

Biometrics and Forensics Ethics Group

Notes of the 3rd meeting held on 19th March 2018 at
Home Office, 2 Marsham Street, Westminster, London, SW1P 4DF.

1.0 Welcome and introductions to induction session

1.1 The Chair welcomed all to the 3rd meeting of the Biometrics and Forensics Ethics Group (EG). An announcement had been made on the morning of 19th March for the appointment of 7 new members to the BFEG. Sue Black (University of Dundee), Liz Campbell (Durham University), Simon Caney (University of Warwick), Mark Jobling (University of Leicester), Thomas Sorrell (University of Warwick), Denise Syndercombe-Court (King's College London) and Peter Waggett (IBM) were all welcomed to the committee.

1.2 The morning session was to be devoted to an induction for new members, followed by a plenary session in the afternoon when all members would be in attendance.

1.3 The Chair welcomed the observers Louise Amoore (Durham University) and Caroline Harrison (2 Temple Gardens) to the meeting.

1.4 Apologies had been received from Jennifer Temkin and Nina Hallowell.

2.0 Induction to the Biometrics and Forensics Ethics Group

2.1 The secretariat delivered an induction to new members covering the remit of the group, the ways of working adopted by the committee, and an overview of the stakeholders of the BFEG.

3.0 Introduction to the Home Office Biometrics Programme

3.1 A representative of the Home Office Biometrics programme (HOB) provided an overview of the programme for new members. Members were informed that the HOB programme was working to deliver a unified, integrated real-time biometric service that is effective, efficient, proportionate and lawful.

3.2 Members asked about the timing of the Privacy Impact Assessments (PIA) being conducted for the programme and whether these take place prior to projects being rolled out. It was confirmed that the PIA would usually take place at the initiation of the project and ideally before procurement of services. This ensured that any modifications required to the project were captured as early as possible.

3.3 Members also queried whether the *necessity* of technologies enabled by the programme was fully considered before roll-out; for example the use of mobile ID technology which enabled frontline officers to confirm subject identities against the

IDENT1 and IABS databases. It was confirmed for mobile fingerprint scanning, the capability had already existed and the aim of the HOB programme was to replace the expiring contract (ending in March 2018) and outdated, expensive technology.

3.4 A member raised a concern that there was currently no representation from the Home Office on the IST/17, the 'cards and security devices for personal identification standards', committee. This committee managed passports and images used in passports. The member felt that it was important the committee should have involvement from UK agencies to ensure it is protected.

Action 1: The Home Office Data and Identity Directorate representative to liaise with HM Passport Office to identify possible representation for the standards committee.

4.0 Introduction to policy making in the Home Office

4.1 A representative from the Home Office Data and Identity directorate provided new members with an overview of how policy making is carried out in the Home Office and highlighted some current areas of interest, such as facial recognition technology, retention regimes of biometric data and international cooperation on the sharing of biometric information.

5.0 The Office of the Biometrics Commissioner

5.1 A representative from the Biometrics Commissioner's office provided new members with an introduction to the role of the Biometrics Commissioner. The post was established by the Protection of Freedoms Act 2012, which introduced a new regime to govern the retention and use by the police of DNA samples, profiles and fingerprints.

6.0 Welcome and introduction to plenary session and matters arising

6.1 The chair welcomed all members to the plenary session of the meeting.

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

6.3 Matters arising were discussed.

6.3.1 *Action 2: Kirsty Faulkner to circulate the International Data Exchange Policy to all members for comment on the changes made.* The updated paper was being discussed at the Forensic Information Databases Strategy Board (FINDS SB) on 28th March and would be circulated to members after the SB meeting.

6.3.2 *Actions 5 and 9: Secretariat to forward details of the facial recognition public engagement event to members/ Secretariat to arrange an away day for members to consolidate the work programmes in 2018.* The secretariat confirmed that the facial

¹ Available from: <https://www.gov.uk/government/organisations/biometrics-and-forensics-ethics-group/about/membership#meeting-minutes>

recognition event would take place at the next BFEG meeting in June, where an item would be devoted to consolidation of work streams.

7.0 Presentation from Big Brother Watch

7.1 A representative of Big Brother Watch provided BFEG members with an overview of the organisation's position on the use of facial recognition technology in the UK.

8.0 Chair's Update

8.1 The chair reported they had provided a briefing to a research fellow from the Parliamentary Office for Science and Technology who was producing a 'POST-note' on biometrics. POST-notes are four page summaries of public policy issues based on reviews of the research literature and interviews with stakeholders from across academia, industry, government and the third sector. The note would be published later this year.

9.0 Biometrics Commissioner Update

9.1 The BFEG heard that the Biometrics Commissioner's annual report for 2017 was in the process of being finalised. A few key areas that would feature in the report were highlighted. Firstly, it had become apparent over the last year that differing application of the Criminal Procedure and Investigations Act (CPIA) by police forces had led to inconsistencies in the retention of DNA samples. Some forces had applied a blanket retention policy for DNA samples, as opposed to the 6 months set out in the Protection of Freedoms Act. The Biometric Commissioner had written to forces providing them with some principles on when to apply the CPIA and hoped to see a decline in blanket retention. Members asked whether a contributing factor to retention of samples might be due to the intention to carry out Y-STR profiling of the sample. It Although some samples were currently kept specifically for Y-STR profiling, it was unclear whether on the whole blanket retention was with a view to future Y-STR profiling.

9.2 The Biometrics Commissioner was in the process of re-evaluating the way information was presented when communicating with members of the public via correspondence. Particular issues arose when writing to minors who under Data Protection laws were deemed to be responsible for decisions on their biometric data. In December 2016 the Biometrics Commissioner contacted the National Police Chiefs Council (NPCC) lead on policing of children and young people and an agreement was reached that provisions for an appropriate adult should be put in place for the application process. This was yet to be carried out.

9.3 The Biometrics Commissioner had also noted that very few representations were received from individuals when they were notified of a police application to retain their biometric information. It was thought that the information being shared with individuals may not be sufficiently accessible to facilitate the individual making such representations and so this would be assessed over the coming year.

9.4 The Biometrics Commissioner had raised a concern regarding individuals released under investigation for whom there was currently no formalised review procedure. This could possibly result in long periods during which biometrics are retained whilst the investigation was ongoing. There was also a concern that a potential lack of monitoring could lead to failures to update the Police National Computer (PNC) on conclusion of the investigation.

9.5 The retention of custody images did not currently come under the remit of the Biometrics Commissioner, however it remained a concern. The HO review last year put in place a system whereby individuals whose image was held but they were not convicted could apply to have their image removed from the database but very few people had applied for their image to be deleted.

9.6 The Biometrics Commissioner communicated with the London Metropolitan Police and the South Wales Police regarding their automated facial recognition trials. Prior to the trials, the Biometrics Commissioner had shared guidance outlining the basics of what steps should be taken prior to the commencement of such trials.

9.7 Members emphasised that it would be important for one body to have oversight of all biometrics particularly due to the shift towards using multimodal biometric identifiers.

10.0 FINDS SB update

10.1 A representative of the FINDS SB was invited to provide the BFEG members an update. It was reported that the work programme for the Strategy Board had been refreshed and would focus on Transforming Forensics, HOB and FINDS working together to support the business from a databases perspective.

10.2 Work to expand the Strategy Board's access and use policy was reaching its conclusion following the expansion of the Strategy Board. This policy would initially consider DNA and fingerprints, but would enable other forensic information databases to be considered in the future, if required. The expansion of this policy aimed to ensure consistency of approach for all data being loaded and reported through the databases. As fingerprints have a wider remit than DNA within policing, there would be a consultation period to understand a pragmatic approach balancing operational needs with Data Protection Bill, part 3, which would come into force in May 2018. This policy also aligned the different organisations who had access to the IDENT1 policing data and Counter Terrorism databases, and aimed to ensure the organisations accessing or utilising the policing data on the database has a robust legal purpose. It was previously going to consider footwear too, but legal advice had prevented this being in scope. An Expert Network was also considering the forms for DNA and Fingerprints.

10.3 The Strategy Board had also expanded their international data exchange policy and had reached its final consultation phase following the expansion of the Board to include fingerprints in the past year.

10.4 The annual report was submitted to the December Strategy Board and was going through the Home Office review process for publication.

10.5 Work was continuing on the Prüm exchange technical solutions for fingerprints and DNA, however the outcome from the discussions with the European Heads of databases remained outstanding. Discussions had commenced to understand the position of Gibraltar, especially with regards to exchanging data through the Prüm mechanism.

10.6 The FINDS Unit were working with the Missing Persons Unit and NCA in order to arrange a bulk search of specific Ireland DNA data to support missing persons cases. Strategy Board members appeared to be supportive of this initiative and it was likely to be agreed at the next board on 28th March.

10.7 A proposal was likely from the NPCC Safeguarding lead to take DNA samples from clandestine events and safeguarding of children – it was likely the proposal would be provided for the June meeting, however the project lead was trying to secure the agreement from all stakeholders.

10.8 The main focus from a risk perspective at the December meeting was the loss of security accreditation of the National DNA Database. The NPCC lead for the board had considered the most appropriate approach to gain commitment in order for this vital work to be concluded as quickly as possible. Progress would be reviewed at the March meeting.

10.9 There was a national group, led by Tony Hurst (MPS), considering Voluntary Attendees. It was anticipated national guidance would be issued in Q1 18/110.

10.10 The chair of the FINDS SB, Gary Pugh, would be retiring in April and an advert going out to request a new NPCC lead for the Board.

11.0 Powers to use Mobile ID

11.1 A representative from the Home Office Data and Identity Directorate informed the BFEG that mobile fingerprint scanners had been trialled in West Yorkshire. It was reported that forces have had mobile fingerprint scanners for some years and use them under the power in section 61(6a) of PACE, which allows the police to take fingerprints from people who are not under arrest if they think the person is not telling the truth about their identity. The new system does the same thing under the same power, but as it is based on a smartphone app rather than a purpose built device, it can be used by a lot more officers.

11.2 The BFEG thanked the representative for their update and noted a concern that technological developments can drive changes to police practice which may have unforeseen consequences. Use of the technology should be monitored.

Action 2: Home Office Data and Identity Directorate to provide a more detailed report on mobile fingerprint ID for the next meeting.

12.0 BFEG 2018 commissioning letter and work streams

12.1 A representative of the Home Office Data and Identity Directorate presented the BFEG commission for 2018 which would be made available on the BFEG website. The main commissions related to: police use of facial recognition technology; retention of biometrics from convicted persons until they are 100 years old; ethical angles of ongoing projects to inform the FINDS SB programme; providing ethical advice on the Home Office Biometrics privacy impact assessment and; the police Transforming Forensics programme.

12.2 The BFEG would be invited to sit on a new oversight board to oversee the police use of facial recognition systems. The regulatory landscape in this area was currently very complex with multiple interested parties, including the Surveillance Camera Commissioner, the Information Commissioner and the Biometrics Commissioner who all have responsibilities in this area. The new board would bring together stakeholders with interests in both the regulation and operation of the technology and enhance cooperation. The BFEG agreed to set up a working group to provide considered ethical advice on this topic.

Action 3: Secretariat to set up a working group to consider the police use of facial recognition systems.

12.3 On the retention of biometrics from convicted persons until they are 100 years old, the BFEG had shared their initial views on the retention regime in a letter to the Minister in November.² It would be necessary to await the outcome of the European Court of Human Rights case *Gaughran v Chief Constable of the Police Service of Northern Ireland* before determining if further work should commence on this topic. If the Court issued a ruling requiring a significant change in Government policy, a working group would be established to provide further advice on biometric retention periods. Work would likely need to commence on this in Autumn 2018 pending the outcome of the appeal.

12.4 The BFEG would be required to provide ongoing ethical guidance to the FINDS SB. In particular, there were two key topics in which advice would be sought. The first would be continued input to the piloting of rapid-DNA technology, whereby analysis of a sample could be conducted on a rapid time scale allowing technology to be used closer to the crime scene, thus eliminating suspects much more quickly. The other area would be around the development and use of Y-STR databases which could allow relation links to be drawn. There would also be a need for consideration on the ethical aspects around information sharing. Increasingly there will be communication between different biometric identifier databases, as well as internationally.

Action 4: Secretariat to establish a working group to consider emerging genetic technologies, especially rapid-DNA and Y-STR.

² See <https://www.gov.uk/government/publications/ethical-advice-on-the-retention-of-biometrics-from-convicted-persons>

Action 5: Secretariat to establish a working group to consider database linkages and international sharing

12.5 The BFEG was already providing ongoing ethical advice to the Home Office Biometrics Programme via the ethics working group. The BFEG were also invited to consider topics set out in the PIA, such as questions around the Data Protection principles, external and internal information sharing, and whether the wider sharing or aggregation of data held poses a risk of injustice to groups or individuals. Currently this was the only BFEG working group running. Following the departure of Alan Clamp, there was a vacancy in this group and an additional member would need to be asked to sit on this group to ensure it is running at full capacity.

Action 6: Secretariat to arrange for the current vacancy on the HOB EWG to be filled.

12.6 The BFEG were also asked to consider the Transforming Forensics Programme. Due to the procurement of services from different parts of the private sector, they were concerned about fragmentation of services and the loss of linkages between different types of evidence in a case. There were also serious concerns about the viability of the forensics market.

12.7 In the February 2017 meeting of the NDNAD EG, a working group to undertake ethical reviews of research proposals was discussed. This group should be established. A useful place to begin would be to evaluate the Home Office Science Advisory Council (HOSAC) documentation on ethical appraisals. This could be considered alongside the BFEG ethical principles. A member highlighted the National Statistician's ethical framework which could also be consulted.

Action 7: Secretariat to establish a working group to consider the ethical review of research proposals.

12.8 Once these groups had been established, the Chair suggested that the BFEG might consider if there are any other topics that they would wish to consider as part of their self-commission. This may take place in the September meeting.

13.0 Project documentation

13.1 The secretariat had assembled several pieces of project documentation to manage the work of new subgroups and members were invited to provide feedback on this.

13.2 It was suggested that the project initiation document indicate what data and resources are likely to be required at the outset of the project.

13.3 For presenting evidence in reports, it was suggested that a weighting system be used to grade the quality of the evidence, for example the Cochrane review system could be adapted to the BFEG needs.

Action: Kit Harling to forward details of evidence grading systems to the secretariat**14.0 High volume data ethics**

14.1 A presentation was provided by a representative of the Home Office Science Secretariat, Pathology, Regulation and Services on the ethical issues for High Volume Data and consideration of how the department is tackling these issues.

15.0 HOB PIA & Ethics Working Group Update

15.1 An update was provided by the Chair of the Home Office Biometrics Privacy Impact Assessment and Ethics Working group. The group had met on 9th March when they had received updates on the programme and provided ethical advice on three privacy impact assessments (PIAs).

15.2 The HOB programme was proceeding as expected without significant delay.

15.3 The EWG had heard about the Mobile ID technology which allowed frontline officers to confirm subject identities against the IDENT1 and IABS databases using a mobile app. EWG members felt that sufficient auditing should take place of the technology and that the success criteria from a business perspective should be made clear to highlight potential benefits.

15.4 The group had also heard about HOB readiness for the introduction of the new General Data Protection Regulations (GDPR), which would come into force on 25th May 2018. A voluntary audit by the Information Commissioner's Office was planned, which the EWG felt was a very important exercise.

16.0 AOB

16.1 GDPR was coming into force at the end of May. The BFEG would be receiving the Home Office policies on data protection over the next few weeks which should be adapted for their needs.

Annex A – List of attendees

	Representative	Role
1	Chris Hughes	BFEG Chair
2	Adil Akram	BFEG Member
3	Sue Black	BFEG Member
4	Liz Campbell	BFEG Member
5	Simon Caney	BFEG Member
6	Christopher Harling	BFEG Member
7	Mark Jobling	BFEG Member
8	Isabel Nisbet	BFEG Member
9	Thomas Sorell	BFEG Member
10	Denise Syndercombe-Court	BFEG Member
11	Peter Waggett	BFEG Member
12	Louise Amoore	Observer
13	Caroline Harrison	Observer
14	Home Office Biometrics Programme	Observer
15	Office of the Biometrics Commissioner	Observer
16	FINDS Unit, HO	Observer
17	Identity Unit, HO	Observer
18	Home Office Science Secretariat, Pathology, Regulation and Services	Observer
19	Big Brother Watch	Presenter
21	Science Secretariat, HO	BFEG Secretary, HO
22	Science Secretariat, HO	Head of Science Secretariat, HO