Watchlist

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Outline

This section covers the composition, generation and management of watchlists to be used in LFR deployments. The criteria for constructs of watchlists for use with LFR should be approved by the AO, and should be specific to an operation or to a defined policing objective. Watchlists, and any images for inclusion on a watchlist, should also be limited to the categories of image articulated in force policy documents, such as those set out below.

Force policy documents should also provide that the composition of watchlists:

- is based on the intelligence case
- is reviewed before each deployment, to ensure that all images meet the necessity and proportionality criteria for inclusion
- is not excessive for the purpose of the LFR deployment
- must only contain images lawfully held by police, with consideration also being given as to:
    - the legal basis under which the image has been acquired
    - the source of the image, particularly where the image is derived from a sensitive or third-party source and may risk compromising that source or exposing that source to risk – the source of the image should be recorded

- should only use images where all reasonable steps have been taken to ensure that the image:
    - is of a person intended for inclusion on a given watchlist
    - is the most up to date and/or suitable image available to the police that is of appropriate quality for inclusion on the watchlist – regard should be paid to the prospect of the LFR system generating an alert if an older image is proposed for inclusion, where the person's facial features may have changed or aged significantly since the image was taken

- should be imported into the LFR system immediately prior to deployment and no more than 24 hours prior to the commencement of the deployment, to ensure that the watchlist is current – where the deployment is to last in excess of 24 hours, force policy should require an ongoing review of the watchlist, covering the issues of review, retention and deletion

Specific considerations relating to protected characteristics

In December 2020, following the Bridges case, the then-SCC published a best-practice guidance document, **'Facing the camera'**. The SCC advocated the need to ensure that suitable controls exist around the placing of persons with protected characteristics on a watchlist. Any controls, mitigations and processes identified by forces will need to reflect their LFR system's performance and their particular LFR use case in order to satisfy their PSED obligations.

Force policy documents should identify any specific controls, mitigations and processes in response to points relating to demographic differential performance. Regardless of performance considerations, they should also recognise the need to take particular care when considering age, including the protection of children, particularly very young people and people with disabilities, for the following reasons.

Further information

In relation to children, see **Detection and custody APP.**

Their treatment in detention is governed not only by domestic legislation, but also by the **UN Convention on the Rights of the Child (UNCRC)**.

- There may be different privacy expectations around the use of LFR that are particularly relevant in relation to these people, given their potential vulnerability.
- Forces will be aware that those involved in criminality have the wherewithal and capability to exploit information to their advantage. This may arise if there is a published performance differential that shows a lower performance level in relation to a particular protected characteristic. If this is widely reported, people with that protected characteristic might be exploited by criminals to lower the risk of LFR detection. In this regard, forces should assess the risk to ascertain whether these persons are particularly susceptible to exploitation and coercion, and should take

steps to mitigate any risk arising.

In all cases, force policy documents should require that those undertaking each deployment should specifically identify and document whether the watchlist contains persons who are believed or suspected to:

- be aged under 18 years old
- be aged under 13 years old
- have a disability

A relevant disability in this context means those with a disability (as the term is defined in section 6(1) of the Equality Act 2010) where such a disability may have an impact on the performance of the police force's LFR system. Examples that may have an impact (depending on the performance characteristics of the specific LFR system) include if the subject has had a facial injury, has undergone facial surgery, has a degree of facial trauma or is of a particular bearing that inhibits their facial features from being recognised.

In relation to safeguards to address greater expectations of privacy and given the potential for system factors relating to age, force policy documents should ensure that the use of age-appropriate privacy information is covered. They should also reflect that it is especially important to use a risk-based approach when locating individuals aged under 18 years old, with a particular focus on ensuring that the necessity case is fully made out.

Further information

Studies have shown that young children up to the age of 13 are both harder to correctly recognise (lower true positive identification rate) but also harder to distinguish between (higher false positive identification rates).

The higher false positive identification rate may lead to more false alerts being generated against young children if there is an image of a young person in the watchlist.

If LFR will be used to locate a person and that person's records state that they are (or are suspected to be) aged under 13 years old, then system factors should be considered, including the ability for the LFR system to generate an accurate alert against the image proposed for inclusion on the watchlist.

If LFR will be used to locate a person and that person's records state that they have (or are suspected to have) a relevant disability, then there is a particular need to ensure that the image is suitable for inclusion on the watchlist. System and subject factors should also be considered, as well as the ability for the LFR system to generate an accurate alert against the image proposed for inclusion on the watchlist.

In both instances, prior to seeking authorisation from an AO, specific advice should be sought from force legal departments and from those advising on the technical performance of the LFR system. Where authorisation is then sought, this advice should be provided to the AO to help inform the decision-making process, and to allow them to record their decision regarding any inclusion on the watchlist and outline further safeguards that should apply.

Police-originated images that may be included on a watchlist

Images that may be deemed appropriate for inclusion within an LFR watchlist include custody images of individuals and/or other police-originated images of people who are:

- wanted by the courts
- suspected of having committed an offence, or where there are reasonable grounds to suspect that the individual depicted is about to commit an offence, or where there are reasonable grounds to suspect an individual depicted to be committing an offence (see below)
- subject to bail conditions, court order or other restriction that would be breached if they were at the location at the time of the deployment
- missing persons deemed at increased risk of harm (see below)
- presenting a risk of harm to themselves or others (see below)
- a victim of an offence or a person who the police have reasonable grounds to suspect would have information of importance and relevance to progress an investigation, or who is otherwise a close associate of an individual and that individual would fall within people wanted by the courts and presenting a risk of harm to themselves or others (see below)

Where police-originated images other than custody images are considered for use, consideration regarding the inclusion of such images is needed. Such consideration requires a case-by-case assessment. Relevant factors in that assessment may include:

- the purpose for which the police hold such images
- any processing limitations attached to the images
- the importance of including such images on a watchlist in order to meet a policing objective
- the proportionality of using such images on an LFR

Non-police-originated sources of watchlist imagery

Further information

Non-police images are images that were not taken under the direction or control of the police. They include images that may be provided by and/or sourced from public bodies, law enforcement partners (including those outside the UK), private companies and/or individuals.

Where it is viable to do so without unduly affecting the performance of the LFR system, force policy documents should provide that suitable police-originated images should be preferred for inclusion on a watchlist. However, there will be occasions where no image is held by the force or, if one is held, where its quality or currency is not optimal for facial recognition purposes. In these circumstances, consideration may be given to the inclusion of a non-police-originated image.

Non-police-originated should only be included in a watchlist with the authorisation of the AO. The AO should also consider all the circumstances pertaining to the image, in particular the factors stated above. The types of non-police-originated images that may be deemed appropriate for inclusion within an LFR watchlist are of people stated in the categories above.

Interpretation of watchlist categories

Missing persons deemed increased risk

This term will be subject to the College of Policing definition of medium risk (or above) that is contained in the Missing Persons APP, meaning that the risk of harm to the subject or public is assessed as likely but not serious. The harm can apply equally to the subject or any other member of the public. A decision to include a missing person on the watchlist should take into account the individual circumstances of each case, including the impact it may have on the missing person and their expectations or privacy.

Presenting a risk of harm

This term will be informed by the intelligence case. This will need to inform the AO as to how:

- the individual presents a risk of harm
- using LFR to facilitate their location is necessary to manage the risk of harm identified
- why it is necessary for the police to take action in order to manage the risk of harm

The addition to the watchlist will also need to be a proportionate response to the need to manage the risk of harm. Addressing the risk of harm in this context will need to have a legal basis under a policing common law power or statutory power. 'Harm' may include a risk of harm arising in relation to a person's welfare and/or a financial harm, including as a result of fraud of other dishonesty. Harm can also arise if a person potentially poses a risk to national security.

Victim of an offence or a person who the police have reasonable grounds to suspect would have information of importance and relevance to progress an investigation, or who is otherwise a close associate of an individual, and that individual would fall within the categories mentioned in section 3 that may be deemed appropriate for inclusion within an LFR watchlist.

The necessity and proportionality threshold for any watchlist inclusion is high and the use of the category will be by exception. This is because, unlike the other categories, the person(s) sought are not at risk of harm and are not suspected of committing criminal offences. The necessity for inclusion should be based on a specific intelligence case, with the need for the inclusion on a watchlist being supported by a written rationale. In documenting their rationale, the applicant would need to able to demonstrate, to the AO's satisfaction, why the inclusion of a person in this category is necessary for one or more of the following:

- to help locate a person who is wanted by the courts and/or the police
- to advance the policing investigation
- to ensure their safety and/or the safety of others

The applicant would also have to demonstrate the proportionality of any inclusion on a watchlist. This would include considering the following.

- The rational connection between the inclusion of the watchlist and the objective.

- Any other less intrusive methods, as well as whether they would be viable in the circumstance and what other, more intrusive methods would otherwise be necessary if the addition to the watchlist is not made.
- The importance of locating the person sought, with reference to the threat, harm and risk that the addition to the watchlist addresses, balanced against the rights of the individual.
- Expectations of privacy, not least as victims and witnesses may have decided not to come forwards to the police. They will also not be the subject of a police investigation themselves. For any inclusion on the watchlist, the information they are believed to have should therefore be assessed to be of significant value to the police, or their location should be otherwise critical to ensure their safety and/or the safety of others.
- The measures to be taken to ensure the status of those included within this category is recognised by those involved in the operational deployment to ensure that the appropriate action is taken if an alert is generated. This might include the partitioning of the watchlist to distinguish between the different categories of subjects.

The then-SCC recognised the need for policing to locate victims, witnesses and close associates via LFR in his November 2020 guidance, '**Facing the camera**'. In this light, to assist forces and the wider public understand and foresee how this category may be used, the following are illustrative examples of where the need to add a person to a watchlist under this category may be made out.

Status	Example circumstances
Victim	Intelligence supports an assessment that a victim of crime is under a continuing clear threat to their welfare. Other less intrusive efforts to locate them have failed or are unviable in the time available and there is a need to locate them for their own safety.

Status	Example circumstances
Person reasonably suspected of having information	The angle of the only CCTV from a violent gang-related knife attack does not show the faces of the perpetrators who remain at large. The footage does, however, show the faces of others who are reasonably considered to have seen the attack and it is clear that they should have had a good line of sight of it. If those people who are considered to have seen the offence can be located and they are assessed by the force as having relevant information that could be vital to progress the investigation, their location could help bring violent offenders who present a risk to society to justice.
Close associate	A force has received information that a person wanted for a serious sexual assault has been receiving phone calls from a close associate. The associate is using public phone boxes to remain in contact and support the alleged perpetrator while they hide from the police. The associate is assessed as having relevant information that could be vital to progress the investigation. Other less intrusive methods have been used to locate the associate without success.

Tags

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