*

13. CP urged police forces and regulators to inform the Board of any new LFR projects or technologies that are being trialled.

##### *Oral report on South Wales Police use of a mobile facial recognition app*

14. South Wales Police provided a presentation of this app. They will conduct a pilot with officers in live environment. The app would use 'AFR identify' in the first instance rather than 'AFR locate' (ie a still image rather than a real time CCTV feed). The image would be compared with the SWP custody image database and their Niche missing persons system. The app would return the top six images from those databases. Officers will receive an hour's training on using the app, which will emphasise that the app should be used only if other options for identifying the individual have been exhausted. The force were very aware that use must be sensible to retain public support The app is linked to the officer's pocket notebook to provide a robust audit trail of when the app is used. A DPIA and Standard Operating Procedures have been drafted but are not in a form to be send out yet. The trial will be reviewed by Cardiff University.
15. LBM has seen the app; she emphasised the importance of how it is used and public perception. BC supported the provision made for an audit trail and agreed that communications with the public about what the technology does and doesn't do were important. SW said SWP have engaged with the ICO about this. SB wanted to know difference between the app and PND desk search. BD replied that the app allowed search to be conducted without having to return to the station and the search function is also different; all Niche images were searched.

##### *Paper 4: Essex University report on MPS pilots*

16. LC said MPS chose not to exercise their formal right to reply to the Essex University report. Given that a significant amount of the Essex Report related to legal matters that also featured as part of the Judicial Review, it was for the courts to provide the determining factor on legality. The implications of the JR ruling for the MPS will now be carefully considered before a decision is taken on whether MPS will use LFR technology in the future. She also provided an update on MPS sharing of images for the purposes of LFR with the Kings Cross estate. MPS had stated in good faith that there had been no sharing of images with the estate, however it had then emerged

that there had been a local data sharing arrangement in effect from May 2016 to March 2018 which had not been notified to senior managers. Under the agreement images were shared for the purposes of LFR to assist in the prevention of crime. This ceased in Spring 2018. LC will write to borough commanders reinforcing that there should be no local agreements or local use of LFR. The Met is also setting up a data office which will provide central oversight of data sharing agreements. CP said sharing of information between the police and private sector could be justified if it was necessary to ensure public safety. LBM said forces needed to be transparent about sharing of information where technology is used.

#### *Next steps*

17. The draft operational advice to forces had not been included in this meeting's agenda because it will need to reflect the judgment in the judicial review. SW said ICO had also been awaiting the judgment before finalising their report of police use of LFR.

### **Item 5: Forward Look**

#### *Paper 5: Forward Look*

18. CJ noted the agenda for the next meeting was very full. CP said iris should be dropped as an agenda item, although he would like to include voice recognition. JH would like to cover gait analysis and JJ thought we might want an item on the custody images review. GT wanted to discuss the structure of the Board and how it deals with new pilots. ID said the next agenda was too full, it was not clear how the Board could both review current projects and look ahead. BC said HO Biometrics asks users to fill in business needs form; this Board needed something similar, so ideas are more fully developed when they come in front of the Board. CP said Data and Identity would consider these points and possible changes to the Board's TORs ahead of the next meeting.

### **Item 6: Any Other Business**

#### *The Board's name*

19. CJ and SB said the Board's name was too long for easy reference. ID said 'emerging biometrics' was a better term than 'new biometrics'. LBM was more concerned about the role of the Board than its name. SW noted the name was referred to in the judicial review judgment and mentioned by academics. CP said a decision should be made at the next board.

#### *Discussion on private sector use of LFR*

20. SC said facial recognition companies had been awaiting the outcome of the JR and would probably now increase their efforts to sell systems. SW said the ICO investigated both private and public sector use of LFR. They often find out about private sector use through the media. GW said the British Standards Institution was developing standards for LFR, which should be monitored to ensure there was no conflict with police guidance.

*AOB*

21. JL said voluntary attendees were often not going to custody suites so their images were not being captured. CJ said the FINDS Board was also looking at this issue.

Home Office Data and Identity