

Facial Recognition Technology

343.1 PURPOSE AND SCOPE

It is the purpose of this policy to provide South Bend Police Department (SBPD) personnel with guidelines applicable to the implementation of facial recognition technology (FRT). This FRT policy seeks to balance the public safety benefits of this technology with individual privacy. FRT involves the ability to examine and compare distinguishing characteristics of a human face through the use of biometric algorithms contained with a software application. This technology can be a valuable investigative tool to detect and prevent criminal activity, reduce an imminent threat to health and safety, and help in identification of person unable to identify themselves or deceased persons. The Department has established a Facial Recognition program to support the investigative efforts of law enforcement and public safety agencies.

343.1.1 DEFINITIONS

Facial Recognition Technology (FRT): A biometric software application capable of uniquely identifying or verifying a person by comparing and analyzing patterns based on the person's facial contours.

Investigative Lead: Any information which could potentially aid in the successful resolution of an investigation, but does not imply positive identification of a subject or that the subject is guilty of a criminal act.

Part 1 Violent Crimes: For the purpose of this directive, Part 1 Violent Crimes are defined as robbery, sexual assault, aggravated assault, or murder.

Probe Image: Any face image used by face recognition software for comparison with the face images contained within a face image repository. A front-facing image of an individual lawfully obtained pursuant to an authorized criminal investigation. Examples of probe images include: # Face images captured from closed circuit TV cameras # Face images captured from an ATM camera # Face images provided by a victim or witness of a crime # Face images gained from evidence (fraudulent bank card or photograph ID) # Face sketches (for example, police artist drawings)

Public Domain: The state of belonging or being available to the public, and therefore not subject to copyright. The term "public domain" refers to creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws. The public owns these works, not an individual author or artist. Anyone can use a public domain work without obtaining permission, but no one can ever own it.

343.2 POLICY

The SBPD will respect the public's right to privacy by using only photographic and/or video sources from the public domain in furtherance of the Department's use of facial recognition technology for legitimate law enforcement purposes and any results from this technology shall be considered

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advisory in nature as an investigative lead only and does not establish probable cause without further investigation.

Facial recognition technology shall only be used when there is reasonable suspicion that such use will provide information relevant to an active or ongoing Part 1 Violent Crime investigation.

Facial recognition technology utilizes algorithms to identify possible match candidates to an image. The Department only uses facial recognition technology which has been evaluated by the National Institute of Standards and Technology for matching efficiency and accuracy.

343.2.1

This policy assists SBPD and its personnel in:

- Increasing public safety and improving state, local, tribal, territorial, and national security
- Minimizing the threat and risk of injury to specific individuals.
- Minimizing the threat and risk of physical injury or financial liability to law enforcement and others responsible for public protection, safety, or health.
- Minimizing the potential risks to individual privacy, civil rights, civil liberties, and other legally protected interests.
- Protecting the integrity of criminal investigatory, criminal intelligence, and justice system processes and information.
- Minimizing the threat and risk of damage to real or personal property.
- Fostering trust in the government by strengthening transparency, oversight, and accountability.
- Making the most effective use of public resources allocated to public safety entities.

343.2.2

This policy was established to ensure that all images are lawfully obtained, including face recognition probe images obtained or received, accessed, used, disseminated, retained, and purged by SBPD. This policy applies to:

- Images contained in a known identity face image repository and its related identifying information.
- The face image searching process.
- Any results from face recognition searches that may be accessed, searched, used, evaluated, retained, disseminated, and purged by SBPD.
- Lawfully obtained probe images of unknown suspects that have been added to unsolved image files, pursuant to authorized criminal investigations.

343.3 AUTHORIZED USES

Authorized uses of facial recognition technology include:

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- A reasonable suspicion that an individual has committed a criminal offense or is involved in or planning criminal conduct or activity that presents a threat to any individual, the community, or the nation and that the information is relevant to the criminal conduct or activity
- An active or ongoing criminal investigation
- To mitigate an imminent threat to health and safety through short-term situational awareness surveillance or other means
- To assist in the identification of a person who lacks capacity or is otherwise unable to identify themselves (such as an incapacitated, deceased, or otherwise at-risk person.)
- To assist in the identification of potential witnesses and/or victims of violent crimes
- To support law enforcement in critical incident responses

343.4 PROHIBITED USES

The misuse of FRT will subject employees to administrative disciplinary action up to termination and potentially criminal penalties.

343.4.1 SURVEILLANCE

Members shall not use facial recognition to surveil the public through any camera or video device. The only exception would be in the event of an imminent threat to public safety including conditions that may result in serious bodily injury or death to an individual or group of individuals (e.g. abduction, credible threat notification).

343.4.2 PROTECTED CLASSIFICATIONS

No person will be the subject of police action solely because of actual or perceived characteristics including, but not limited to race, color, religion, sex, age, national origin or ancestry, disability, gender identity or sexual orientation

343.4.3 HARASSMENT

Members shall not use facial recognition to harass and/or intimidate any individual or group.

343.4.4 LIVE VIDEO

SBPD does not connect the face recognition system to any interface that performs live video surveillance, including surveillance cameras, drone footage, and body-worn cameras. The face recognition system will not be configured to conduct face recognition analysis on live video.

343.4.5 VIOLATIONS OF THIS POLICY

The Office of Professional Standards will receive reports regarding alleged errors and violations of the provisions of this FRT policy or applicable state law and coordinate complaint resolution under the SBPD's Personnel Complaints [Policy 1007](#).

All face recognition information held by SBPD that is subject of a complaint will be reviewed and confirmed or corrected/purged if determined to be inaccurate or incomplete, to include incorrectly merged or out-of-date information.

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343.5 RESPONSIBILITIES

The Operations Division Chief (ODC) will monitor the Department's use of facial recognition technology.

The Facial Recognition program will be under the direct command of the ODC. The ODC will ensure user compliance with this policy, applicable laws, regulations, and standards. In addition to the Command Staff, the Detective Bureau Captain (DBC), the Detective Bureau Lieutenant (DBL), and the Strategic Focus Unit Lieutenant (SFL) shall be the only employees authorized to use the Department approved facial recognition technology. Use of Department approved facial recognition technology by other sworn employees is strictly prohibited. In the event of a public safety emergency, other users can be designated by the Chief of Police or a Division Chief.

343.5.1 USERS

- A. All South Bend Police Department personnel, participating agency personnel, and authorized individuals working in direct support of SBPD personnel, personnel providing information technology services to SBPD, private contractors, and other authorized users will comply with SBPD's FRT policy and will be required to complete the training referenced in 343.5.1(D). In addition, authorized personnel tasked with processing FRT requests and submissions must also complete the specialized training to include: use of image enhancement, appropriate procedures and how to assess image quality and suitability for face recognition search, proper procedures and evaluation criteria for one-to-many and one-to-one face image comparisons, and candidate image verification process.
- B. An outside agency, or investigators from an outside agency, may request face recognition searches to assist with investigations only if the outside agency is a law enforcement agency that is making the request based on a valid law enforcement purpose that falls within the authorized uses listed in 343.3 and the requestor provides a case numbers and contact information (requestor's name, requestor's agency, address, and phone numbers) and acknowledges an agreement with the following statement:

"The result of a face recognition search is provided by the SBPD only as an investigative lead and IS NOT TO BE CONSIDERED A POSITIVE IDENTIFICATION OF ANY SUBJECT. Any possible connection or involvement or any subject to the investigation must be determined through further investigation and investigative resources."
- C. FRT users shall be appointed by the OD All FRT users shall have all training offered and provided by the authorized vendor. Training is to include facial recognition technology, image comparison principles, and the proper operation of the technology and associated equipment.
- D. SBPD's FRT policy training program will cover both:
 1. Elements of the operation of the FRT program, including:
 - i. Purpose and provisions of FRT policy

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- ii. Policies and procedures that mitigate the risk of profiling
 - iii. How to implement FRT policy into day-to-day work
 - iv. Security awareness training
 - v. How to identify, report, and respond to suspected or confirmed breach
 - vi. Cultural awareness training
2. Elements related to the results generated
 - (a) Origination and participating agency responsibilities and obligations
 - (b) Protections on the use of the technology and the information collected or received including constitutional protections and applicable state, local, and federal laws
 - (c) FRT functions, limitations, and interpretation of results
 - (d) Mechanisms for reporting violations of the policy
 - (e) The nature and possible penalties for FRT policy violations

343.5.2 USE OF INFORMATION

Any information received because of the use of facial recognition technology shall not be used as a basis for probable cause and shall not be used as evidence when obtaining a search or arrest warrant. Information is considered advisory in nature as an investigative lead only. Face recognition search results are not considered positive identification of a subject and do not, on their own establish probable cause, without further investigation, to obtain an arrest warrant or search warrant. The information shall only be used as a tool in the ongoing investigative process or official business of the Department.

343.6 ACQUIRING AND RECEIVING FACE RECOGNITION INFORMATION

The SBPD is authorized to access and perform face recognition searches utilizing the following external repositories: booking photos (I.C. § 5-14-3), driver's license photographs (I.C. § 9-14-13-2), state identification card photographs (I.C. § 9-14-13-2), Sex Offender Registry photos (I.C. § 11-8-8-7), probation photos (I.C. § 5-14-3, and 5-2-4), and others as authorized by law.

343.7 DATA QUALITY ASSURANCE

- A. Original probe images will not be altered, changed, or modified in order to protect the integrity of the images. Any enhancements made to a probe image will be made on a copy, saved as a separate image, and documented to indicate what enhancements were made, including the date and time of change.
- B. SBPD examiners will analyze, review, and evaluate the quality and suitability of probe images, to include factors such as the angle of face image, level of details, illumination, size of the face image, and other factors affecting a probe image prior to performing a face recognition search

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343.8 REQUEST AND APPROVAL

Any sworn employee working on any open investigation(s) may submit a probe image and request a face recognition examination as an available investigative tool.

343.8.1 REQUEST

The investigator/officer will complete the SBPD "Facial Recognition Request Form," and submit the form, along with a photograph of the individual in question, to their immediate supervisor for review. The requesting investigator/officer's immediate supervisor shall review the request and ensure the following:

1. The request is pertaining to an open Part 1 violent criminal investigation assigned by the requesting Officer/Investigator;
2. The SBPD case number (Other agency case number in case of an Inter-agency Task Force request) is correct and pertains to the specific criminal investigation; and
3. The submitted photo was obtained from the public domain.

343.8.2 APPROVAL

Upon approval, the reviewing supervisor shall forward the request to the DBC, DBL, or SFL for review. The DBC, DBL, or SFL will review the request to determine if facial recognition technology is the proper or additional tool for the investigation. If the request is denied, the DBC, DBL, SFL will contact the requesting investigator/officer and explain the reasons for the denial. If the request is approved, the DBC, DBL, or SFL shall conduct a facial recognition examination.

343.9 USE OF FACIAL RECOGNITION TECHNOLOGY

343.9.1 EXAMINATION

The assigned FRT user shall investigate the case using the photo and information provided, using the Department approved facial recognition technology and other approved investigative tools. When the FRT user has completed their investigation, the findings shall be sent to the requesting investigator/officer via email. Any findings will include the following statement:

"The result of a facial recognition search is provided only as an investigative lead and is not to be considered a positive identification of any subject. Any possible connection or involvement of any subject to the investigation must be determined through further investigation and investigative resources."

343.9.2 REPORTING

FRT users shall log all requests made as well as all cases investigated using facial recognition technology and report these details to the ODC monthly. The ODC shall report on the Department's use of facial recognition technology at least annually to the Chief of Police. The Chief shall then report this to the Board of Public Safety.

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343.10 DISCLOSURE REQUESTS

FRT information will be disclosed to the public in accordance with (state APRA law.) Once a face recognition image is downloaded by SBPD personnel and incorporated into a criminal intelligence record or an investigative case file, the face recognition information is then considered criminal investigative information and the laws, regulations, and policies applicable to that type of information or criminal intelligence govern its use.