ACLU
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Massachusetts

July 16, 2018

Sent via U.S. Mail

Public Records Officer
Massachusetts Bay Transit Authority Police Department
240 Southampton Street
Boston, MA 02118

Re: Public records request related to the use of facial-recognition products or services

To whom it may concern:

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

The ACLU seeks records[1] relating to the MBTA Transit Police Department's plans for, acquisition of, and/or use of facial-recognition[2] technology, including but not limited to products and services like Amazon Rekognition, Microsoft Face API, or NEC NeoFace.

Records requested

The ACLU requests all such records created on or after January 1, 2016, including but not limited to:

1. Communications between any representative of the MBTA Transit Police Department and any representative of any vendor offering any facial-recognition product or service.
2. Internal communications between representatives or employees of the MBTA Transit Police Department relating to any facial-recognition product or service.
3. Documents relating to the MBTA Transit Police Department's purchasing or use of facial recognition, including but not limited to: purchase orders, RFPs, licensing agreements, invoices, and contracts (including non-disclosure agreements) related to any facial-recognition product or service.

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[1] 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.

[2] In this letter, "**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.

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4. Materials relating to how any facial-recognition product or service functions (or functions improperly), including e-mails, handouts, PowerPoint presentations, advertisements, or specification documents.
5. Manuals, policies, procedures, and practices governing the use or monitoring of a facial-recognition product or service or related information or databases. This request includes, but is not limited to:
    a. Procedures for using, deleting, or retaining photos of subjects to be identified;
    b. Materials identifying any sources of such photos, such as mobile devices, body cameras, surveillance videos, identification photos, or arrest photos;
    c. Policies or procedures relating to the legal standard, if any, (e.g., probable cause, court order, relevance, consent) that is required before using any facial-recognition product or service.
    d. Procedures the agency follows after a positive match, such as requiring independent or in-person verification;
    e. Permitted uses of the information created from a positive match.
6. Training materials related to any facial-recognition product or service by employees of the MBTA Transit Police Department.
7. Records relating to any mobile application related to any facial-recognition product or service.
8. Records relating to any public process or debate about any facial-recognition product or service, including meeting agendas or minutes, public notice, analyses, or communications between the MBTA Transit Police Department and elected leaders or county officials.

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 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 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 deciding which portions to copy. We would prefer the documents in electronic format.

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.

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If you have questions about this request, please contact me at (617) 482-3170 x346 or kcrockford@aclum.org.

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

Sincerely,

Kade Crockford
Director
Technology for Liberty Program
ACLU of Massachusetts