

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.

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

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 or other official business, and that any result from this technology shall be considered 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.

343.3 AUTHORIZED USES

Authorized uses of facial recognition technology include but are not limited to:

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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 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 PREDICTIVE ANALYSIS

Members shall not use facial recognition for predictive analysis to predict future or unknown events.

343.4.3 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

343.5 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. 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.

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343.5.1 USERS

FRT users shall be appointed by the ODC. 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.

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, and does not 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 REQUEST AND APPROVAL

FRT will be an available investigative tool to any sworn employee working on any open criminal investigation(s).

343.6.1 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.

343.6.2 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.

343.7 USE OF FACIAL RECOGNITION TECHNOLOGY

343.7.1 INVESTIGATION

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

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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."

343.7.2 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