ETHICS COMMITTEE – Interim meeting (WMP Facial Recognition approach)

Tuesday 31st Oct 2023, 16:15 – 17:30 hrs

(Meeting held virtually via Microsoft Teams)

Present:

Marion Oswald	Chair of Ethics Committee
Jamie Grace	Vice Chair of Ethics Committee
Thomas McNeil	Assistant Police & Crime Commissioner
Jack Tracey	Committee Secretary & Criminal Justice Policy Lead (OPCC)
Pete Fussey	Ethics Committee
Jennifer Housego	Ethics Committee
Derek Dempsey	Ethics Committee
Tom Sorrell	Ethics Committee
Malcolm Fowler	Ethics Committee
ACC Matt Welsted	West Midlands Police (WMP)
Supt. Wayne Carter	WMP
Sgt. Maria Perrin	WMP

Apologies:

Simon Rogerson	Ethics Committee
Sian Thomas	Ethics Committee
Kerry Reid	Ethics Committee
Claire Paterson-Young	Ethics Committee
Anindya Banerjee	Ethics Committee

1	16:15	**Welcome** The Chair welcomed members to the interim committee and thanked ACC Welsted for agreeing to present on WMP's Facial Recognition approaches.	**Marion Oswald**
2	16:20	**Presentation** The presenter covered run-down of different types of Facial Recognition (FR), what this means for evidence, and next steps for WMP: - FR is use of technology to detect faces in pictures and converts into a data stream, using algorithms to compare that face with other images which match already known images. Effectiveness greatly improved by size of database, quality of image, and effectiveness of the algorithm.	**ACC Welsted**

- Difference types of FR
  o Live FR refers to using images in real time and compares to database instantly. The most controversial. WMP isn't proposing to use this.
  o Retrospective FR refers to using images which have been capture (CCTV etc) with image compared to reference dataset (i.e. police national database). This is currently being used and WMP want to maximise its effectiveness.

  o Officer Initiated FR refers to when an image is taken of a person who is with an officer at the time. There are various reasons for an officer doing this, but all must be for policing purposes. The image is then submitted in the same way as Retrospective FR for comparison against the same database, (the only difference is the officer takes the image at the time). This is what the WMP pilot proposal centres around.
    ▪ Officers may use this capability when they have a policing purpose to require a person's identity, however there is no power to use force to take the image.
    ▪ It is an alternative method of confirming the persons identity and is less intrusive that alternative means, such as taking finger prints or arresting the person.
    ▪ FRT is only for intelligence purposes only, it cannot be used in evidence.
    ▪ However, where an officer suspects an offence has been committed and is in possession of an image of the suspect for this offence, a hit on RFR or OIFR may be considered reasonable suspicion to arrest the person for that offence. This is always the decision of the officer and would be for the purpose of enabling the offence to be investigated such as to secure and preserve evidence and obtain evidence by questioning.

- Next steps

  WMP are working to maximise the use of RFR as provided by PND

		WMP also support the proposals being considered by the Home Office to improve the capability of RFR from PND including updating the algorithm and lowering threshold for matches, which currently stands at a >70% match on an image.	

3	16:50	**Committee comments and questions**
		
		Member expressed concern around using this OIFR "whenever possible" – questioned whether this diminishes the difference with LFR.
		
		   - Presenter responded by saying that in design and in the use of the tech they are fundamentally different. The retrospective element of OIFR, which is based on reasonable police action, is key difference (see explainer of the different types of FR in section 2).
		
		Member asked whether the presenter could clarify whether there is a proposal on the table for WMP to pilot OIFR.
		
		   - Presenter responded by saying that the intention of the presentation was to brief the committee on WMP's current use of retrospective FR and the intention to explore opportunities to maximise the use of FR, including OIFR. A funding/ delivery plan is currently being worked out with the Home Office and Policing UK. It is the presenter's/ WMP's intention to engage with the Committee to understand the impact and ensure the use of FR is delivered ethically and effectively. The presenter highlighted the potential positive impacts on supporting victims and ensuring individuals in crisis are identified as quickly as possible to ensure they get the care they need (on top of the obvious upsides when it comes to identifying suspects).
		
		A member asked whether the commitment to/ investment in FR was proportional and how the success of FR would be assessed.
		
		   - The presenter noted that the issue of effectiveness was crucial. Key to this is understanding who is using FR and the demographics of the people who are being identified through its use – this is so effective scrutiny around the consequences and unintended consequences can be applied (which processes are being developed around). Work is also ongoing with national insights to understand how the algorithms impacts different groups.
			All

o On a related point regarding the usefulness of OIFR (an officer could only request to take an image, unless an individual was already under arrest/ charged with an offence) – given the low trust levels in police services presently, how can we be sure that anyone would agree to have their image taken to be compared and thus how useful will any such tool be in reality? The presenter noted that any such tool would be overwhelmingly used in scenarios where an individual is likely to be arrested or if they are seriously vulnerable in any case. Noted that there would need to be engagement with communities who had low levels of trust in policing and a balancing act was needed in order to ensure the public had confidence in FR.

A member raised a point around an FR evaluation conducted by the Met which found that when the threshold for matches was reduced, the chances of false positives went up considerably (which impacted young black men in particular). The member asked whether WMP would be conducting a similar evaluation to understand what the implications of changing the match thresholds are?

- The presenter noted that WMP would need to test every algorithm in a similar way to how the Met tested the NEOFACE algorithm. What is more, for any retrospective FR/ OIFR process, investigative officers still have to use professional judgement regarding any matches on images coming back from the PND (so it will not just be left up to algorithms to confirm matches) as well as around any subsequent actions taken.

A member expressed concern around the scope of the images that could potentially be drawn-up as part of any FR project (which could, theoretically, include social media images etc).

- The presenter shared this concern and thus noted that the approach would be a cautious one in order to understand where the focus should be. Noted that there would need to be a discussion moving forward around social media where, for example, there may be organised crime groups targeting events. The presenter stated specifically that no images from social media will be used as reference images. Both RFR and OIFR use the National Custody dataset from PND.

A member noted that legal questions remain open regarding the use of facial recognition (looking at the example from South Wales Police) and that longstanding academic reports continue to highlight issues around discrimination. They asked what kind of independent scrutiny there would be (if any).

- The presenter said that WMP's independent advisory groups would be used and there was a strong crime solving narrative which supports the use of FR tools.

A member noted 3 questions: 1) does WMP have a good understanding around the legal powers in relation to use by officers, 2) does WMP think that it is lawful to go ahead with a pilot project that might draw on images that are themselves unlawfully retained on the PND, and 3) do WMP have a document that could explain to the public how the process of OIFR work and which clarifies the legal use/ restrictions (relating to the case regarding South Wales Police).

- The same member also noted 3 recommendations: 1) to guide its piloting or roll-out of OIFR, as the boundaries of the power to use this approach are found partly in the common law as well as in statute, 2) develop a policy document on the back of legal advice to guide officers and which members of the public can use to understand the approach, and 3) WMP needs to consider explicitly the legal implications of using OIFR approaches that draw on custody images on the PND as this might mean comparing images to a number of those that are not lawfully held.
  - o The presenter agreed that a legal and policy framework (including a DPIA) was absolutely necessary in order to define and explain the legal use of FR tools and that those policies may need to be refreshed locally and nationally. The presenter noted that these considerations were a balancing act between the risks of legal challenge (as in South Wales) and enhanced capability to solve crime through OIFR (which is not substantially different in its core process to retrospective FR).

Relating to the point raised around needing a policy framework, another Committee member recommended that WMP look at the possibility of following case studies captured through the use of FR tools (learning lessons from previous Serious Organised Crime mapping tools which came to the Committee previously) – a case study would help demonstrate how the tools were helping to identify

		the correct pathways for different cases (i.e. ensuring that a young person who had engaged in criminal activity because they were being exploited/ victimised received community based support).	
		- The presenter agreed that this would add value, especially in terms of explaining the benefit to the public and winning their trust for FR tools.	
		The presenter requested that he could to the Committee for further feedback and reflection as the projects developed. It was also noted that members could reach out individually to discuss anything of particular interest relating to WMP's plans around FR. This was agreed to by the Committee members.	
4	N/A	**Recommendation: Option E (further information required before the Committee can advise further)**	**All**
		The Committee appreciated the opportunity to learn about WMP's plan for OIFR (which is part of national plans in this area) and to hear about the current use of retrospective facial recognition on the PNC. The Committee would be grateful if the proposals could return to a future meeting before further concrete steps are taken.	
		Committee would request the following information prior to that meeting:	
		- A model report and a model governance report from the system developers for both the retrospective facial recognition system already in use, and the proposed OIFR system determining the models' accuracy at the potential face-match thresholds, the false-positive rates and analysis demonstrating lack of bias;	
		- Information about how match probability is returned and how this is made available to officers?	
		- Information about how images will be captured by officers in the proposed OIFR deployment?	
		- Independent expert legal advice to guide the piloting or roll-out of OIFR, as the boundaries of the power to use this approach are found partly in the common law as well as in statute;	
		- A draft policy document to guide officers through the use of the OIFR approach, and which members of the public can use to understand the approach. In parallel, a Data Protection	

| | | Impact Assessment should be urgently undertaken and kept under review;
 - The force's assessment of the legal (as part and parcel of the ethical) implications of using OIFR approaches that draw on custody images on the PND, as this might mean comparing images to a number of those that are not lawfully held, because they should have been deleted according to the relevant legal framework. On the ethical implications of this feature of the proposed OIFR approach, the force needs to consider the issue of knowingly moving ahead with a project which involves the use of unlawful data processing or retention as a result of the legacy custody images issue. | |