



## **HM Inspectorate of Constabulary in Scotland** **Improving Policing across Scotland**

**Wednesday, January 27, 2016**

### **PRESS RELEASE**

## **HMICS PUBLISH REVIEW OF POLICE SCOTLAND'S USE OF FACIAL SEARCH**

The introduction of a Code of Practice for the use of biometric data by police in Scotland and the appointment of a Commissioner to oversee this fast and evolving area of law enforcement are two recommendations contained in a report published today, (Wednesday, January 27).

HM Inspector of Constabulary in Scotland makes the recommendations following an audit and review of Police Scotland's use of the facial search capabilities within the UK Police National Database (PND).

HM Inspector Derek Penman said: "We are satisfied that Police Scotland has been making appropriate use of the facial search capability and is complying fully with the current guidance. However, our review has highlighted opportunities to strengthen the existing legislation and introduce independent oversight of the police use of fingerprints, DNA and photographs of people taken into custody in Scotland.

"We believe that a Code of Practice and new legislation would provide greater clarity and safeguards for the public as well as clear and transparent operational guidance to police officers and staff.

"The appointment of a Scottish Commissioner would provide independent and ethical oversight of the police use of all biometric data in accordance with the recommended code of practice and provide greater transparency and accountability. New and emerging technologies will increase the value and potential of biometric data and we believe that the introduction of a Code of Practice overseen by a Commissioner could safeguard and future proof its use."

This audit and assurance review followed questions to the Scottish Government about police use of facial recognition technologies in Scotland and a request from the Cabinet Secretary for Justice to HMICS to consider including scrutiny of this area in its programme.

HMICS considered the statutory frameworks that underpin the police use of images in Scotland, Police Scotland's current practices and assessed compliance with internal policy. It also looked at processes and governance for the recording, weeding and retention of information by Police Scotland and the links between its Criminal History System (CHS) and the wider UK PND.

Police Scotland has been using the facial searching functionality on PND since 2014, at a rate of less than once a day, to identify suspected criminals and the review found that all uses had been lawful, proportionate and necessary and they were following the relevant guidance.

It did identify there is no Scottish legislation specific to the capture and use of photographs taken from people who are arrested and taken into police custody. Mr Penman added: "The existing legislation for police retention of biometric data primarily relates to fingerprints and DNA and not photographs.

"Although Police Scotland voluntarily applies the same policy for the retention of images as it does for fingerprints and DNA, there is an opportunity to close a potential legislative gap and provide greater clarity about the retention of images held by police and the purposes for which they may be used. This legislation could balance the needs of law enforcement with broader human rights and ethical considerations but should be broad enough to be adaptable to new and emerging technologies."

HMICS is satisfied Police Scotland has effective processes in place to ensure that requests for searches of all forms of fingerprints, DNA and custody photographs are properly authorised. During the HMICS review, it was noted that the reasons for the searches did not always align with the relevant search codes on the live PND database and Police Scotland has been recommended to amend its forms to make them consistent.

Following the publication of this review, Police Scotland and the Scottish Police Authority will be asked to create an action plan, in discussion with the Scottish Government, to take forward the recommendations.

## **Ends**

## **Notes to Editors**

HMICS has used the term 'facial search' rather than 'facial recognition' as police images in the Criminal History System (CHS) in Scotland, and across the UK, are not of sufficient digital resolution to provide a true recognition capability. Instead it does return a list of potential matches that then need further assessment and investigation.

All Scottish CHS record, including images, have been uploaded to the UK Police National Database since 2011. The facial search facility on PND has been in place since March 2014, at which point Scottish images accounted for 7.1% of the UK total.

Scottish CHS records on PND contain images of people who have been charged or convicted of an offence. (This contrasts with approaches in England and Wales where it is custody images which are uploaded.) Police Scotland removes images of people who are not subsequently convicted but retains the custody image for either six or 12 years. These images are not uploaded to PND.

There is a Biometrics Commissioner in England and Wales where there is also an agreed Code of Practice on the operational use of PND.

**Ends notes**

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