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Our Ref: FOI2018/03896

REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000 Ref No: FOI2018/03896

I write in connection with your request for information received on 17th July. I note you seek access to the following information:

Please respond to the following FOI request:

1. Are Hertfordshire Constabulary currently trialling or using, or have the force ever trialled or used, any form of technology which uses algorithms to assess the risk posed by a detained individual?

If yes, please answer all questions below. If no, please answer questions 9 and 10.

This would include, but is not limited to, HART-style programs as piloted in Durham (see: <https://www.bbc.co.uk/news/technology-39857645>).

If so, please provide the following information:

- 2. The name given to this program**
- 3. When the program was first used and whether it is still in use / when use ceased**
- 4. How this program works, and specifically:**
 - a. What data is used to train the program**
 - b. What data is inputted about a detained person when the program is used to make an assessment**
 - i. Does this include the detained person's postcode?**
 - ii. Does this include the detained person's financial situation and, if so, from where is this information obtained?**
 - c. What data, if any, has been purchased from external companies for use with this program?**
 - d. What algorithms and/or artificial intelligence programs are used to run the system**
 - e. Is there human intervention/oversight in the decision-making process, and what form does this take?**
 - f. What decisions are made on the basis of the assessment?**
- 5. Any guidance documents provided in relation to the use of this program**
- 6. Any testing or research conducted in relation to this program**
- 7. In particular, any examination as to potential bias within the software and the exacerbation of pre-existing inequalities**
- 8. The Privacy Impact Assessment conducted in relation to this program.**
- 9. Do the force have any future plans to develop, trial, pilot or run any form of technology which uses algorithms to assess the risk posed by a detained individual?**
- 10. Excluding PredPol and PredPol-type programs (which have been covered in a previous, separate FOI request), does algorithmic decision-making feature elsewhere in your policing work? If so, please provide the information as requested in questions 2-9, but in relation to this alternative use of algorithmic decision-making.**

I am required by the Freedom of Information Act 2000 (The Act) to handle all requests in a manner that is blind to the identity of the requestor. Any information released in response to a request is regarded as being published and therefore, in the public domain without caveat.

Following enquiries within the Constabulary please see our response below.

Response - Hertfordshire Constabulary is not currently using facial recognition technology and no record is held concerning the introduction of facial recognition systems overtly in the future.

Hertfordshire Constabulary neither confirms nor denies that it holds information concerning the covert use of facial recognition as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 24(2) National Security
Section 31(3) Law Enforcement.

Section 24 and Section 31 are prejudice based qualified exemptions, which requires the prejudice (harm) to be evidenced and a public interest test to be carried out.

Overall Prejudice (Harm) test Section 24 and Section 31

Any disclosure under the Freedom of Information Act is a disclosure to the world at large. By confirming or denying that Hertfordshire Constabulary holds any information regarding covert use of facial recognition would in itself disclose exempt information which would prejudice law enforcement.

It is well established that police forces use covert tactics and surveillance to gain intelligence in order to counteract criminal behaviour. To prejudice the forces ability to operate covertly by disclosing tactical ability will endanger the safety of the public. It has been previously documented in the media that many terrorist incidents have been thwarted due to intelligence gained by these means.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. The UK continues to face a sustained threat from violent extremists and terrorists and the current threat level is set at 'severe'.

Public Interest Test – Section 24 and Section 31

Section 24

Factors in favour of compliance with Section 1 (1)(a)

The public are entitled to know where public funds are being spent, especially in the current economic climate. A better informed public can take steps to protect themselves.

Section 24

Factors against compliance with Section 1 (1)(a)

Criminals would be able to identify the capacity of the Constabulary when conducting covert operations and identify tactical abilities allowing them to target specific areas of the UK to conduct their criminal/terrorist activities.

Confirming or denying whether any information is or is not held relating to the covert use of facial recognition technology would limit operational capabilities as criminals/terrorist would gain a greater understanding of the police's methods and techniques, enabling offenders to take steps to counteract them.

Since 2006, the UK Government has published the threat level, based upon current intelligence and that threat has remained at the second highest level 'severe', except for two short periods during August 2006, June and July 2007, and more recently in May and June 2017 following the Manchester and London terrorist attacks, when it was raised to the highest threat, 'critical'. Therefore, it is of public interest to allow the force to conduct operations covertly and not disclose tactical ability to contain any risks and threats to the infrastructure of the UK.

Section 31

Factors in favour of compliance with Section 1 (1)(a)

Better awareness of police resources will encourage public debate and a conclusion can be drawn if the Constabulary are providing effective law enforcement. Disclosure concerning the use or not, of facial recognition may lead to more information from the public, who would be able to take steps to protect themselves.

Section 31

Factors against compliance with Section 1 (1)(a)

Confirming or denying the specific circumstances in which the Police Service may or may not deploy the use of facial recognition would lead to an increase of harm to covert investigations and compromise law enforcement. This would be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

In addition to the local criminal fraternity now being better informed, those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those committing crimes. It would have the likelihood of identifying location-specific operations which would ultimately compromise police tactics, operations and future prosecutions as criminals could counteract the measures used against them.

It may also suggest the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing potential vulnerabilities. This detrimental effect is increased if the request is made to several different law enforcement bodies.

Balance Test

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on both National Security and Law Enforcement. The public interest does not supersede the need to maintain operational integrity at this time.

None of the above can be viewed as an inference that the information you seek does or does not exist.

The numerical data presented in this response is an un-audited snapshot of un-published data sourced from "live" systems and is subject to the interpretation of the original request by the individual extracting the data.

Should you have any further enquiries concerning this matter please do not hesitate to contact me quoting the above reference number.

Yours sincerely

James Hodson
Information Rights

Hertfordshire Constabulary provides you the right to request an independent review of this response under its review procedure. If you require such a review you must notify us within two months from the date of this letter. After lodging a complaint with Hertfordshire Constabulary if you are still dissatisfied with the decision you may make an application to the Information Commissioner. For information on how to make a complaint please visit their website at <https://ico.org.uk/concerns/> or contact them on 0303 123 1113.