



TOWN OF SHIRLEY POLICE DEPARTMENT

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LIEUTENANT ALFREDA CROMWELL
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Alfreda Cromwell

Lieutenant

Emiliano Falcon
Policy Counsel
Technology for Liberty Program
American Civil Liberties Union of Massachusetts
211 Congress Street, Boston, MA 02110

RE: Public records request pertaining to facial recognition dated [April 6, 2020]
Response of Records Access Officer

Mr. Falcon:

On April 7, 2020 we received your request pursuant to the Massachusetts Public Records Law for the following records:

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;
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.

With respect to your request, please be advised that this Department does not have possession, custody or control of the records requested. The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the Department at the time the request is received. As a result, there is no obligation for a Department to create a record for a requester to honor a request. See G.L. c. 4, section 7(26) (defining "public records" as materials which have already been "made or received" by a public entity); see also 32 Op. Att'y Gen. 157, 165 (May 18, 1977) (custodian is not obliged to create a record in response to a request for information); see also A Guide to the Massachusetts Public Records Law, Secretary of the Commonwealth, Division of Public Records, p. 7 (January 2013) (hereinafter Public Records Guide). As a result, the Department is unable to respond to your request.

Thank you,

A handwritten signature in blue ink, appearing to read 'Alfreda Cromwell', is written over the typed name.

Alfreda Cromwell
Lieutenant
Records Access Officer