



# ***New Bedford Police Department***

## ***Central Records Bureau***

871 Rockdale Avenue, New Bedford, MA 02740  
Phone: 508-991-6300 x-79406 Fax: 508-979-1566

**JONATHAN F. MITCHELL**  
Mayor

**JOSEPH C. CORDEIRO**  
Chief of Police

**PAUL J. OLIVEIRA**  
Deputy Chief

March 2, 2020

Emiliano Falcon  
Policy Counsel  
Technology for Liberty Program  
ACLU of Massachusetts

*SENT VIA EMAIL TO: [efalcon@aclum.org](mailto:efalcon@aclum.org)*

Re: Request for Information

Dear Mr. Falcon,

This is in response to your recent email request to the New Bedford Police Department for records pursuant to the provisions of M.G.L. c. 66, section 10 (the "Public Records Law") dated February 14, 2020 and received by the Department on February 14, 2020.

In response to paragraphs 1 through 3 of your request the Department's MIS Division has conducted a preliminary query of the Department's records from January 1, 2019 to the date of this estimate using the search terms "Clearview," and "BriefCam" which yielded 698 responsive email records.

There are no documents responsive to paragraphs 4-7 of your request.

Before providing you with the responsive emails identified through the preliminary query, we will need to review them and make any redactions that are required by law. We anticipate that we may need to redact the following information:

- Victim and victim family information pursuant to M.G.L. Chapter 66, § 10B.
- Sex victim and rape report information pursuant to M.G.L. Chapter 265, § 24C and M.G.L. Chapter 41, § 97D,
- Domestic violence reports pursuant to M.G.L. Chapter 41, § 97D1.
- Juvenile Delinquency case information pursuant to M.G.L. Chapter 119, § 60A.
- Registry of Motor Vehicle information pursuant to the Driver's Privacy Protection Act, 18 U.S.C. § 2721.
- Criminal Offender Record Information pursuant to M.G.L. Chapter 6, § 167.

- Medical records pursuant to the HIPPA Privacy Rule, 45 C.F.R. § 164.502(a)(1).

We estimate that it will take 11.6 hours to review, redact, and reproduce the responsive emails. This estimate was calculated in the following manner:

We estimate that it will take one minute to review and redact each email. We arrived at this time estimate based on our recent experience in responding to a similar request where two employees reviewed 3,975 emails of another employee in connection with potential litigation and it took them an average of one minute to review each email.

*(Average of one minute to review each email based on recent experience responding to a similar request for emails) x (698 emails) = 698 minutes  
(698 minutes)/(60 minutes) = 11.6 hours*

The actual amount of time it will take the City to review, redact, and reproduce the responsive records might differ from this estimate.

The lowest paid employee capable of searching, compiling, segregating, redacting and producing the responsive records hourly rate exceeds \$25.00 per hour, however, the City will assess a fee of \$25.00 per hour for this task. We are therefore seeking payment of *(11.6 hours) x (\$25.00 per hour) or \$290.00*. As soon as payment is received, we will begin to process your request.

Municipalities may not assess a fee for the first two hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested unless the municipality has 20,000 people or less. In compiling the estimate provided herewith and conducting the preliminary email query the Department has provided more than two hours of time searching for the requested records at no cost to you.

You have the right to appeal this determination to the Supervisor of Records under 950 CMR 32.08(1) within 90 calendar days of this response. Any appeal shall be in writing and include a copy of your original request and this letter. By law, the Supervisor is required to respond within 10 business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court under G.L. c. 66, section 10A(c).

Very truly yours,



Officer Michael Boswell  
New Bedford Police Department  
Records Access Officer

February 14, 2020

Sent via email

New Bedford Department  
Records Access Officer

**Re: Public records request pertaining to facial recognition**

Dear Records Access Officer,

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 (“ACLUM”).

Clearview AI (“Clearview”), a facial recognition technology start-up, makes available to law enforcement a product that attempts to match photos of unknown people to images in a database.<sup>1</sup> Clearview AI’s database reportedly contains billions of pictures scraped from social media sites like Facebook, YouTube, and Venmo.<sup>2</sup> According to newspapers, Clearview AI markets this product to federal, state, and local law enforcement agencies.<sup>3</sup> This company is just one of many that market their facial recognition technology to government agencies.

ACLUM has significant concerns about the use of facial recognition in Massachusetts. We therefore seek records pertaining to Clearview AI and other facial recognition companies and products.

**Records requested**

This request includes but is not limited to the following records created on or after January 1, 2019:

1. All communications, including text messages and emails, between or among any staff member or representative of the police department and any representative of any company that manufactures or sells any facial recognition product, including but not limited to Clearview AI;
2. All internal communications, including text messages and emails, referencing any company that manufactures or sells any facial recognition product or service, including but not limited to Clearview AI;

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<sup>1</sup> See Clearview AI, available at <https://clearview.ai/>

<sup>2</sup> The Secretive Company That Might End Privacy as We Know It, Kashmir Hill, The New York Times, Jan. 18, 2020, available at <https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html>

<sup>3</sup> Florida Cops Use This Facial Recognition Tech That Could Be Pulling Your Pics, Allison Ross, Malena Carollo and Kathryn Varn, Tampa Bay Times, Feb. 11, 2020, available at <https://www.tampabay.com/florida-politics/buzz/2020/02/11/florida-cops-use-this-facial-recognition-tech-that-could-be-pulling-your-pics/>

3. Records evidencing or describing any existing or potential relationship between the police department and all companies that manufacture or sell any facial recognition product, including but not limited to Clearview AI. 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 referencing the operational effectiveness or accuracy rate of any of facial recognition service or product. These records include but are not limited to e-mails, handouts, PowerPoint presentations, advertisements, audits, and specification documents;
5. Training materials related to facial recognition products or services;
6. Policies and procedures pertaining to the use of facial recognition products or services, or the data they produce; and
7. Records relating to any public process, meeting, or debate about any facial recognition products or services. These include but are not limited to meeting agendas or minutes, public notices, analyses, and communications between the police department and elected officials.

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. 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, the ACLU of Massachusetts 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.

If you have questions about this request, please contact me at (617) 482-3170 x402 or [efalcon@aclum.org](mailto: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" with a stylized flourish and the number "7." below it.

**Emiliano Falcon**  
**Policy Counsel**  
**Technology for Liberty Program**  
**ACLU of Massachusetts**