

## FACIAL COMPARISON ANALYSIS

### 18.1 Purpose

The purpose of the HIDTA/NCRIC facial comparison analysis policy is to assist designated personnel and partner law enforcement agencies in the identification of persons associated with criminal investigations and the identification of missing persons. A criminal investigation is an official investigation regarding a suspected violation of California law. Facial comparison systems will be used in accordance with California law, including the California Values Act [Government Code Section 7282.5]. Although a search warrant is generally not required to utilize facial comparison software, a search warrant shall be obtained if it is legally required.

Facial comparison analysis systems shall work by scanning a static photograph and comparing it to a law enforcement mugshot arrestee database or other lawfully accessed database to locate a possible match. The HIDTA/NCRIC recognizes that facial comparison analysis systems are only one investigative step and, when feasible, the results shall not be exclusively relied upon to provide a definitive identification of an individual. Facial comparison analysis systems should be used in conjunction with other investigative steps to identify individuals associated with a criminal or missing persons investigation. Facial comparison analysis resources are tools that may only be utilized for a legitimate law enforcement or public safety purpose.

### 18.2 Authorized and Prohibited Use

***Only designated HIDTA/NCRIC personnel may have authorized access to perform facial comparison searches utilizing facial comparison systems for the lawful purpose of:***

- Assisting in the identification of subjects lawfully sought by law enforcement, where reasonable suspicion has been established that an identifiable individual has committed a criminal offense or is involved in or planning criminal conduct or activity, and that the information is relevant to the criminal conduct or activity.
- Assisting in the identification of victims or witnesses to a criminal offense.
- Assisting in the identification of missing persons.
- Assisting in the identification of the owners of lost or stolen property.

In all instances, access to the software shall require security identification, password authentication, and incident number documentation.

***The following describes the HIDTA/NCRIC automated facial comparison search procedure, which is to be conducted in accordance with a valid law enforcement purpose and this policy:***

- Authorized personnel will submit a probe image of a subject of interest.
- Authorized personnel will initially run probe images without filters, using a filtered search as a secondary search, if needed. In some cases, enhancements may be considered after running an image as-is against the image repository.
- Original probe images will not be altered, changed, or modified to protect the integrity of the image. 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.

The results, if any, are then manually compared with the probe images and examined by the authorized submitter. NCRIC personnel shall conduct the comparison of images, biometric identifiers, and biometric information in accordance with their training.

HIDTA/NCRIC personnel are strongly recommended to seek a peer review of the probe and candidate images for verification by other authorized personnel for peer review when feasible.

All entities receiving the results of a facial comparison search, must be cautioned that the resulting candidate images do not provide positive identification of any subject, are considered advisory in nature as an investigative lead only, and do not establish probable cause, without further investigation, to obtain an arrest warrant or other legal process.

***The following statement will accompany any shared information of released most likely candidate image(s) and any related records:***

“The HIDTA/NCRIC is providing this information as a result of a search, utilizing facial comparison analysis software. This information 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.”

Facial comparison analysis software and systems shall not be used for personal or non-law-enforcement purposes.

Facial comparison analysis software and systems shall not be integrated into license plate recognition technology.

### **18.3 Data Retention**

The probe images and results must be maintained and purged according to applicable record policies and state laws.

***The HIDTA/NCRIC will maintain a log/audit trail of requested, accessed, searched, or disseminated facial comparison analysis information. The information pertaining to facial comparison analysis requests will consist of the following details:***

- Date
- Name of Personnel Accessing the Facial Recognition System
- Case Number
- Requestor Name, Title, Agency, Email, Phone
- Facial Comparison System Used
- Results (Positive/Negative)
- Dissemination (Who, What, Where, When, How?)
- Notes (Enhancements used?)

### **18.4 Data Dissemination**

***The HIDTA/NCRIC may only disseminate information related to facial comparison analysis to:***

- Other law enforcement agencies as part of a specific criminal or administrative investigation.
- A District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence.
- Personnel designated by a California or Federal Court in response to a court order.

## **18.5 Data Protection**

HIDTA/NCRIC personnel shall only have access to Facial Comparison Software on approved HIDTA/NCRIC computers or secured networks, which require a secure log-in and an authenticated password. Access to the software shall require security identification, password authentication, and incident number documentation.

## **18.6 Training**

Training for the use of the facial comparison systems shall be provided by HIDTA/NCRIC personnel or the vendor for authorized users. HIDTA/NCRIC personnel utilizing facial comparison systems shall be provided a copy of this policy. Designated managers and supervisors shall ensure compliance with this policy and conduct periodic audits as deemed necessary of data access and dissemination to ensure policy compliance.