



HM Inspectorate of Constabulary in Scotland

Audit and Assurance Review: Police Scotland's use of the Facial Search capabilities within the UK Police National Database (PND).

Terms of Reference

Find out more about our work by visiting our website: WWW.HMICS.ORG.UK

HM Inspector of Constabulary in Scotland



HM Inspectorate of Constabulary in Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012¹ and has wide ranging powers to look into the *'state, effectiveness and efficiency'* of both the Police Service of Scotland, (Police Scotland) and the Scottish Police Authority.

We have a statutory duty to ensure that the Chief Constable and the Authority meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the Authority or Police Scotland as they consider appropriate. We also have an established role in providing professional advice and guidance on policing in Scotland.

- Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions.
- The Authority and the Chief Constable must provide us with such assistance and co-operation as we may require, enabling us to carry out our functions.
- When we publish a report, the Authority and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit.
- Where we make recommendations, we will follow them up and report publicly on progress.
- We will identify good practice that can be applied across Scotland.
- We work with other inspectorates and agencies across the public sector and co-ordinate our activities to reduce the burden of inspection and avoid unnecessary duplication.
- We aim to add value and strengthen public confidence in Scottish policing and will do this through independent scrutiny and objective evidence-led reporting about what we find.

Our approach is to support Police Scotland and the Authority to deliver services that are high quality, continually improving, effective and responsive to local needs.²

This Audit and Assurance Review will be undertaken by HMICS in terms of the Section 74(2) (a) of the Police and Fire Reform (Scotland) Act 2012 and will be laid before the Scottish Parliament in terms of Section 79(3) of the Act.

¹ Police and Fire Reform (Scotland) Act 2012, Chapter 11: <http://www.legislation.gov.uk/asp/2012/8/contents/enacted>

² HMICS Corporate Strategy 2014-17: <http://www.hmics.org/publications/corporate-strategy-2014-2017>

Our Audit and Assurance Review

Aim

1. The aim of this audit and assurance review is to consider the state, effectiveness and efficiency of the arrangements surrounding the use by Police Scotland of the facial search capabilities contained within the UK Police National Database (PND). In doing so, it will also consider the statutory framework that underpins the police use of biometric images in Scotland. It should be noted at the outset that we use the term ‘facial search’ and not facial recognition as we are aware that police images in the Criminal History System (CHS) in Scotland and the broader UK are not of sufficient resolution for them to be used against automated facial recognition software. In other words, the software in use does not deliver a facial recognition capability but instead returns a list of potential image matches that then require further human intervention, comparison and investigation.

2. The audit and assurance review follows on from questions directed to the Scottish Government in 2015 relative to the police use of facial recognition technologies in Scotland.³ It also takes cognisance of a request from the Cabinet Secretary for Justice for HMICS to consider including scrutiny of this area in its programme of work for 2015/16.⁴

3. As part of the audit and assurance review, we will consider Police Scotland’s current practice and assess compliance with internal policy. We will also consider governance and oversight arrangements within Police Scotland including the administrative and technical interface between the Police Scotland Criminal History System (CHS) and the wider UK Police National Database (PND) with regard to the recording, weeding and retention of information by Police Scotland. As part of this, we will also consider how Police Scotland interfaces with wider UK governance arrangements around PND and how the arrangements in Scotland align with current Home Office PND Codes of Practice for England and Wales. For completeness, our audit and assurance review will also provide comparisons with the approaches to the use of the PND facial search and other software adopted by forces in England and Wales, and will consider the wider policing and societal opportunities and threats which arise from the police use of such new and emerging biometric technologies.

³ [Motion S4M-12676: Alison McInnes, North East Scotland, Scottish Liberal Democrats, Date Lodged: 16/03/2015](#)

Police use of Images with Facial Recognition Technology : ‘That the Parliament understands that police forces from across the UK have uploaded up to 18 million photographs to the Police National Database for use with facial recognition technology; is concerned that these images might include those of people never charged with an offence or who have been found innocent of a crime; notes the statement by the Chief Constable of Durham Constabulary on Newsnight on 2 February 2015 that, in a recent case in his constabulary, a person was identified using photographs from Scotland; further notes the concerns of the Biometrics Commissioner, Alastair MacGregor QC, regarding the implications for civil liberties of the use of such technology; notes his comment that “urgent steps” should be taken to ensure that facial recognition and other biometric technologies should be governed by an appropriate regulatory regime; considers that, although facial recognition technology might be a useful policing tool, such technology must only be used with suitable safeguards and protection for innocent members of the public; believes that Police Scotland’s use of, or contribution of images to, the Police National Database, or any other database for facial recognition purposes, should be in the context of specific laws set by the Parliament, and considers that legislation similar to that agreed by the Parliament to govern the use of DNA profiles and fingerprints should be adopted to regulate the police use of images for facial recognition purposes and that police use of any new biometric identification technology in the future should be subject to similar regulation’.

⁴ Letter to HMICS dated 22 June 2015.

Background

Police Scotland Criminal History System (CHS)

4. Police Scotland maintains a Criminal History System (CHS), where all images of charged and convicted persons are stored. The images of suspects and convicted criminals in Scotland are automatically uploaded from CHS by Police Scotland to the UK Police National Database (PND) so that other UK forces can search the PND to help identify and prosecute criminals. Both systems retain images of persons who are convicted, and in the case of suspects who are not subsequently convicted the images are removed from CHS and PND once Police Scotland has been notified that the relevant case has been resolved. Other images from other sources are not weeded by Police Scotland.

UK Police National Database (PND)

5. In 2002, two children, Holly Wells and Jessica Chapman, were murdered by school caretaker Ian Huntley. This led to a public inquiry led by Sir Michael (now Lord) Bichard. His primary recommendation was that all UK police forces should share the intelligence – observations, reports and suspicions – held on their individual systems. If such a system had been in place, Huntley was likely to have been identified as a serious threat to children far sooner.

6. In 2011, the Home Office introduced the Police National Database (PND). The PND is a confidential national (UK) data store of operational policing information and intelligence provided by individual forces and law enforcement agencies. It is not an evidential system. It contains copies of locally held police records covering intelligence, crime, custody, child and domestic abuse investigations. This includes facial images of people arrested or detained from police CHS records.

Facial Search Technology within the UK Police National Database

7. In 2014, the Home Office introduced a UK wide facial searching functionality within PND to enable the police to search facial images of potential suspects against police criminal records. In essence this created a searchable national database of UK police criminal records, including the ability to search images of people who were not yet convicted. It also introduced the ability of searching third-party sourced images of suspects against that database such as CCTV records obtained by the police, or images taken by the public on mobile telephones and subsequently handed to the police as part of an investigation, or from police body-worn video (BWV) cameras.

8. In February 2015, the UK Biometrics Commissioner Alastair MacGregor QC raised concerns on the BBC Newsnight Programme about the lack of an appropriate regulatory regime around the use of facial recognition technologies by the Police in England and Wales. It was also widely reported by the popular media that some forces in England and Wales had uploaded images of people who had not been charged with any crime or offence without Home Office permission. In June 2015, there was further media interest when it was reported that 90,000 people attending a music festival in Derby would be biometrically scanned by Leicestershire Police to compare their facial images with those held on police records.⁵

9. It is understood that Police Scotland has been using the facial searching functionality on PND since 2014 to identify suspected criminals and Police Scotland has advised that as at 27 May 2015, it had used PND 494 times for facial recognition searches.

⁵ ITV report, 13 June 2015: <http://www.itv.com/news/2015-06-13/download-festival-police-use-facial-recognition-technology-on-revellers/>

Key Research Questions

10. Against this introductory context, this HMICS Audit and Assurance review will seek to answer the following eight key research questions:

- What is the statutory framework that underpins the police use of images and facial search technologies in Scotland?
- What is the current policy and practice adopted by Police Scotland and what Standard Operating Procedures (SOP's) or written guidance exists in relation to the use of the facial search functionality within PND?
- How many of the 494 uses of the PND facial search technology comply with Police Scotland's written policy and legislation?
- What Police Scotland governance and oversight arrangements are in place around facial searches on PND, how are ethical issues considered, and is there a clear audit trail of all facial search applications and authorisation decisions including any which may have been refused?
- What are the administrative and technical interfaces between the Police Scotland Criminal History System (CHS) and the wider UK Police National Database (PND)?
- What governance and assurance arrangements are in place around recording, weeding and retention of information and records on CHS, and is this applied consistently across Scotland?
- What are the comparisons with the police operational use of facial search technologies in England and Wales and what are the wider opportunities and threats from the police use of such new and emerging technologies?
- How does Police Scotland interface with wider UK governance arrangements around PND, and how do the arrangements in Scotland align with current Home Office PND Codes of Practice for England and Wales?

Methodology

11. Our methodological approach seeks to answer the key research questions and will comprise of a blend of qualitative and quantitative research techniques to fully explore the use by Police Scotland of the facial search technologies within the UK Police National Database (PND). We will do this by using our Inspection Framework and by examining Police Scotland practice against professional and technical guidance. The HMICS Inspection Framework is illustrated by the following diagram:



Figure No 1: The HMICS Inspection Framework

12. As part of this our envisaged methodology will include:

- An audit of around 500 records of Police Scotland's use of the facial search technology within PND. Sample to include as a minimum all 494 instances of use to 27 May 2015.⁶
- A review of Police Scotland's written policies and procedures relative to CHS, PND and the use of facial search technology capabilities within PND.
- Case study evidence pointing to the success or otherwise of facial search technologies by Police Scotland.
- A review of the statutory framework that underpins the police use of images and facial search technologies in Scotland.
- Interviews with a small number of senior officers and staff with key governance and assurance responsibilities for CHS, PND and Records Management within Police Scotland.
- Benchmarking with a limited selection of forces in England and Wales.
- Interviews with a small number of other stakeholders as necessary to achieve the aims of our audit and assurance review.

Reporting timeframe

13. The reporting timeframe for this review will be determined by a number of practical factors including the location and means of access provided by Police Scotland to facilitate the physical audit of the 494 instances where Police Scotland has made use of the PND facial search technology. However, at this stage we envisage that our audit and assurance review will be completed in late September 2015 and that our report will be laid before the Scottish Parliament in terms of Section 79 (3) of the Police and Fire Reform (Scotland) Act 2012 shortly thereafter.

14. Further information on this proposed audit and assurance review may be obtained from Dr. Brian Plastow, HMICS Lead Inspector on 0131 244 5624 or via e-mail to brian.plastow@scotland.gsi.gov.uk

Derek Penman QPM
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⁶ The finer technical details of this proposed audit will need to be discussed and agreed with Police Scotland. The audit may be conducted through analysis of Police Scotland 'Internal PND Request Form No V3- AO414', or alternatively through the audit reporting tools within the PND system. As PND is a confidential police intelligence system, the specific details of individual records examined by HMICS will not be disclosed, and our findings will be sanitised and presented in such a manner as to protect the integrity of sensitive information and intelligence.