|  |  |  |
| --- | --- | --- |
| Policy #  **Facial Recognition** | Related Policies:  Eye-Witness Identification | |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third-party civil claims against employees. A violation of this policy, if proven, can only form the basis for internal discipline and/or criminal charges.* | | |
| Applicable State Statutes: K.R.S. 61.9305 | | |
| KACP Accreditation Standard: | | |
| Date Implemented: | | Revision Date: May 1, 2025 |

1. **Purpose**:

To ensure the use of facial recognition technology balances the need for effective, accurate law enforcement investigations, and the need to respect the privacy of citizens.

1. **Policy:**

The policy of this agency is to balance individual privacy interests with the public safety benefits of facial recognition technology. At all times, this technology shall be used in accordance with the United States Constitution, the Constitution of the Commonwealth of Kentucky, and all applicable state and federal laws.

1. **Scope:**

Facial recognition technology enhances the ability to investigate criminal activity and increases public safety. The facial recognition process does not by itself establish probable cause to arrest or obtain a search warrant, but it may generate investigative leads through a combination of automated biometric comparisons and human analysis.

1. **Definitions:** 
   1. Facial recognition technology means the use of algorithmic comparison of images of an individual’s facial features for the purposes of developing investigative leads unless used for the sole purpose of authentication in order to access a secure device or secure premises.
   2. Law enforcement agency means:
      1. A public agency that employs a police officer as defined in KRS 15.420 or a special law enforcement officer as defined in KRS 61.90.
      2. A public agency composed of or employs other public peace officers.
      3. Elected or appointed peace officer who is authorized to exercise powers of a peace officer as defined in KRS 446.010.
   3. Facial recognition examiner: an individual who has completed training in the operation of the facial recognition technology and who has been authorized by the head of the examining agency to conduct facial recognition analysis.
2. **Procedure:**
   1. The chief/sheriff shall designate those investigators/officers within the examining agency designated as facial recognition examiners.
   2. **Prohibited use:** Facial recognition technology shall not be used to gain investigative leads about a person participating in constitutionally protected activities in public spaces unless there is probable cause to believe that an offense has been committed.
   3. **Authorized use:** Facial recognition technology must only be used for legitimate law enforcement purposes. Specifically, the following are the only authorized uses for employing facial recognition technology:
      1. To develop investigative leads about an individual when there is a good faith basis to believe that such individual has committed, is committing, or is about to commit a crime;
      2. To develop investigative leads about an individual when there is a basis to believe that such individual is a missing person, crime victim, or witness to criminal activity;
      3. To develop investigative leads about the identity of a deceased person;
      4. To develop investigative leads about a person who is incapacitated or otherwise unable to identify themselves;
      5. To develop investigative leads about an individual who is under arrest and does not possess valid identification, is not forthcoming with valid identification, or who appears to be using someone else’s identification or a false identification; or
      6. To mitigate an imminent threat to health or public safety (e.g., to thwart an active terrorism scheme or plot, etc.).
   4. Images submitted for comparison must be lawfully obtained and must only be compared to lawfully obtained images.
   5. A facial recognition match does not establish probable cause to arrest or obtain a search warrant but serves as a lead for additional investigative steps. The officer/investigator assigned to the case must establish, with other corroborating evidence, that the suspect identified by the photo match is the perpetrator in the alleged crime. Corroborating investigation following a match may include:
3. Fingerprint comparison
4. Witness interviews
5. Eyewitness identification procedures
   1. An officer/investigator who determines that facial recognition analysis fits the authorized uses of such technology, as enumerated in this policy, must submit a request in writing that an analysis be conducted and the request must be approved by the chief/sheriff or their designee.
   2. Once approved, the images for comparison will be submitted to the authorized facial recognition examiner, designated by the chief/sheriff, for comparison. .
   3. The facial recognition examiner shall utilize software to protect privacy like nudity or sexual conduct by blurring, redacting, or obscuring such content within the image of any identifiable person.
   4. When a possible match is received through the process of facial recognition analysis, the following steps shall be taken:
      1. The facial recognition examiner conducts a visual comparison of the images with specific attention to facial features. The facial recognition examiner visually compares the differences and similarities between a probe image and a potential match from the photo repository for the purpose of evaluating whether they represent the same person. In general, during this process a facial recognition examiner compares facial characteristics (e.g., eyes, ears, nose, chin, mouth, hair, overall facial structure, any scars, marks, blemishes, or tattoos, etc.) and general characteristics, such as overall complexion, gender, and age.
      2. If there is reason to believe that there is a proper match. The facial recognition examiner will turn the images over to a second facial recognition examiner who will repeat the process of comparison before providing the possible match.
      3. A possible match candidate shall be treated as an investigative lead only. It **does not** by itself establish probable cause to make an arrest or obtain an arrest or search warrant. Corroborating information must be developed through additional investigation by the assigned investigator/officer.
      4. Conduct a background check through law enforcement databases on the identified person to determine if there is a basis to believe the match is correct or incorrect, i.e., person was in custody at the time the event occurred, person is deceased, etc.
      5. Document each use of facial recognition technology in writing. A file documenting each use shall be maintained by the examining agency.
      6. Records of all prior uses of the facial recognition technology shall be maintained by the examining agency and include the images used and information used to make a match of the person.
   5. Images used for comparison may come from the following databases:
      1. Mug shot images
      2. Operator’s license photograph
      3. State identification cards
      4. Sex offender registry
   6. Reliability/non-discrimination: The National Institute of Standards and Technology has determined that current technology has a significant accuracy rate. It is noted that the quality of the image and the number of images available for comparison may impact reliability levels. This agency will only utilize a system that has a minimum accuracy standard for face matches in all demographic groups to ensure nondiscrimination against any demographic group with reference to FRTE (Face Recognition Technology Evaluation) and FATE (Face Analysis Technology Evaluation) conducted by the National Institute of Standards and Technology.
   7. Data integrity and retention:
      1. All data shall be retained by the examining agency with access limited to the facial recognition examiner and supervisory personnel providing oversight to the examiners.
      2. Use and sharing of information related to any facial recognition use or examination with another law enforcement entity will only be done where the agency seeking the information is able to verify in writing that such usage meets the requirements of this policy.
      3. Records of all examinations will be updated in real time.
      4. Records of all facial recognition examinations will be retained in accordance with the record retention schedules established by the Kentucky Department for Libraries and Archives, noting that where the examination provides evidence in a criminal case, the rules with respect to evidence to include exculpatory evidence also apply.
      5. Records retained in accordance with this policy will be subject to annual audits to ensure compliance with this policy.

Facial Recognition Examination

Request Form

Requesting Officer’s Name

Case/CAD Number

Date

Time

Authorized Purposes Check Box(es):

* To aid in the identification of a person when there is reasonable suspicion or probable cause to believe that the specific individual has committed, is committing, or is about to commit a crime.
* To aid in the identification of a person who, due to some incapacity, is unable to identify themselves.
* To aid in the identification of a person who is deceased.
* To aid in the identification of a person where there is an articulable basis to believe the person is a missing person, the victim of a crime, or a witness to criminal activity.
* To aid in the identification of a person who is in custody as the result of an arrest and does not possess valid identification, is not cooperative with providing their identification, or appears to be providing false identification information.
* To mitigate an articulated imminent threat to public safety or health. (For example, to mitigate an articulable imminent threat of terrorism).

Facial recognition technology shall not be used to identify a person participating in constitutionally protected activities in public spaces unless there is probable cause to believe that an offense has been committed. Facial recognition technology shall not be used for any personal purpose.

Investigative information/Details of request

Approving Supervisor Date

Time Approved

Facial Recognition Examiner’s Log

Date

Time

Requesting Officer’s Name

Case/CAD Number

Approving Supervisor

Was the analysis successful? Yes  No 

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |
|  |  |  |  |
| Requesting Officer’s Name |  |  |  |
|  |  |  |  |
| Case/CAD Number |  |  |  |
|  |  |  |  |
| Approving Supervisor |  |  |  |
|  |  |  |  |
| Was the analysis successful? Yes  | No  |  |  |

Were the images used properly redacted? Yes  No 

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Date |  | |  | Time | | |
|  | |  | | |  |  | |
| Requesting Officer’s Name | |  | | |  |  | |
|  | |  | | |  |  | |
| Case/CAD Number | |  | | |  |  | |
|  | |  | | |  |  | |
| Approving Supervisor | |  | | |  |  | |
|  | |  | | |  |  | |
| Was the analysis successful? Yes  | | No  | | |  |  | |

Were the images used properly redacted? Yes  No 

Date

Time

Requesting Officer’s Name

Case/CAD Number

Approving Supervisor

Was the analysis successful? Yes  No 

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |
|  |  |  |  |
| Requesting Officer’s Name |  |  |  |
|  |  |  |  |
| Case/CAD Number |  |  |  |
|  |  |  |  |
| Approving Supervisor |  |  |  |
|  |  |  |  |
| Was the analysis successful? Yes  | No  |  |  |

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |
|  |  |  |  |
| Requesting Officer’s Name |  |  |  |
|  |  |  |  |
| Case/CAD Number |  |  |  |
|  |  |  |  |
| Approving Supervisor |  |  |  |
|  |  |  |  |
| Was the analysis successful? Yes  | No  |  |  |

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |

|  |  |  |  |
| --- | --- | --- | --- |
| Requesting Officer’s Name |  |  |  |

Case/CAD Number

Approving Supervisor

Was the analysis successful? Yes  No 

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |
|  |  |  |  |
| Requesting Officer’s Name |  |  |  |
|  |  |  |  |
| Case/CAD Number |  |  |  |
|  |  |  |  |
| Approving Supervisor |  |  |  |
|  |  |  |  |
| Was the analysis successful? Yes  | No  |  |  |

Were the images used properly redacted? Yes  No 

|  |  |  |  |
| --- | --- | --- | --- |
| Date |  |  | Time |
|  |  |  |  |
| Requesting Officer’s Name |  |  |  |
|  |  |  |  |
| Case/CAD Number |  |  |  |
|  |  |  |  |
| Approving Supervisor |  |  |  |
|  |  |  |  |
| Was the analysis successful? Yes  | No  |  |  |

Were the images used properly redacted? Yes  No 