



February 20, 2019

Sent via email to MassDOT.RAO@state.ma.us

William J. Doyle
Records Access Officer
Massachusetts Department of Transportation
Commonwealth of Massachusetts

Re: Public records request related to the use of facial-recognition searches

Dear Mr. Doyle,

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 records¹ relating to the Massachusetts Department of Transportation’s (“MassDOT”) use of facial-recognition² technology, including but not limited to records related to facial-recognition searches performed by the Registry of Motor Vehicles (“RMV”) and the RMV’s Enforcement Services division.

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 MassDOT and any representative of any vendor offering any facial-recognition product or service.
2. Internal communications between representatives or employees of MassDOT relating to any facial-recognition product or service.
3. Documents relating to MassDOT’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.

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.

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 used by employees of MassDOT.
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 MassDOT and elected leaders or county officials.
9. Any record containing the number of people flagged by any facial-recognition product or service as fraudulent or possibly fraudulent license applicants.
10. Any record containing the number of people flagged by any facial-recognition product or service as fraudulent or possibly fraudulent license applicants who appealed that determination, and were found to have not committed fraud.
11. All records containing information about the accuracy rates of any facial-recognition product or service in use by MassDOT.
12. All records containing information about the accuracy rates by gender, race, or other demographic characteristic of any facial-recognition product or service in use by MassDOT.
13. All internal audit reports or other documents produced subsequent to reviews of MassDOT's use of facial-recognition products or services.
14. Any document describing incidents of misuse or abuse of any facial-recognition product or service.
15. Any records documenting each instance in which the RMV drivers license database has been searched or examined using facial-recognition technology by the Massachusetts State Police or on behalf of any law enforcement entity. Please include records showing

how many times these searches or examinations were performed on behalf of each agency, and if possible, the documented reason for the search or examination.

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.

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

