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SECRETARY

COLONEL RICHARD D. MCKEON
SUPERINTENDENT

The Commonwealth of Massachusetts

Department of State Police

Office of the Chief Legal Counsel

470 Worcester Road

Framingham, Massachusetts 01702

February 16, 2017

Ms. Kade Crockford
ACLU
211 Congress Street
Boston, MA 02110

RE: OCTOBER 18, 2016 RECORDS REQUEST (REVISED REQUEST JANUARY 10, 2017)

Dear Ms. Crockford:

In response to the above referenced request(s), enclosed please find portions of the 2005 Memorandum of Understanding ("MOU") between the Massachusetts State Police ("Department") and the Registry of Motor Vehicles ("RMV"). You should be aware that the RMV maintains the facial recognition software. Therefore, the Department does not maintain any documents responsive to items (1) or (3) as contained in your October 18, 2016 request or items (2), (3) or (4) as contained in your January 10, 2017 request.

Regarding the MOU at issue, please note that a paragraph within the facial recognition technology section has been redacted pursuant to G.L. c 4, sec. 7, cl 26(f) (investigative exemption). This portion of the MOU pertains to investigative techniques and is therefore exempt from public disclosure because disclosure would be prejudicial to effective law enforcement.

Additionally, in reference to item (5) as contained in your January 10, 2017 request, please find a copy of Superintendent's Memo #08-SM-07 entitled "Revised Access to Facial Recognition System along with SP Form 627 entitled "Facial Recognition Request Form." Both documents have redacted portions pursuant to G.L. c 4, sec. 7, cl 26(f).

In reference to item (6) contained in your January 10, 2017 request, the only responsive records that exist are requests directly related to FBI criminal investigations. It is estimated that the search and redaction process to produce these records would take between 6-8 hours for the Department. However, please note that as these records concern federal criminal investigations, the Department

Excellence In Service Through Quality Policing

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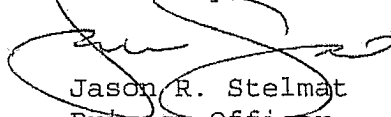
would be required to consult with the FBI in order to determine what material would require redaction so as not to jeopardize ongoing investigations, hinder effective law enforcement, or pose a risk to public safety. Please let us know if you would like the Department to commence this compilation and consulting process and we will draft a good faith estimate for the cost of production prior to commencing a formal search.

Finally, in reference to item (7) contained in your January 10, 2017 request, the request, as written, is overly broad as no specific subject matter is included. There are at least (7) employees within the Compliance Unit that are likely to have communicated with the RMV for various reasons in the stated timeframe. We would not be able to guarantee there are no responsive records among them without searching every email account. Furthermore, each account would have to be searched individually because there is no centralized mechanism for searches of this nature. As such, the amount of responsive information is not quantifiable and the Department is unable to effectively generate a cost estimate to produce the item(s) requested. If you are able to clarify and/or narrow your request, please provide that information so that the Department can respond appropriately.

If you wish to challenge any aspect of this response, you may appeal to the Supervisor of Public Records following the procedure set forth in 950 C.M.R. 32.08, a copy of which is available at <http://www.mass.gov/courts/case-legal-res/law-lib/laws-by-source/cmr/>. You may also file a civil action in accordance with M.G.L. c. 66, § 10A.

Your attention to this matter is greatly appreciated.

Sincerely,



Jason R. Stelmat
Privacy Officer
Commonwealth Fusion Center
(978) 451-3752

MEMORANDUM OF AGREEMENT
RELATING TO HOMELAND SECURITY AND CRIMINAL
INVESTIGATIVE EFFORTS RELATED TO MOTOR VEHICLE FUNCTIONS

AGREEMENT made as of this 16th day of June, 2005, by and between THE DEPARTMENT OF THE STATE POLICE (hereinafter "the State Police"), an agency of the Commonwealth of Massachusetts, pursuant to Chapter 22C of the General Laws, having a usual place of business at 470 Worcester Road, Framingham, MA 01702, and THE REGISTRY OF MOTOR VEHICLES (hereinafter "the RMV"), also an agency of the Commonwealth of Massachusetts, pursuant to Chapter 16, section 9, of the General Laws, having a usual place of business at One Copley Place, Boston, MA 02116

WHEREAS: The State Police is a state law enforcement agency authorized by the laws of the Commonwealth to provide for the safety of the public and homeland security for the Commonwealth; and

WHEREAS: The State Police pursuant to Chapter 412 of the Acts of 1991 are the police agency for the RMV; and

WHEREAS: The RMV is the state agency authorized by law to issue driver's licenses, permits and other identification documents to citizens of the Commonwealth; and

WHEREAS: In November 2004, the RMV implemented a new RMV license which will be extremely difficult to counterfeit for the purpose of preventing fraudulent identification from getting into the hands of terrorists and other criminals.

WHEREAS: A cooperative and focused effort put forth by members of the Executive Office of Public Safety, Registry of Motor Vehicles and Department of State Police resulted in the creation of this new license.

WHEREAS: The State Police and the RMV seek to address homeland security issues highlighted by the 9/11 attacks that relate to driver's license issuance, administration, and authenticity.

WHEREAS: The State Police and the RMV seek to detect and apprehend terrorists and others who use the driver's license for criminal purposes.

WHEREAS: The State Police and the RMV, with the support of the respective Secretariats, the Executive Office of Public Safety (hereinafter "the EOPS") and the Executive Office of Transportation (hereinafter "the EOT"), do hereby declare that homeland security dictates the necessity of coordination and cooperation between the State Police and the RMV.

NOW, THEREFORE, WITNESSETH that the State Police and the RMV, for and in full consideration of keeping and performing the mutual covenants and conditions hereinafter stated, do hereby agree as follows:

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Non-responsive material



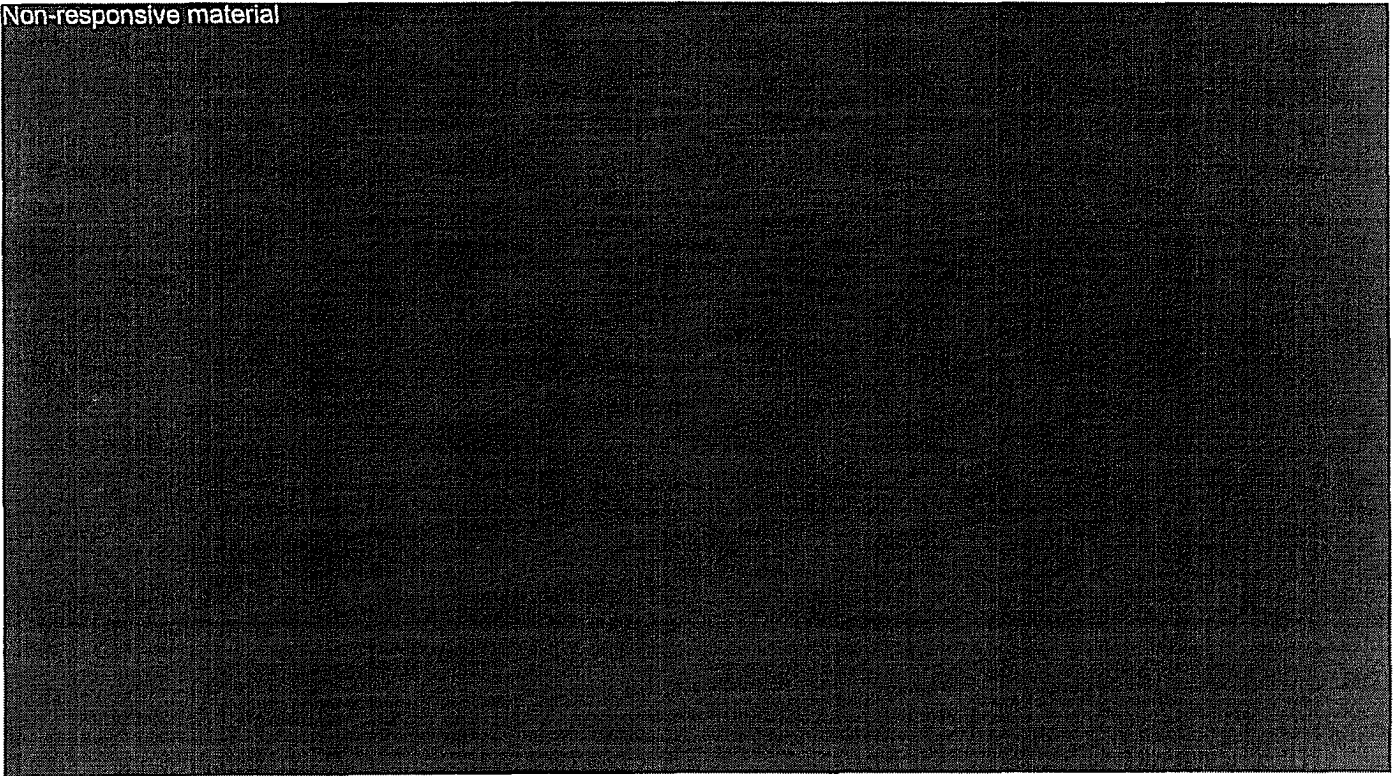
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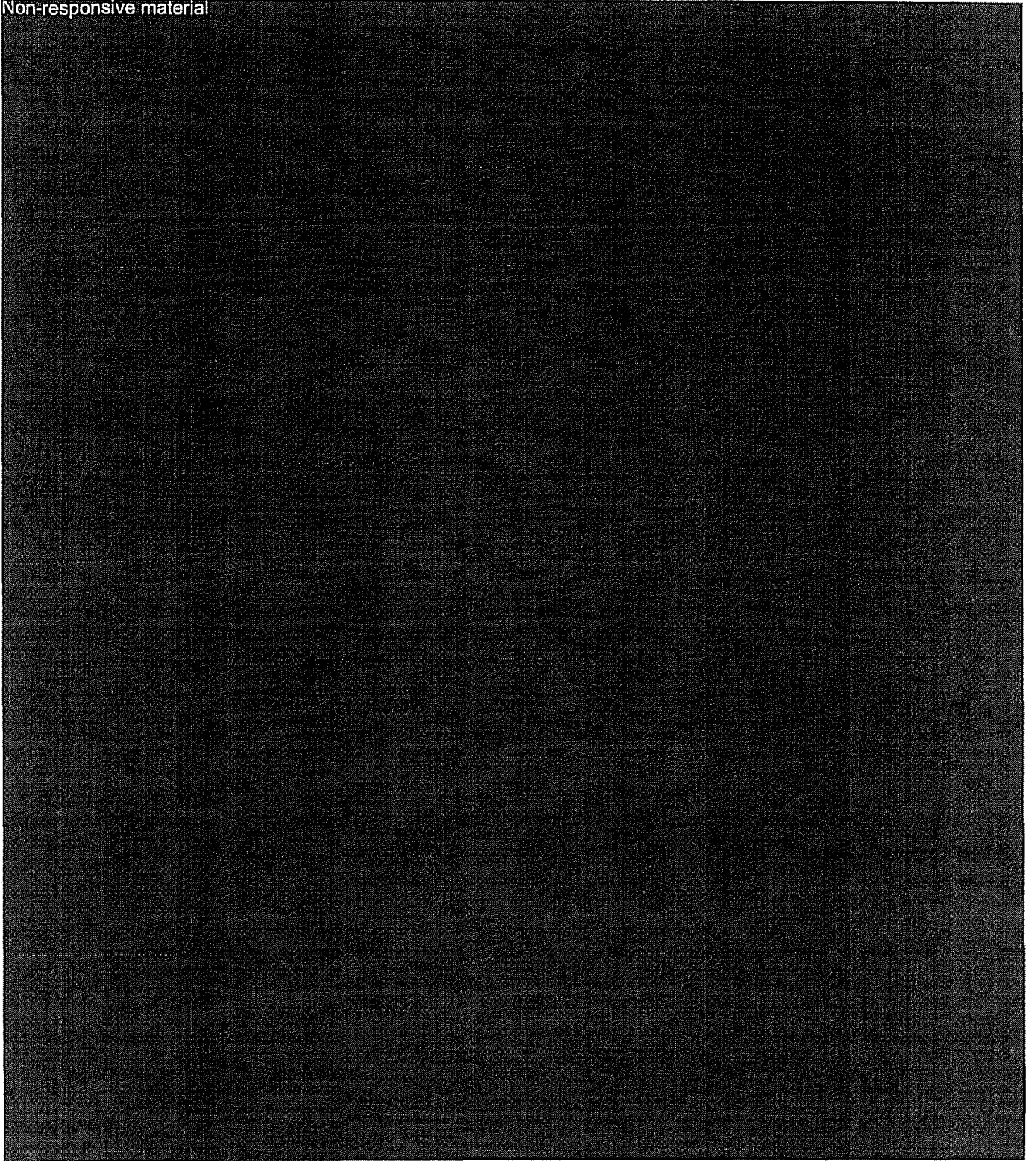
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G. Facial Recognition

1. The RMV shall implement a facial recognition system for driver's licenses and other RMV issued identification. The RMV shall run the facial recognition program to ascertain individuals with multiple driver's licenses and other RMV issued identification. The RMV shall make best efforts to procure funding so that a database scrub can be done as quickly as feasible. As soon as such funding is procured, the RMV shall work with the MSP to identify a manageable "scrub" protocol that will review the entire license image database, starting with priority licenses. The RMV shall make best efforts to explore all available funding sources within the Executive Office of Public Safety, the Executive Office of Transportation and by state and federal grants so that the entire license image database is scrubbed as quickly as possible after the start date of the vendor's contract.
2. The RMV shall run every applicant and renewal through the facial recognition program .
3. The MSP Compliance Unit shall be immediately and directly notified of any individual with multiple driver's licenses and/or other RMV issued identification.
4. C.L. c. 4 §7 cl. 26(f)(investigatory/witness exemption)
5. The MSP Compliance Unit shall investigate all individuals with multiple driver's licenses and/or other RMV issued identification and shall inform the Registrar or the Registrar's designee of the results of these investigations in order for the RMV to take the appropriate administrative actions.

Non-responsive material

Non-responsive material



Non-responsive material



J. This Agreement shall be effective upon the date of final signatures and will remain in effect unless modified by mutual written agreement or terminated at the proposal of either party, with the written approval by both the Secretary of Public Safety and the Secretary of the Executive Office of Transportation, provided however, that after one year from the effective date, the two Secretaries may review the MOU to determine whether it is necessary. If they determine it is not necessary, they can terminate this MOU at that time by a mutually executed written document stating as such. Any proposed amendments to this agreement shall require prior written approval by both the Secretaries of the Executive Office of Public Safety and of the Executive Office of Transportation.

K. If any part of this Agreement is determined to be invalid, illegal, or unenforceable, such determination shall not affect the validity, legality, or enforceability of any other part of this Agreement, and the remaining parts of this Agreement shall be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

L. Whenever, by the terms of this instrument, notices may or are to be given either to the other, such notices shall be deemed to have been given if in writing and either delivered by hand or by United States mail, to the State Police, to:

Office of the Superintendent
Department of the State Police
470 Worcester Road
Framingham, MA 01702
cc: Office of the Chief Legal Counsel

and to the RMV to:

Office of the Registrar
Registry of Motor Vehicles
One Copley Place
Boston, MA 02116
cc: Office of the Registry Liaison to the MSP


or to such other address or addresses as may be specified by either party to the other by like notice.

M. Modifications or amendments to this Agreement shall be in writing and duly executed by both parties to be effective.

N. The rights, liabilities, agreements and obligations herein granted and set forth shall inure to the benefit of and be binding upon the successors, assigns, agents, representatives, and transferees of the Commonwealth of Massachusetts, as applicable, and shall inure to the benefit of and be binding upon the successors, assigns, agents, representatives, and transferees, as applicable, and upon all other persons claiming by, through or under the Commonwealth of Massachusetts.

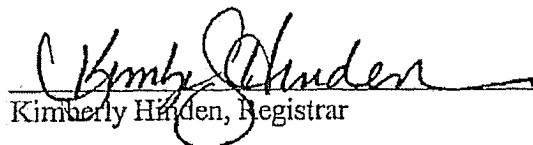
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals under seal as of this 16th day of June, 2005.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE STATE POLICE



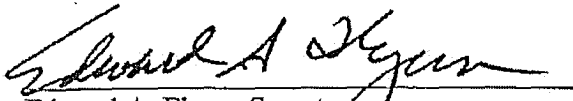
Thomas G. Robbins, Colonel

COMMONWEALTH OF MASSACHUSETTS
REGISTRY OF MOTOR VEHICLES

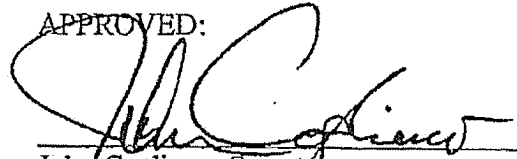


Kimberly Hayden, Registrar

APPROVED:


Edward A. Flynn, Secretary
Executive Office of Public Safety

APPROVED:


John Cogliano, Secretary
Executive Office of Transportation



Department of State Police Superintendent's Memo

Effective Date February 21, 2008	Number 08-SM-07
Subject Revised Access to Facial Recognition System	

The Registry of Motor Vehicles has revised the e-mail address that Law Enforcement Agencies may utilize to send requests to have an image run through the Facial Recognition System. The e-mail address is:

[REDACTED]

Requests shall include name, rank, ID #, current station or duty assignment and a call back number. As before, only requests received from official, department assigned e-mail addresses will be accepted. (Requests being made via personal e-mail accounts will not be accepted or answered.)

After the Facial Recognition Team has determined if there is a hit on the subject, the sender will be contacted by telephone with the results. The sender will then be directed to CJIS Web so the image of the subject can be viewed or compared with multiple images. If the sender is still uncertain regarding the results, they may come to the Facial Recognition office at [REDACTED] [REDACTED] to compare the hard copies of the images. For court purposes, it may be preferable to have the hard copies. Due to privacy issues, requests to send the results over the internet will not be accepted.

The existing ideal image parameters should be followed when sending images to be run through the system:

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

All inquiries must be related to an ongoing criminal investigation. In addition, officers may want to utilize SP 627, the Facial Recognition Request Form as part of their investigation. In cases of emergencies only officers may call [REDACTED]

OFFICIAL:

**Mark F. Delaney
Colonel / Superintendent**



Facial Recognition Request Form

Directions:

- 1) Fill out all information as completely as possible.
- 2) Fax completed form to [REDACTED]

Date: _____ Case #: _____

Requesting Agency: _____

Requestors Name: _____

ID #: _____ Phone #: _____ Fax #: _____

Official E-mail Address: _____

Probe Information:

License #: _____ SS #: _____

Last Name: _____ First Name: _____

Notes: _____

Contact the [REDACTED] upon completion of case for license(s) revocation, flagging, and activity hold placement on record(s).

[REDACTED]

Date of search: _____ Performed by: _____

Record Flagged Record Released FR Notes added