

Biometrics and Forensics Ethics Group

Notes of the 9th meeting held on 25 September 2019 at Home Office, 2 Marsham Street, Westminster, SW1P 4DF.

1 Welcome and Introductions

- 1.1 Chris Hughes, Chair, welcomed all to the 9th meeting of the Biometrics and Forensics Ethics Group (BFEG).
- 1.2 The Chair introduced the four incoming committee members, Charles Raab, Nóra Ni Loideain, Julian Huppert and Richard Guest and the Chair. Members were informed that the appointment of new members commenced as of this meeting whilst the term of the incoming Chair would commence on the 27th of September 2019.
- 1.3 Apologies had been received from Simon Caney, Isabel Nisbet, Liz Campbell, Joanne Wallace and the Biometrics Commissioners office.

2 Matters Arising

- 2.1 Minutes of the last meeting had been ratified and published. The minutes can be found at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835664/20190612_Minutes_BFEG.pdf
A member of the public had asked for clarification on section 8.1 of the minutes of 12 June 2019. The section was reviewed and revisions agreed by members.

Action 1: Secretariat to update minutes of the previous meeting, 12 June 2019, to include this amendment.

- 2.2 All actions arising from the 12 June 2019 meeting, with the exception of Action 8, were complete.

Action 8: BFEG members asked to highlight examples of private companies working with public sector information. Any further examples from members should be sent to Nina Hallowell.

- 2.3 An update was provided on the custody image review. It was proposed that the National Information Databases Service, who had advised on the launch of a previous DNA leaflet, may be able to advise members on the production costs and logistics concerning the publication of an information leaflet for individuals in custody on their rights regarding deletion of custody images. The purpose of the leaflet would be to inform those arrested of their rights in terms of requesting the deletion of their custody image.

Action 2: Secretariat to liaise with the National Information Databases Service, about leaflet costs and considerations.

3 Chair's update

- 3.1 The Chair had attended meetings of; the Home Office Science Advisory Council meetings in June and September; Forensic Information Database Strategy Board (FINDS) in June; and the Nuffield Council on Bioethics Horizon scanning workshop: The future of science in crime and security in July. The latter had highlighted the need for ethical foresight and ethical consideration as an ongoing practice.

4 Update from Forensic Information Database (FINDS)

- 4.1 The Biometrics Commissioner's Office had raised concerns on the lack of guidance covering the retention of biometrics taken from individuals below 18 years of age and requests received from police forces for the extension of retention periods. Revised process information and guidance had been drafted for consideration and, if agreed, ratification at the next Strategy Board meeting.
- 4.2 Members were informed that the FINDS team was looking at ways to improve the dissemination of leaflets produced to provide advice on DNA samples taken in custody. This leaflet was intended for individuals who have provided DNA samples, including those arrested for a recordable offence or those that had volunteered to provide a DNA sample. The leaflet: described DNA profiling for forensic purposes in England and Wales; explained what DNA was; how DNA was sampled; how and when DNA profiles were put on the National DNA Database; and how long they would be retained for.
- 4.3 It was noted that the distribution of these leaflets had not been as wide as hoped. For ease of distribution it was suggested that instead of asking custody officers to hand out the leaflet they should be put in the DNA sampling kits. The costs for this would be presented to the next DNA Operations Group. Following the recent custody image review FINDS were asked to consider adding information on the destruction of custody images to the leaflet.
- 4.4 In discussion members proposed that, for ease of comprehension, information concerning custody images should be separate.
- 4.5 It was queried whether arrestees could sign a form when giving their DNA to say they understood their rights including the information within the leaflet. In response members were informed that consent was not required for samples obtained in line with the Police and Criminal Evidence Act 1984.

- 4.6 Members were informed that, in contrast to the requirement to inform mental health patients of their rights to appeal, there was no statutory obligation to inform those arrested of their rights regarding DNA samples. This lack of obligation may partly explain the poor distribution of the DNA leaflets.
- 4.7 Members queried the format of the information noting that a verbal format would assist those unable to read the leaflet. The Chair stated that the group had been concerned for some time regarding the adequacy of information provided to those in custody. It was agreed that the adequacy of information should be considered at the next meeting.

Action 3: Secretariat to liaise with FINDS team to follow up on this issue.

- 4.8 Members asked about the updated National DNA Database (NDNAD2) and were informed that the new platform would have enhanced capability updated search algorithms and would ultimately bring together the missing persons database and the main database in separate caches.
- 4.9 The members asked about the vulnerability of the NDNAD to cyber-attack and they were informed that the NDNAD had mechanisms in place to prevent cyber-attack and that the same would be true for NDNAD2.

5 Policy update

- 5.1 An update was provided concerning current challenges in Data and Identity policy and recent ministerial changes.
- 5.2 The outcome of the judicial ruling on South Wales Police, which found that the Police had acted in accordance with the law, was discussed. The ruling concluded that trials could continue if they adhered to data protection and other relevant legislation. There was an ongoing need for evaluation of the potential benefits of this technique in the long term. The policy questions posed by emerging biometrics also needed to be considered.
- 5.3 Members were informed that the review of custody images had been brought forward. This was being undertaken together with the National Police Chiefs' Council (NPCC) and the Association of Police and Crime Commissioners (APCC). Custody image retention was different from DNA and fingerprints in that the database was incomplete, there were multiple reference collections and the images were not always linked to a crime reference. This presents challenges in deletion; however, technology had moved on since the last review.
- 5.4 The surveillance camera code was being updated; this was last done in 2013. Other stakeholders would be asked to comment on the updates to the code in due course.

- 5.5 The Data and Identity Directorate had been looking at the Ada Lovelace Institute poll on facial recognition which had shown some public support for police use if there were clear safeguards (see further discussion: Item 7).
- 5.6 The issue of the cyber-attack on a Forensic Service Provider was discussed. This incident had tested recovery plans and the resilience of forensic delivery.
- 5.7 Members were informed that a Forensic sub-group of the Criminal Justice Board had been created. This group had a much broader representation than its predecessor and was chaired jointly by the Home Office and the Ministry of Justice. Broader membership enabled the board to consider issues such as the presentation of digital forensics in court in addition to police supply issues.
- 5.8 When asked if they had questions on the policy update one member queried whether the University of Essex report on the Metropolitan Police use of Live Facial Recognition (LFR), which had not been discussed, would be considered in the development of policy on LFR. Members were informed that this was covered at the Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board. The BFEG was represented on this board with reports available at: <https://www.gov.uk/government/groups/law-enforcement-facial-images-and-new-biometrics-oversight-and-advisory-board#minutes>.
- 5.9 The members were also informed that the Metropolitan Police Service (MPS) had not chosen to exercise their formal right of reply to the Essex report but would publish their own evaluation of the trials in due course. Any new plans for trialling LFR would be tested by review at the Oversight and Advisory Board. A member reminded the group that the MPS had presented their methodology to the BFEG for review, in addition to taking on board the findings of the Essex report.
- 5.10 The members discussed the judicial ruling on the use of LFR by South Wales Police (SWP). The discussions covered the scope and clarity of the legislation that was applied in the ruling. The members discussed public understanding of LFR technology and considered the need to separate the technology itself from its application, and from the use and storage of the data collected.
- 5.11 A member pointed out that the ruling had found no bias in the algorithm used in the SWP LFR technology. The reported lack of bias was considered unlikely given the inherent bias in algorithms. Members agreed the need to show how bias had been tested.
- 5.12 Members were informed that the Data and Identity Directorate had engaged with the Alan Turing Institute to develop a framework to look at bias in algorithms and review the Data Ethics Framework, produced by the Department of Digital, Culture, Media and Sport.

5.13 Members asked about plans for public engagement by the Home Office to address public understanding of LFR. Members were informed that the Data and Identity Directorate were working with Strategic Communications on proposals for public engagement and that this would be discussed further at the Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board.

5.14 Members sought an update on the research agenda for forensic science proposed by the House of Lord Select Committee and were informed that this was being developed.

Action 4: Science Secretariat to provide an update on the research agenda for the next meeting.

6 Complex Data working group update

6.1 The Chair of the complex data working group gave an update on the group's progress. This group was asked to review the artificial intelligence process for allocation of visa applications to the appropriate team for investigation.

6.2 In order to move forward with the review, the working group requested two additional members and stated that comments from other members outside of the working group were welcome.

Action 5: Science Secretariat to organise additional members for this group and co-ordinate a meeting to review the visa case.

7 Stakeholder update

7.1 Written updates from the Office of the Biometrics Commissioner were shared with the BFEG. The annual report of the Biometrics Commissioner was published on 27 June 2019. The Scottish Biometrics Commissioner bill was introduced on the 30 May 2019.

8 Roadmap to research

8.1 A representative from the Royal Statistical Society (RSS) and the Ada Lovelace Institute (ALI) provided members with an overview of the work of the RSS and the ALI, and how they could collaborate with the BFEG in the future.

8.2 The RSS Statistics and Law Section had addressed areas of forensic science that require statistical reasoning and had provided a submission to the House of Lords Science and Technology inquiry on Forensic

Science:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee-lords/forensic-science/written/90629.html>

- 8.3 The RSS had a role in advising on the use of algorithms in Criminal Justice and the use of statistics in forensic science. The RSS had developed statistical guides for advocates and had also worked with the Forensic Science Regulator in developing evidence standards for forensic science.
- 8.4 The Nuffield Foundation road map report for research was mentioned. The key recommendation from that report was for the creation of a stronger evidence base and a more collaborative approach to research. This had led to the creation of the ALI.
- 8.5 The ALI was established by the Nuffield Foundation as an independent research and deliberative body addressing the use of data and artificial intelligence in society. The Institute was running a number of initiatives relating to the ethical impact of biometric technologies and would shortly conduct an independent review of the governance of biometric data.
- 8.6 The ALI had published its first survey of public opinion on the use of facial recognition technology. This can be found at https://www.adalovelaceinstitute.org/wp-content/uploads/2019/09/Public-attitudes-to-facial-recognition-technology_v.FINAL_.pdf
- 8.7 The ALI had proposed creating a Citizens Biometric Council, a citizens' assembly that would bring together experts and citizens in shaping the use of facial recognition and other similar biometrics technologies. Members noted the importance of having an appropriate number of people representing the public and alongside experts able to explain the subject to them in lay terms.
- 8.8 A member of the BFEG had previously discussed the citizen's council with the ALI and would sit as part of the group developing this.

9 HOB Ethics working group update

- 9.1 An update was provided by a member of the Home Office Biometrics Ethics Working Group (HOB EWG). The HOB EWG had met once in the period since the last update. The work of the group consisted of reviewing Data Protection Impact Assessments (DPIA) from the Home Office Biometrics Programme and highlighting any ethical and privacy concerns.
- 9.2 It was agreed that it would be useful for incoming members to be provided with information on the different working groups and the current work projects.

Action 6: Secretariat to send members a summary report of all the working groups, their current projects and future work projects, memberships details, requests for new memberships and deadlines.

9.3 The HOB programme team had provided the HOB EWG with updates on the DPIA dashboard which provides information on HOB programme projects. The HOB EWG received an update on the Livescan prison pilot. The trial involved obtaining individuals' fingerprints to confirm identity when entering prison. The HOB EWG reviewed the Prüm fingerprints DPIA and queried what would happen to the Prüm agreement if there were a no-deal Brexit. The group had also reviewed a DPIA on collecting biometric data from individuals at UK borders.

9.4 New work for the group was discussed, including advising on the Biometrics governance review. Allocation of new work would be discussed further at the next meeting.

10 Facial Recognition working group update

10.1 An update was provided to the BFEG by the Chair of the Facial Recognition working group (FRWG). The remit of the group had been extended and now included new and emerging biometrics in particular voice recognition. The Chair of the working group requested that an additional member join the group to support this extended remit.

10.2 The group presented a project initiation document (PID) on the collaborative use, between police and private entities, of biometric recognition technologies and associated biometric databases. Following discussion on the scope of this project the PID was ratified by the members.

10.3 The group provided an update on their progress on this project including use-cases of public and private collaborations of Live Facial Recognition (LFR) technology, and other biometric recognition technologies that the group had identified. The group also stated that they were planning evidence gathering days.

Action 7: Members to send any examples of public and private collaborations using biometric technologies to the FRWG.

10.4 A member asked if the project would consider the definitions of public space, in terms of using the biometric recognition technology. The working group agreed this was a concern that could be highlighted in the report; however, they would not be able to address it in great depth.

10.5 A member noted concern regarding the potentially large amount of evidence gathering required. Members of the working group were confident that they would be able to gather the required evidence. The working group would also approach the members of the Law Enforcement

Facial Images and New Biometrics Oversight and Advisory Board for any further examples of police-private collaboration use-cases that have been brought to them.

Action 8: Policy representative to ask members of the Law Enforcement Facial Images and New Biometrics Oversight and Advisory Board if they were aware of use-cases of police and private entities collaborations on the use of biometric recognition technologies.

11 Data Ethics framework working group

11.1 Members were informed that the Chair of the Data Ethics Framework Group had stepped down due to other commitments.

11.2 The Secretariat confirmed that the current members of the group were happy to remain on the group and interest was received from a new member to join this group.

11.3 It was suggested the other working groups could summarise the ethical issues identified in their projects which would assist in the drafting of the data ethics framework.

11.4 Once the scope of this working group was established a new Chair and an additional member would be recruited. This would be discussed further at the next committee meeting.

12 Any Other Business

12.1 The BFEG were asked by the Identity Security Team to advise on a passport application that they had received. In summary, an application for a British passport had been submitted and had been rejected on the grounds that the DNA profile used as to proof of paternity had not met current policy requirements as it had been taken prenatally. The Identity Security team would like the BFEG to consider if it is ethical to use foetal DNA sampling for nationality claims. Several members volunteered to review this case.

Action 9: The Secretariat to send details of the foetal DNA case application query to the relevant members for their considerations.

12.2 Chris Hughes thanked BFEG members for their hard work and support over the years, he also thanked the secretariat, policy colleagues, and Home Office Science colleagues for all their support.

12.3 The members of the BFEG, Home Office colleagues and the Secretariat offered their warmest thanks to Chris Hughes for his work and guidance over the last ten years.

Annex A – Full list of attendees

	Attendees	Role
1	Chris Hughes	Chair
2	Adil Akram	BFEG member
3	Louise Amoore	BFEG member
4	Sue Black (teleconference)	BFEG Member
5	Richard Guest	BFEG Member
6	Nina Hallowell	BFEG Member
7	Julian Huppert	BFEG Member
8	Mark Jobling	BFEG Member
9	Nóra Ni Loideain	BFEG Member
10	Charles Raab	BFEG Member
11	Thomas Sorell	BFEG Member, vice chair
12	Denise Syndercombe-Court	BFEG member
13	Jennifer Temkin	BFEG Member
14	Peter Waggett (teleconference)	BFEG Member
15	Mark Watson-Gandy	Incoming BFEG Chair
16	Caroline Goryll	FINDS Unit, HO
17	Carl Jennings	Identity Unit, HO
18	Alex MacDonald	Identity Unit, HO
19	Cheryl Sinclair	Identity Unit, HO
20	Hetan Shah	RSS/Ada Lovelace Institute
21	Jen Guest	BFEG Secretary, HO
22	Ashleigh Johnston	Science Secretariat, HO
23	Nadine Roache	Science Secretariat, HO

Apologies: Liz Campbell, Simon Caney, Isabel Nisbet, Joanne Wallace