

Brockton Police Department
Internal Affairs Division
7 Commercial St.
Brockton Ma. 02302



To: <u>J. Pyle</u>	From: <u>Sgt. Timothy R. Stanton</u>
Fax: <u>617 456-8100</u>	Pages: <u>16</u>
Phone	Date: <u>11/22/2010</u>
Re:	CC:

For your Review Please Reply

Comments,

Sgt. Timothy R. Stanton
Internal Affairs Division
Brockton Police Department
7 Commercial St.
Brockton, MA. 02302
(508) 941-0223
(508) 897-5355 Fax
tstanton@brocktonpolice.com

Prince Lobel Glosky & Tye, LLP
Attorneys at Law

100 Cambridge Street
Suite 2200
Boston, MA 02114

(617) 456.8000 Tel
(617) 456.8100 Fax
www.PrinceLobel.com

To: Kevin Jones, Brockton Police Department

FAX: 508-897-5216

Date: October 20, 2010

From: Jeffrey J. Pyle, Esq.

of pages: (4) including cover sheet

#:

If this transmission is not fully and/or legibly received, please call

(617) 456-8147

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Thank you for your assistance.

 PRINCE, LOBEL, GLOVSKY & TYE LLP



Laura Bótoló
Staff Attorney
(617) 482-3170 x311
lratolo@aclum.org

June 17, 2010

Chief William K. Conlon
Brockton Police Department
7 Commercial Street
Brockton, MA 02302

Dear Chief Conlon:

This letter constitutes a request under the Public Records Law, Mass. Gen. Laws ch. 66, §10 for documents made or received by the Brockton Police Department. The request is made on behalf of the American Civil Liberties Union Foundation of Massachusetts ("ACLUM").

This request seeks documents relating to the recently-unveiled MORIS system. On June 14, 2010, the Brockton Police Department announced that it would be implementing a "first-of-its-kind in the world" mobile wireless multi-modal biometric offender recognition and information system (MORIS), funded by a grant from the Plymouth County Sheriff's Office and the Massachusetts Sheriff's Association.

According to the City of Brockton's press release, the system will enable police officers to capture human iris and facial information and compare these to existing databases. A news report suggests that the system will be used on Apple iPhones and that cities and police departments intend to expand this system to include a more extensive use of biometric information, including electronically recorded fingerprints.¹

This system is set to be made available to all 14 sheriff's departments and up to 28 police departments in the future.

Because a system like this has never been deployed by local police departments, there are many questions relating to how its use may impact individual rights. Our purpose in writing is to obtain basic information about the funding for this project, the

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databases that will be used for purposes of comparison and the retention and sharing of captured images and scans.

Documents requested:

1. 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 requests for proposals, grant applications and grant approval documents.
2. A copy of any contract between BI² Technologies and the City of Brockton or the Brockton Police Department.
3. Any document that includes a description of the databases to which the MORIS system will have access.
4. 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.
5. Any documents including technical descriptions or technical specifications of 2D - 3D facial recognition technology which will be used, including any.
6. Any document that describes the number of iPhones purchased by the City of Brockton for use by police officers, the cost of these phones, and the contract with the cellular service and web provider. Any document describing the allowed purposes for which the issued iPhones may be used.

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

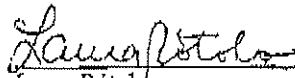
the redacted portions. As you know, a custodian of public records shall comply with a request within ten days after receipt.

We have made a similar request for records to the Massachusetts Sheriff's Association and the County of Plymouth.

Please reply to this request to by contacting Laura Rótolo at (617) 482-3170 x311 or through email at lrótolo@aclum.org.

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

Sincerely,



Laura Rótolo
ACLUM Staff Attorney



Biometric Intelligence & Identification Technologies

Identify them by the Band, or by Ear.

Sean Mullin
President & CEO

488 State Road
Plymouth, MA 02360
Phone: 508-224-1600 ext. 303
Fax: 508-224-1603
E-mail: smullin@bi2technologies.com





Police Department
7 Commercial Street
City of Brockton, Massachusetts 02302-2702

TELEPHONE (508) 941-0200

Law Department
City of Brockton

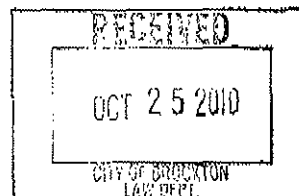
10/22/2010

The attached documents reflect a request for document disclosure, please advise me as to how you would like our office to proceed. Please note that the requesting party has likewise requested all fees be waived. Thank you for your attention to this matter. I received this request on 10/22/2010.

A handwritten signature in black ink, appearing to read "T. Stanton", written over a horizontal line.

Sgt. Timothy Stanton

Brockton Police Department
Internal Affairs Div.





City of Brockton

Law Department

LINDA M. BALZOTTI
MAYOR

PHILIP C. NESSRALLA, JR.
CITY SOLICITOR

TO: SGT. TIMOTHY STANTON
BROCKTON POLICE DEPARTMENT

KATHERINE M. FEODOROFF
GILBERT J. SCHIPANI
CAITLIN E. LEACH
ASSISTANT CITY SOLICITORS

FROM: CAITLIN LEACH
LAW DEPARTMENT

PATRICIA A. FLORIO
PARALEGAL
MARY T. MILLIGAN
WORKER'S COMPENSATION AGENT
(508) 580-7821

DATE: NOVEMBER 2, 2010

RE: **ACLU RECORDS REQUEST**
MORIS SYSTEM

Dear Sgt. Stanton,

I believe that the above-referenced request is identical to a request received earlier this year. The Sheriff's Department was supposed to have responded for both their department and the Brockton Police Department. I have attached a copy of the request received by them, as well as their response.

If a separate response is required, without a copy of those documents that are responsive to the request, I am unable to make an accurate determination as to whether or not any of the documents requested are exempt from disclosure. If you would like me to review the responsive records for exemptions, please complete the request and send the documents to the Law Department for review.

Please do not hesitate to contact me directly with any questions or concerns.

Kindest Regards

Caitlin Leach
Assistant City Solicitor



The Commonwealth of Massachusetts

County of Plymouth

Sheriff's Department

24 Long Pond Road

Plymouth, MA 02360

Telephone: (508) 830-6200

Fax: (508) 830-6516

www.pcsdma.org



June 30, 2010

Joseph D. McDonald, Jr.
Sheriff

Laura Rotolo, Esq.
ACLU Foundation of Massachusetts
211 Congress Street
Boston, MA 02110

Gerald C. Pudolsky
Special Sheriff

Accredited by



National Commission on
Correctional Health Care

RE- Public Records Request

Dear Ms. Rotolo:

The Department has reviewed your public records request dated June 17, 2010, and makes the following response:

1. The Department has no such documents in its possession, custody, or control;
2. Please see attached contract.
- 3-5. The Department has no such documents within its possession, custody, or control.

You have the right to appeal this determination to the supervisor of public records, pursuant to 950 C.M.R. 32.00 and M.G.L. c. 66 §10.

Sincerely,

Patrick C. Lee
General Counsel



6-16-09-

NO NEED FOR

LEGAL APPROVAL

PER

J. Finnerty

ANNUAL MAINTENANCE AGREEMENT AND TERMS AND CONDITIONS FOR IMATS™

SOFTWARE MAINTENANCE AND SUPPORT

All Software Maintenance and Support for IMATS™ is provided subject to the following Standard Terms and Conditions. These provisions set forth are only obligations of BI2 TECHNOLOGIES regarding IMATS™ Software Maintenance and Support. For purposes of this Agreement, "PCSD" shall refer to the Plymouth County Sheriff's Department IMATS™ Maintenance and Support hereunder.

I. BI2 TECHNOLOGIES IMATS SOFTWARE MAINTENANCE SERVICES

1. Unlimited use of BI2 TECHNOLOGIES' online and telephone support – Monday through Friday 9:00 AM to 5:00 PM eastern time, excluding national and state holidays, to receive technical assistance and/or general consultation with regard to IMATS™ software PCSD has licensed from BI2 TECHNOLOGIES and for which PCSD has elected to purchase Maintenance and Support (the "Covered Software").
2. BI2 TECHNOLOGIES will repair any material defect found in the programming code of the IMATS™ Software identified during the Maintenance and Support period at no cost to PCSD. IMPORTANT NOTE: BI2 TECHNOLOGIES, in its sole discretion, shall determine whether the programming code is materially defective.
3. As they become available, BI2 TECHNOLOGIES will make available, at no cost to PCSD, new versions, updates and/or enhancements to current versions of the IMATS™ Software. If new versions, updates and/or enhancements are determined to require more advanced or larger capacity equipment and/or third party software, such equipment and software compatibility shall be PCSD's sole responsibility.
4. As they become available, BI2 TECHNOLOGIES will make available updates and enhancements to existing documentation.
5. BI2 TECHNOLOGIES will take all reasonable steps to correct defects in the IMATS™ Software that are directly attributable to programming if BI2 TECHNOLOGIES, in its sole discretion, recognizes them as having a materially detrimental effect on the performance of the IMATS™ Software.

II. CHARGES

1. The Annual Maintenance period for Plymouth County begins on March 1st for each annual period.

2. The Initial Annual Maintenance fee is based upon an eighteen (18%) of the purchase price of the IMATS™ Software. The cost to PCSD for the first annual period is \$10,800. Renewal fees are calculated annually for a one (1) year period and may be subject to an inflationary adjustment defined at the time of renewal. If an increase is anticipated, BIZ TECHNOLOGIES must notify PCSD, in writing, at least sixty (60) days in advance of any proposed increase in the annual Maintenance Fee.
3. Annual Maintenance Fees are payable in advance. Failure to give at least thirty (30) days notice of intention not to renew the Maintenance contract will result in automatic renewal and PCSD will be liable for an additional year's charges.
4. Charges do not include charges related to third party software programs, which may be required to run the IMATS™ Software. PCSD may be required to pay separately for any upgrades in such third party program.

III. EXCLUSIONS FROM BIZ TECHNOLOGIES SOFTWARE MAINTENANCE SERVICE

The following is expressly excluded from the terms of this Agreement:

Provision, installation and/or support of new versions and/or enhancements to current versions of non-BIZ TECHNOLOGIES software. Non-BIZ TECHNOLOGIES software includes, but shall not be limited to, operating system software, word processing, spreadsheet, reporting and/or database software.

Upgrading any hardware and memory on the system on which PCSD's uses the IMATS™ Software.

If PCSD is using BIZ TECHNOLOGIES products that require a common database, PCSD must remain current on Maintenance for all products for as long as the IMATS™ Software is in use in order to assure the integrity of PCSD's IMATS™ Software. Cancellation of Maintenance on any one system may cause incompatibilities with related products, and performance of all IMATS™ Software could be adversely affected.

Repair of the IMATS™ Software if BIZ TECHNOLOGIES determines the failure is related to:

- (a) the equipment or supplies PCSD are using;
- (b) misuse or neglect of the IMATS™ Software;
- (c) anyone other than a member of BIZ TECHNOLOGIES 's staff making any alteration to the Covered Software or to the system files which may affect the IMATS™;
- (d) environmental conditions, including, but not limited to, insufficient, excessive, or irregular electrical power, failure of air conditioning, excessive heat or humidity, flood, water, wind or lightning;
- (e) use of the IMATS™ Software for purposes other than those for which it was expressly designed; and/or; and/or,

- (f) the relocation or reinstallation of the IMATS™ Software.

BIZ TECHNOLOGIES reserves the right to charge additional support fees at its then standard rates for services performed in connection with reported incidents that are later determined to have been due to hardware or software not supplied by BIZ TECHNOLOGIES. Notwithstanding the foregoing, BIZ TECHNOLOGIES has no obligation to perform support services in connection with issues resulting from hardware or software not supplied by BIZ TECHNOLOGIES.

IV. SOFTWARE MODIFICATIONS

Any modifications that PCSD makes to the IMATS™ Software, including any modifications to any third party licensed software included with or embedded in the Software, will render any Maintenance or Warranty obligations contained in this Agreement null and void. BIZ TECHNOLOGIES will not be liable, in any respect, for any such modifications or any errors, losses or damage resulting from such modifications. BIZ TECHNOLOGIES has no other responsibilities with respect to Maintenance other than those specified in this Section and will not be responsible for maintaining other than the most current, unaltered release of the Software.

V. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY

NO WARRANTIES: BIZ TECHNOLOGIES DOES NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS OBTAINED BY PCSD IN USING THE SOFTWARE, THAT THE SOFTWARE WILL MEET PCSD'S REQUIREMENTS, OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. THE SOFTWARE IS LICENSED "AS IS" AND THE MAINTENANCE SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. BIZ TECHNOLOGIES EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE AND SERVICES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

LIMITATION OF LIABILITY. IN NO EVENT WILL BIZ TECHNOLOGIES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUE, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST TO COVER OR OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE DELIVERY OF MAINTENANCE SERVICES OR ANY DELAY IN DELIVERY OF THE MAINTENANCE SERVICES. BIZ TECHNOLOGIES'S MAXIMUM AGGREGATE LIABILITY (WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER FORM OF LIABILITY) FOR DAMAGES OR LOSS, HOWSOEVER ARISING OR CAUSED, SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY PCSD FOR THE RELEVANT MAINTENANCE SERVICES GIVING RISE TO THE LIABILITY.

VI. GENERAL

1. Delivery of any Maintenance service to PCSD by BIZ TECHNOLOGIES is subject to conditions beyond the control of BIZ TECHNOLOGIES or its agents, including but not limited to, Acts of God, acts of any public enemy, fire, flood, epidemic or quarantine restrictions, strikes, riots or civil commotion, freight or other

embargoes, weather conditions or any failures by BIZ TECHNOLOGIES 's subcontractors or suppliers.

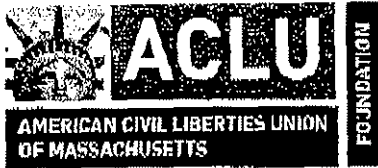
2. BIZ TECHNOLOGIES will provide PCSD with an electronic version copy of the source code for the IMATS™ software currently operating at PCSD. BIZ TECHNOLOGIES will provide the source code initially, and within a reasonable period of time following any major revision or release to the source code has been completed. It is understood and agreed by PCSD that this source code is for PCSD's use only. PCSD may not transfer, give, sub-license, sell, rent, lend or lease any portion of the IMATS™ Software. PCSD may not translate or create derivative works based on the IMATS™ Software. PCSD may, however, use the source code in its internal operations as its deems appropriate.
3. PCSD may cancel maintenance by giving notice at least 30 days notice in advance of the annual period renewal date. Cancellations will become effective on the renewal date. No credit will be given for partial Maintenance periods.
4. If PCSD allows PCSD's Maintenance coverage to lapse, PCSD may purchase telephone and/or email support for currently supported software versions of IMATS™ on an as-needed basis.
5. Telephone and/or email support is billed at \$200 per hour, with a minimum charge of one hour. After the first hour, support is billed in 15-minute increments of \$50.00 each. Software updates and access to the Support web site are not available without Maintenance.
6. Reinstatement of lapsed Maintenance will require full payment of Maintenance fees that would have been due from the expiration of the last active Maintenance period through the reinstatement date, plus a 15% administrative surcharge. Payment of the applicable amount for the current Maintenance period will be due upon reinstatement. This reinstatement policy applies if Maintenance has been cancelled or there is otherwise a lapse in Maintenance coverage, such as for nonpayment of fees. Upon reinstatement, PCSD will receive the latest version of the IMATS™ software.
7. The laws of the Commonwealth of Massachusetts shall govern all provisions of this agreement.

For the Plymouth County Sheriff's Office: John Finnerty, Director of Administration and Finance

Name and Title	Date:
	01/14/09
Signature	Date:

For BIZ TECHNOLOGIES Technologies: Sean G. Mullin, President

Name and Title	Date:
	February 25, 2009
Signature	Date:



Patty - #ybl
Sheriff McDonald called to say that he'll respond to this for everyone who received a request, & he'll send the Chief a copy of his response

Jim

June 17, 2010

Chief William K. Conlon
Brockton Police Department
7 Commercial Street
Brockton, MA 02302

Dear Chief Conlon:

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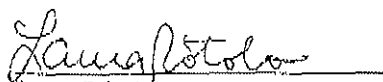
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Thank you for your assistance. We look forward to your response.

Sincerely,



Laura Rótolo
ACLUM Staff Attorney