



August 26, 2021

Sent via email

Paul Demakis
Records Access Officer
Department of Unemployment Assistance
Paul.Demakis@detma.org

Re: Public Records Request Pertaining To The Use Of Automated Tools for Unemployment Insurance Identity Verification

Dear Mr. Demakis,

This is a request under the Massachusetts Public Records Law, G.L. c. 66, § 10, made on behalf of the American Civil Liberties Union of Massachusetts (“ACLU”).

Faced with skyrocketing unemployment claims and a change in unemployment insurance allowing self-employed and “gig” workers to obtain pandemic related jobless benefits, states across the country have adopted new technology in an attempt to prevent fraudulent unemployment claims. As Data and Society reports, numerous states recently began using automated tools that include facial recognition¹ and other technologies to verify identity for unemployment insurance purposes.²

These tools are primarily sold by a company called ID.me, and more than 20 states have already begun using them.³ ID.me is also used by federal agencies like the US Department of Veterans’ Affairs, Social Security Administration and Treasury.⁴

The Commonwealth of Massachusetts is among those states.⁵ Here, the Massachusetts Department of Unemployment Assistance (“DUA”) announced new security measures to speed up identity

¹ Throughout this request, “facial recognition” means the automated or semi-automated process by which a person is identified or attempted to be identified based on the characteristics of his or her face.

² Michele Gilman & Mary Madden, Data and Society, Digital Barriers To Economic Justice In The Wage Of COVID-19, Apr. 2021. <https://datasociety.net/wp-content/uploads/2021/04/Digital-Barriers-to-Economic-Justice-in-the-Wake-of-COVID-19.pdf>

³ Gershgorn, Dave, 21 States Are Now Vetting Unemployment Claims With A ‘Risky’ Facial Recognition System, Feb. 2021. <https://onezero.medium.com/21-states-are-now-vetting-unemployment-claims-with-a-risky-facial-recognition-system-85c9ad882b60>.

⁴ ID.me Press Release, ID.me Enables States to Verify Over 200,000 Identities and Unlock \$1.2B in Unemployment Claims, Oct. 2020. <https://www.prnewswire.com/news-releases/idme-enables-states-to-verify-over-200-000-identities-and-unlock-1-2b-in-unemployment-claims-301157803.html>

⁵ Alessandro Mascellino, ITRC Urges Biometrics To Facilitate US Unemployment Benefits Claims, As ID.Me Chosen By Massachusetts, Biometric Update, March 2021. <https://www.biometricupdate.com/202103/itrc-urges-biometrics-to-facilitate-us-unemployment-benefits-claims-as-id-me-chosen-by-massachusetts>



verification and address what it says is a “continued surge of fraudulent claim attempts.”⁶ The department is contracting with ID.me to “implement solutions designed to reduce wait times on identity verification issues for unemployment claimants.” Government officials also claim that they will implement “additional multi-factor authentication measures within the online system that it says should help reduce the risk of fraud and cybersecurity attacks.”

The ACLU has significant concerns about the use of these technologies in Massachusetts. We therefore seek records⁷ pertaining to the use of these tools and the relationship between DUA and ID.me or any other vendor providing technology for unemployment insurance identity verification.

Records requested

This request includes but is not limited to the following records created on or after January 1, 2020:

1. All communications, including text messages and emails, between or among any staff member or representative of the DUA and any representative of any company that manufactures or sells any automated tools (including but not limited to those tools that use facial recognition) for unemployment insurance identity verification, including but not limited to ID.me;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any automated tools (including but not limited to those tools that use facial recognition) for unemployment insurance identity verification, including but not limited to ID.me;
3. Records pertaining to any existing or potential relationship between the DUA and any company that manufactures or sells automated tools (including but not limited to those tools that use facial recognition) for unemployment insurance identity verification, including but not limited to ID.me. These records include but are not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, and other contracts;
4. Records pertaining to the operational effectiveness, reliability, accuracy rate, or performance for persons of different races, gender or any other protected characteristics of any automated tool for unemployment insurance identity verification, including but not limited to those tools that use facial recognition. These records include but are not limited to emails, handouts, PowerPoint presentations, advertisements, audits, tests, and specification documents;

⁶ Massachusetts Launching ID Verification Process For Some Unemployment Claims, WCVB, March 2021. <https://www.wcvb.com/article/massachusetts-launching-id-verification-process-for-some-unemployment-claims/35734145>

⁷ Throughout this request, the term “records” includes but is not limited to any paper or electronic information, reports, evaluations, memoranda, correspondence, letters, emails, charts, graphs, flyers, meeting agendas, meeting minutes, training materials, diagrams, forms, DVDs, tapes, CDs, notes, or other similar materials.



5. Records pertaining to accessibility for people with disabilities of any automated tool for unemployment insurance identity verification used by the DUA, including but not limited to those tools that use facial recognition, including but not limited to ID.me. These records include but are not limited to emails, handouts, PowerPoint presentations, advertisements, audits, tests, and specification documents;
6. Records reflecting system requirements for accuracy rates or false acceptance rates of any automated tool for unemployment insurance identity verification, including but not limited to those tools that use facial recognition;
7. Records pertaining to sharing of or granting access to any face images or prints or other documents or individualized information maintained by state or local agencies to any company that manufactures or sells automated tools (including but not limited to those tools that use facial recognition) for unemployment insurance identity verification, including but not limited to ID.me;
8. Training materials pertaining to automated tools for unemployment insurance identity verification purposes, including but not limited to those that use facial recognition;
9. Policies, procedures, guidance documents, legal memoranda or other similar documents pertaining to the use of automated tools for unemployment insurance identity verification, including but not limited to those that use facial recognition and the data they produce;
10. Manuals, guidelines, outlines, and similar records pertaining to how automated tools for unemployment insurance identity verification work, including but not limited to those tools that use facial recognition;
11. Records describing grievance or redress procedures available for people who are refused verification through ID.me;
12. Any/all records related to grievances, complaints, or other redress filed related to ID.me, including any complaints, grievances, or other redress filed, any correspondence returned to the complainant, and any synopsis, reports, plans, or quality improvement documents developed based on a review of complaints.
13. Records showing availability of Trusted Referees in languages other than English, including languages spoken, means of accessing Trusted Referees in languages other than English, number of Trusted Referees available in languages other than English, and wait times for accessing Trusted Referees in languages other than English;
14. Manuals, guidelines, outlines, and similar records pertaining to the type of evidence, if any, that the DUA must have before pausing an applicant's benefits and requiring them to verify their identity through ID.me;
15. Any records obtained by DUA regarding subcontractors of or licensors to ID.me, including but not limited to MOUs, purchase orders, RFPs, licensing agreements, invoices, non-disclosure agreements, project proposals, or other contracts.
16. Statistics pertaining to



- a. how automated tools for unemployment insurance identity verification, including but not limited to those that use facial recognition, are currently being used by DUA, disaggregated by race, age, gender, ethnicity, and zip code;
 - b. how many people have been wrongfully denied verification due to problems with ID.me and/or phone, internet, or computer access issues;
 - c. the number of claimants who were asked to use ID.me;
 - d. the number of claimants who used ID.me;
 - e. the number of claimants who successfully verified their identification via ID.me through its self-verification process without the assistance of a Trusted Referee;
 - f. the number of claimants who did not successfully verify their identification via ID.me through its self-verification process and verified their identification through the assistance of a Trusted Referee;
 - g. the number of claimants who did not successfully verify their identification with ID.me;
 - h. any statistics on the reasons that a claimant was unable to successfully verify their identity via ID.me through its self-verification process, disaggregated if available by race, age, gender, ethnicity and zip code, including the number of claimants who were unable to verify after being prompted to take and submit a selfie;
 - i. any statistics on wait times for Trusted Referee calls;
 - j. the number of identity verification issues resolved via ID.me;
 - k. the number of calls to DUA call centers regarding identity verification, regarding ID.me; and
 - l. the number of complaints, grievances or other redress filed regarding ID.me, disaggregated by all of the relevant categories, disaggregated by race, age, gender, ethnicity, and zip code.
17. Records describing how applicants may verify their identities without using the ID.me application, including the number of claimants who have done so and any delay in accessing benefits;
18. Records showing standard notices sent to claimants that they need to verify their identity for unemployment insurance through ID.me and/or describing the steps they must take to verify their identity, including in each language available; and
19. Records pertaining to any public process, meeting, or debate about any automated tools for unemployment insurance identity verification, including but not limited to those that use facial recognition. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

Please note that ACLU is not requesting any personally identifiable information or personal data pertaining to individuals applying for unemployment benefits. Instead, we are requesting public records containing information pertaining to the use of automated tools to verify their identity.



Because this request involves a matter of public concern and is made on behalf of a nonprofit organization, we ask that you waive any fees. ACLU 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, the ACLU of [STATE] is part of a nationwide network of advocates dedicated to defending and expanding the civil liberties of all.

If you decide not to waive fees, we request that you permit us to examine, at our election, the responsive documents before determining which portions to copy. We prefer the documents in electronic format.

If you believe that some portion of the documents requested are exempt from disclosure or require redaction, please release any reasonably segregable portions that are not exempt. Also, 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.

Finally, please remember that a request that requires the extraction of categories of information from an existing database does not impose burdens on public record holders that exceed what is required under the public records law.

If you have questions about this request, please contact me at 617.482.3170 extension 402 or efalcon@aclum.org.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Emiliano Falcon-Morano". The signature is written in a cursive style with a large initial "E" and "F".

Emiliano Falcon-Morano
Policy Counsel
Technology for Liberty Program
ACLU of Massachusetts