



Massachusetts Sheriffs' Association

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www.mass.gov/msa



December 01, 2010

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Laura Rotolo, Staff Attorney
American Civil Liberties Union
Foundation of Massachusetts
211 Congress Street
Boston, Massachusetts 02110

Dear Ms. Rotolo:

Once again, thank you for your extended patience while awaiting receipt of this written response to your correspondence of October 21, 2010. Detailed below is a response to your (October 21) follow-up questions regarding facial recognition technology; more specifically, I am also presenting response(s) to your follow-up questions to my correspondence of July 12, 2010. I will attempt to answer each of your second batch of (October 21) questions in the order that you present them in your noted correspondence:

Your Question No. 1 – October 21, 2010:

The only Facial Recognition Technology ("FRT") system in use that I am personally aware of is the Essex County Sheriff Department's Information Sharing Network - aka Facial Recognition Technology program at Essex County which I referenced in paragraph three of my noted July 12, 2010 Letter to you. This is the system that we are in the process of expanding to other Sheriffs' jurisdictions per the prior noted federal Grant and the prior noted Agreement between the Massachusetts Sheriffs' Association (MSA) and B I 2 Technologies, LLC of Plymouth, MA. I do not have in my possession at the MSA Office any specific set of users' manuals, training materials, standard operating procedures and/or technical specifications for this system. I invite you to contact the Essex County Sheriff's Department, attn: Special Sheriff Rick Roaf, on 978-750-1900, to inquire about the particulars that you seek in your request. Please note: a description of the system is available on the Sheriff's website at www.eccf.com

Your Question No. 2 – October 21, 2010:

Additional documents concerning the Project Implementation Plan referenced in the second paragraph of my Letter to you dated July 12, 2010 encompass printed e-mails that document my attempt to obtain Essex Sheriff's staff input on the requirements/scope of an appropriate Project Implementation Plan. Additionally, I am enclosing a **DRAFT No. 1** of the Plan which I submitted to B I 2 Technologies for review on March 15, 2010 and a subsequent **DRAFT No.2** that contained proposed B I 2 Technologies' revisions. A **[final]** Drafting session occurred at B I 2 Technologies in Plymouth, MA on Monday, March 29, 2010; enclosed is the set of questions/notes/comments that I compiled for my use at this noted session.

**Attorney Laura Rotolo
American Civil Liberties Union
Foundation of Massachusetts**

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Your Question No. 3 – October 21, 2010:

The only additional documents over and above those provided in my Letter of July 12, 2010 deal with cost estimates of required Hardware associated with the original plan to expand the noted Essex Facial Recognition Technology program into two Massachusetts Sheriffs' jurisdictions. I am enclosing the noted cost estimates. Additionally, Essex Sheriff's staff requested estimates of Booking-Intakes at the two Sheriffs' jurisdictions that we had originally selected for the noted original form of expansion. (See enclosed document.) And, finally, I am enclosing a set of questions filed by a responding Vendor in connection with a submission of an IFR response, and the set of corresponding answers as compiled on behalf of MSA by Essex Sheriff's staff.

Your Question No. 4 – October 21, 2010:

"Law Enforcement Information Network" is simply a descriptive, all-encompassing term to describe the MSA's on-going project of expanding the noted Essex County Sheriff's Department Information Sharing Network (see response to your Question No. 1) into the other Massachusetts Sheriffs' jurisdictions. It is just a different term or name of reference for the very same project that I described in my response of July 12, 2010.

Your Question No. 5 – October 21, 2010:

The MSA does not have any documents of any kind, and has not entered into any agreements with the noted Commonwealth Fusion Center or the Boston Regional Intelligence Center. Additionally, the MSA has not entered into any agreements with any agency of the federal government to share facial images or county corrections inmate data.

Your Question No. 6 – October 21, 2010:

In sequence, enclosed with this correspondence, I am providing the following documents:

- Memo of April 14, 2010 to All MA Sheriffs requesting attendance of Sheriffs' staff as the project kickoff Meeting of the MSA Law Enforcement Sharing Network.



Laura Rótolo
Staff Attorney
(617) 482-3170 x311
lrotolo@aclum.org

October 21, 2010

James F. Walsh, Executive Director
Massachusetts Sheriff's Association
271 Cambridge St., Suite 202
Cambridge, MA 02141

Re: Public Records Request, G.L. c. 66 § 10

Dear Mr. Walsh:

Thank you for your response to our request for documents this past summer. I appreciate your cooperation in getting us the documents, which were very instructive.

The documents you previously provided helped us better understand the existing facial recognition technology and the funding around this program. We have some follow-up questions that this request hopes to address. We are specifically interested in learning more about the facial recognition system that is currently in place and being expanded to other counties.

This letter constitutes a request under the Public Records Law, Mass. Gen. Laws ch. 66, §10 for documents in the possession of the Massachusetts Sheriff's Association ("MSA").

Documents requested:

1. Any and all documents concerning the use of any Facial Recognition Technology ("FRT") system by any federal, state, county, or municipal law enforcement office or agency in Massachusetts, including but not limited to such use by any Sheriff's Department. This request includes, but is not limited to, any users' manuals, training materials, standard operating procedures and/or technical specifications.
2. Any and all documents concerning the Project Implementation Plan referenced in the second paragraph of your letter dated July 12, 2010 (enclosed herewith).

3. Any and all documents concerning “the upgrade of an existing Facial Recognition Technology (FRT) program at the Essex County Sheriff’s Department and expansion of it into the other Massachusetts Sheriffs’ jurisdictions,” as referenced in the third paragraph of your July 12, 2010 letter, including but not limited to any proposals, evaluations, agreements, evaluation reports, correspondence, and notes.
4. Any and all documents concerning the MSA’s “Law Enforcement Information Sharing Network,” including but not limited to any documents describing the three-county network designed to share information among Essex, Barnstable and Berkshire counties, and any documents describing any and all plans to implement such an information-sharing system in additional counties.
5. Any and all agreements of any kind between the MSA on the one hand, and the Commonwealth Fusion Center, the Boston Regional Intelligence Center, or any agency of the federal government, on the other hand, to share information.
6. Any and all documents regarding the “Project Kick-Off Meeting” on May 12, 2010 in Auburn, MA, referenced in your July 12, 2010 letter, including but not limited to any and all programs, agendas, lists of attendees or participants, meeting notes, handouts, materials, and any other documents used during or in preparation for the meeting.
7. Any reports or documents sent from the MSA to the Department of Justice concerning the implementation of the COPS grant referenced in the fourth paragraph of your July 12, 2010 letter.
8. Any and all documents concerning the MORIS system not identified or produced in response to our public records request of June 17, 2010.
9. Any and all documents concerning BI2 Technologies that were not identified or produced in response to our public records request of June 17, 2010.

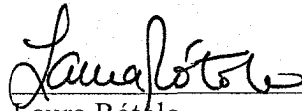
Because this request involves a matter of public concern and because it is made on behalf of a nonprofit organization, we ask that you waive any copying costs pursuant to 950 C.M.R. § 32.06(5). ACLUM is a nonprofit §501(c)(3) organization dedicated to the protection of civil rights and liberties for all persons in the Commonwealth of Massachusetts. As the state’s affiliate of the American Civil Liberties Union, ACLUM is part of a nationwide network of advocates dedicated to defending and expanding the civil liberties of all.

If you decide not to waive copying costs, we request that you permit us to examine, at our election, the responsive documents before deciding which portions to photocopy.

Should you determine that some portion of the documents requested are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note the applicable statutory exemption and explain why it applies to the redacted portions. As you know, Mass. Gen. Laws c. 66 § 10 requires a custodian of public records to comply with a request within ten days of receipt.

Thank you for your assistance. I look forward to your response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laura Rótolo", written over a horizontal line.

Laura Rótolo
ACLUM Staff Attorney



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July 12, 2010

Laura Rotolo
Staff Attorney
American Civil Liberties Union
Foundation of Massachusetts
211 Congress Street
Boston, Massachusetts 02110

Dear Ms. Rotolo:

Thank you for your patience while awaiting receipt of this written response to your correspondence of June 17, 2010. This communication follows our telephone conversation of Thursday, July 08.

To begin, I am confirming via this response my telephone statement to you on July 08 concerning your reference in your noted correspondence of June 17 to the MORIS (Mobile Offender Recognition and Identification System) component and the demonstration of it on June 14, 2010: Specifically, I am confirming my statement during our conversation that I have conducted only conceptual and contemplative discussions with BI2 Technologies regarding *prospective* addition of the MORIS component to the BI2 Technologies-MSA contracted scope-of-services involved with an on-going federally funded expansion of an existing Essex County Facial Recognition Technology (FRT) program into the other Massachusetts Sheriffs jurisdictions. Additionally, I am confirming via this written response that I have had *only discussions* concerning this prospective addition, and, as of this date, the Massachusetts Sheriffs' Association (MSA) has NOT executed a Contract amendment by written or verbal means with BI2 Technologies to add the noted MORIS component to our intended Project Implementation Plan.

For your further edification, this noted on-going Project entails the upgrade of an existing Facial Recognition Technology (FRT) program at the Essex County Sheriff's Department and expansion of it into the other Massachusetts Sheriffs' jurisdictions. It will also entail networking into two (2) to-be-selected police departments per county.

Funding of this upgrade and expansion is by means of a federal Grant (aka award) from the U.S. Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) in the DOJ's Bureau of Justice Assistance. It is a one-time non-hiring all-technology award of \$222,134; we have set-aside approximately ten-percent for in-direct costs, including charge-back expenses assessed by the Commonwealth of MA Office of the State Comptroller. The balance of approximately \$202,000 constitutes the available Project budget for the noted upgrade and expansion. No MSA or other State funds are being applied to this effort.

Attorney Laura Rotolo
American Civil Liberties Union
Foundation of Massachusetts

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Given that I have conducted only prospective discussions with BI2 Technologies concerning the MORIS component, I do not have documents relating specifically to it other than the printed copies of e-mails that confirm intentions to explore the possible addition of the component. In specific response to your request for documents as detailed on page two of your correspondence of June 17, I am responding as follows:

In your request No. 1 of June 17, you ask for:

"Any documents describing the funding source for the deployment of the MORIS system in Brockton, Plymouth County or any other city, town or county in Massachusetts, including request for proposals, grant applications and grant approval documents."

Enclosed, please find a copy of the MSA federal grant application. Additionally, please find a copy of a federal grant award Letter; you will see that I am also enclosing the MSA Invitation for Responses from prospective vendor respondents. Please note in each of these submissions, you will not find any reference to the MORIS component.

In your request No. 2 of June 17, you ask for:

"A copy of any contract between BI2 Technologies and the City of Brockton, the Brockton Police Department, the County of Plymouth or any other city, town or entity in Massachusetts."

The MSA does not possess any such contract.

In your request No. 3 of June 17, you ask for:

"All written communications, including electronic communications, between the Massachusetts Sheriffs' Association and BI2 Technologies regarding the MORIS system or any other technology that BI 2 Technologies is or may be developing or providing to cities, towns and counties in Massachusetts."

Enclosed, please find printed copies of e-mails dated April 29, 2010 that attest to a discussion between me and Mr. Sean Mullin concerning the MORIS device which we initially discussed on March 29, 2010. Please note the e-mail at 11:43 a.m. on that date specifically cites an exploration of a *possible* purchase but indicates no such agreement was in place.

Attorney Laura Rotolo
American Civil Liberties Union
Foundation of Massachusetts

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Additionally, in response to your request No. 3, I am enclosing a copy of an executed Goods and Services Agreement dated March 29, 2010 between the Massachusetts Sheriffs' Association and BI2 Technologies, LLC., and a copy of a Project Implementation Plan and Payment Schedule for Upgrade and Expansion of Facial Recognition System for the Massachusetts Sheriffs' Association dated March 29, 2010.

In your request No. 4 of June 17, you ask for:

"Any document that includes a description of the databases to which the MORIS system will have access."

The MSA does not possess any such document specific to the noted MORIS system.

In your request No. 5 of June 17, you ask for:

"Any document that includes a description of the database or location where images, iris scans, fingerprints, or other biometric information created and uploaded using the MORIS system will be sent."

A Project Kick-Off Meeting on May 12, 2010 in Auburn, MA included a discussion of the approach and method that will be undertaken to construct a statewide facial image database. This discussion did not include any reference to the MORIS system. Your request, however, seeks information that the MSA considers privileged and directly related to the secure operations of county corrections facilities; the disclosure of information in response to your request No. 5 might prejudice the possibility of effective law enforcement and, as such, disclosure would not be in the public interest. Please see M.G.L. c.4, ss 7 cl. Twenty-sixth (f).

In your request No. 6 of June 17, you ask for:

"Any documents that include technical descriptions or technical specifications of 2D – 3D facial recognition technology which will be used, including any."

A Project Kick-Off Meeting on May 12, 2010 in Auburn, MA included a discussion of the approach and method that will be undertaken to construct a statewide facial image database. This discussion did not include any reference to the MORIS system. Your request, however, seeks information that the MSA considers privileged and directly related to the secure operations of county corrections facilities; the disclosure of information in response to your request No. 6 might prejudice the possibility of effective law enforcement and, as such, disclosure would not be in the public interest. Please see M.G.L. c.4, ss 7 cl. Twenty-sixth (f).

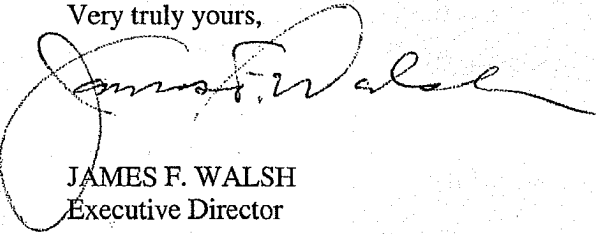
Attorney Laura Rotolo
American Civil Liberties Union
Foundation of Massachusetts

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July 12, 2010

Please note: You have the right to appeal the response I have offered in response to your request items No. 5 and No. 6. You may do so by contacting the supervisor of public records, pursuant to 950 C.M.R. 32.00 and M.G. L. c. 66 ss 10.

Thank you, again, for your patience while awaiting the submission of this written confirmation and response.

Very truly yours,

A handwritten signature in black ink, appearing to read "James F. Walsh", written over a large, stylized circular flourish.

JAMES F. WALSH
Executive Director

cc: Sheriff Michael G. Bellotti, MSA President