
Facial Recognition Technology

703.1 PURPOSE AND SCOPE

This policy provides Arvada Police Department personnel with guidelines for the collection, access, use, dissemination, retention, and purging of images and related information applicable to facial recognition services (FRS), as defined below. Facial recognition technology was developed for the purpose of assisting personnel in identifying persons who are believed to be subject of a criminal investigation, or who may be a victim of crime or a missing or endangered person.

FRS is intended to assist investigators with identifying subjects while ensuring that improper or incorrect identification does not lead to the arrest of an innocent individual. It is intended to provide investigators with a tool to develop possible suspect leads based upon similarities in facial characteristics with known suspected offenders.

703.1.1 DEFINITIONS

Accountability Report - a report which documents information concerning the Department's deployment of FRS as required by CRS § 24-18-302(2)(a) through (h).

Facial Recognition or Image Matching - uses image processing and machine learning algorithms to compare a photo of an unidentified person, otherwise known as a probe photo against a database of photos of identified persons. Most face identification algorithms will typically produce a list of possible matches with each match having a score that indicates the quality or likelihood of a match.

Facial Recognition Service (FRS) or Facial Recognition Technology - technology that analyzes facial features to facilitate the identification, verification, or persistent tracking of individuals in still or video images (CRS § 24-18-301(5)(a)).

Gallery Image - An image housed in a facial recognition repository used to identify possible matches of probe images submitted into an FRS by investigators.

Meaningful Human Review - review or oversight by one or more individuals who are trained in accordance with this policy and CRS 24-18-305 and who have the authority to alter a decision under review (CRS § 24-18-301(9)).

Probe Image – any face image used by an FRS for comparison with the gallery images contained within a facial image repository. Examples of probe images may include, but are not limited to:

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- (a) Facial images captured from surveillance cameras;
- (b) Facial images captured from an ATM camera;
- (c) Facial images provided by a victim or witness of a crime;
- (d) Facial images gained from evidence;
- (e) Social media images; or
- (f) Cell phone images

Repository: A location where gallery images of known individuals and biometric templates are stored and managed. An image repository is searched during a facial recognition search process whereby a probe image is used by an FRS for comparison with the gallery images, or features within gallery images, contained in the repository.

703.2 POLICY

It is the policy of the Department that personnel may utilize FRS for authorized uses only, and in compliance with applicable State law. Members involved in an investigation utilizing FRS shall also use standard investigative methods and procedures to corroborate identifications provided through the FRS, as they would with any investigative lead. Members shall not use the results of an FRS comparison as the sole basis to establish probable cause in a criminal investigation (CRS 24-18-307(4)).

703.3 AUTHORIZED USE OF FRS

All use of FRS is for official use only and are considered law enforcement sensitive. The following are general circumstances associated with authorized uses of FRS:

- (a) To assist in the identification of potential witnesses or victims of violent crime
- (b) A person is being legally detained for a criminal investigation and is refusing to provide identification information or is believed to be using false identification information;
- (c) To assist in the identification of a person who lacks capacity or is otherwise unable to identify him/herself, such as an incapacitated, deceased, or otherwise at-risk person;
- (d) To investigate or corroborate tips and leads;
- (e) For comparison to determine whether an individual may have obtained one or more official state driver's licenses or identification cards that contain inaccurate, conflicting, or false information;
- (f) To mitigate an imminent threat to health or safety through short-term situational awareness surveillance or other means;
- (g) An active or ongoing criminal investigation in which the officer has a reasonable suspicion that an identifiable individual has committed a criminal offense; or
- (h) An active or ongoing criminal investigation in which the officer has a reasonable suspicion that an identifiable individual is involved in or planning criminal or terroristic conduct or activity that presents a threat to any individual or the community, and the information is relevant to the

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criminal conduct or activity.

703.4 RESTRICTIONS ON USE

Members shall not perform or request facial recognition searches about individuals or organizations based solely on their religious, political, or social views or activities; their participation in a particular noncriminal organization or lawful event; or their races, ethnicities, citizenship, places of origin, ages, disabilities, genders, gender identities, sexual orientations, or other classification protected by law (CRS § 24-18-307(2)).

Members shall not use an FRS to engage in ongoing surveillance, to conduct real-time or near real-time identification, or to start persistent tracking unless (CRS § 24-18-307(1)):

- (a) The Department has obtained a warrant authorizing such FRS use;
- (b) Such use is necessary to develop leads in an investigation;
- (c) The Department has established probable cause for such use; or
- (d) The Department has obtained a court order to for the sole purpose of identifying a missing or deceased person.

Members shall not use an FRS to create a record depicting any individual's exercise of rights guaranteed by the first amendment of the United States constitution and by section 10 or article II of the Colorado constitution (CRS § 24-18-307(3)).

Members shall not substantively manipulate an image for use in an FRS comparison in a manner inconsistent with the FRS's intended use and the Member's training (CRS § 24-18-307(5)).

703.5 DISCLOSURE TO DEFENDANTS

Colorado law requires that the Department disclose to criminal defendants when an FRS has been utilized in the defendant's case (CRS § 24-18-308(1)). Members will disclose the use of FRS in any criminal case to the prosecuting attorney for disclosure to the defendant in the discovery process.

703.6 PUBLIC DISCLOSURE REQUESTS, FRS RECORDKEEPING

The Arvada Police Department will be transparent with the public with regard to facial recognition information collection, receipt, access, use, dissemination, and purging practices in accordance with CRS § 24-72-304, pertaining to the release of criminal justice records and the [Records Maintenance and Release Policy](#).

The Department will maintain records of its use of FRS sufficient to facilitate public reporting and auditing of compliance with the Department's Records Maintenance and Release Policy and the Accountability Report (CRS § 24-18-306).

703.7 TRAINING

Members must receive approved Department training to utilize facial recognition software. Department members shall be trained in the following areas prior to utilizing facial recognition technology:

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- (i) The proper and legal use of facial images for facial recognition purposes, including the capabilities and limitations of FRS (CRS § 24-18-305(2)(a));
- (j) How to obtain high quality facial images in the field to ensure better FRS results;
- (k) The requirement for meaningful human review for decisions as a result of the use of FRS that produce legal effects concerning individuals or similarly significant effects on individuals (CRS § 24-18-305(2)(c));
- (l) The appropriate use and sharing of information obtained from an FRS in compliance with all department policies applicable to the use and management of FRS data (CRS § 24-18-302(2)(d)(VII)); and

703.8 Compliance with statutory FRS requirements

The Department and its Members will deploy and utilize FRS in compliance with applicable requirements of CRS §§ 24-18-301 to 24-18-309.

Members must document each time they utilize FRS, whether or not comparison process results in an investigative lead or requires additional follow-up. This documentation will be completed within the department's Records Management System (RMS).

The Department will prepare and maintain an Accountability Report as required by CRS § 24-18-302 for each FRS deployed by the Department. The Accountability Report will be maintained and updated as necessary by the Police Operations Manager.

703.9 FRS Policy Compliance Review

On a quarterly basis, the Crime Analysis Unit will randomly generate a list of cases in which FRS was utilized. A Criminal Investigations Bureau (CIB) supervisor will review those cases and follow-up as necessary to ensure that Department personnel are utilizing and documenting their use of the FRS in accordance with Department policy and applicable state statutes.