

February 20, 2019 Requests

**1. Communications between any representative of MassDOT and any representative of any vendor offering any facial-recognition product or service.**

We have agreed to work cooperatively on creating reasonable search terms for this request and discussing the issue again on Friday, August 16, at the latest.

**2. Internal communications between representatives or employees of MassDOT relating to any facial-recognition product or service.**

See no. 1.

**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;**

We have provided the following documents:

- RFR for Driver's License and ID Card Production services
- Executed Award to MorphoTrust
- June 2005 Memorandum of Understanding between the State Police and the RMV.
  - The produced version of this document was redacted in response to a previous records requests and those redactions are covered by G.L. c. 4, § 7(26) paras. (a) and (f) as well as the federal Drivers Privacy Protection Act (18 U.S. Code § 2721) and the law enforcement investigative privilege.

We intend to further produce purchase orders and other financial information related to Idemia (formerly MorphoTrust).

**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.**

The documents responsive to this request somewhat overlap with other requests involving training and RFPs for driver's license software generally. The following documents have been produced:

- Idemnia's training materials for Issuance360 Back Office (their facial recognition software). Given that this software is proprietary, we were informed that Idemnia does not provide any other materials to the RMV about the internal processes of the software.

- Please note that this document came from an individual employee and was provided to her in hard copy. The redactions on the document are of her handwritten notes. *See* G.L. c. 4, § 7(26) para. (e)
- Idemia’s Principles for the Responsible Use of Facial Recognition Technologies.
- July 15, 2019 Letter to Sara Lavoie regarding a survey sent by the FBI regarding a GAO request for further details about facial recognition software at the state level.

**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.**

In addition to those documents already identified, the following was produced:

- September 17, 2015 letter to law enforcement agencies from Lt. Shawn D. Campinha, Compliance Unit Commander regarding Access to the Facial Recognition E-Mail Address.

**6. Training materials related to any facial-recognition product or service used by employees of MassDOT.**

Please see response No. 4.

**7. Records relating to any mobile application related to any facial-recognition product or service.**

There are no documents responsive to this request.

**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.**

The following documents have been produced:

- Finance and Audit Meeting 12/4/2014
- The Driver's License/Id Card and Associated Services RFR package to the Finance and Audit Committee dated 12/4/14
- The Driver's License/ID Card and Associated Service Contract package to the Board dated 3/11/15
- Minutes of MassDOT Board Meeting of March 11, 2015

**9. Any record containing the number of people flagged by any facial-recognition product or service as fraudulent or possibly fraudulent license applicants.**

Documents responsive to this request are contained in the folder titled "Enforcement Services Logs."

The following information was redacted from some of these documents:

- Individual's phone numbers
- Driver's license numbers
- Internal investigative case numbers
- Personal portions of email addresses

These redactions were made based on the following exemptions: G.L. c. 4, § 7(26) paras. (a), (c), (f), and (o), as well as the federal Drivers Privacy Protection Act (18 U.S. Code § 2721).

We are continuing to gather documents potentially responsive to this request. To the extent additional documents are redacted or withheld, we anticipate that the above-listed exceptions may apply, as well as the law enforcement investigative privilege and possibly the absolute privilege protecting communications made by citizens to secure the enforcement of law.

**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.**

After a diligent search, we have not located any responsive documents to this request.

**11. All records containing information about the accuracy rates of any facial-recognition product or service in use by MassDOT.**

MassDOT does not have any responsive documents to this request. As discussed on our August 9 phone call, any of this data would be proprietary to Idemnia and is not shared with 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.**

See No. 11. It is also worth noting that the RMV does not record an individual's race.

**13. All internal audit reports or other documents produced subsequent to reviews of MassDOT's use of facial-recognition products or services.**

After a diligent search, we have not located any responsive documents to this request.

**14. Any document describing incidents of misuse or abuse of any facial-recognition product or service.**

We have no document responsive to this request. As discussed on our August 9 phone call, we are only aware of five RMV employees that have access to the facial recognition software.

**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.**

The logs of these requests are included in the "Enforcement Services Logs" folder. As indicated in Response No. 9, the following information was redacted from some of these documents:

- Individual's phone numbers
- Driver's license numbers
- Internal investigative case numbers
- Personal portions of email addresses

These redactions were made based on the following exemptions: G.L. c. 4, § 7(26) paras. (a), (c), (f), and (o), as well as the federal Drivers Privacy Protection Act (18 U.S. Code § 2721).

We are continuing to gather documents potentially responsive to this request. To the extent additional documents are redacted or withheld, we anticipate that the above-listed exceptions may apply, as well as the law enforcement investigative privilege and possibly the absolute privilege protecting communications made by citizens to secure the enforcement of law.

## April 24, 2019 Requests

**1. All memoranda of understanding, memoranda of agreement, agreements for services, non-disclosure agreements and/or any other type of agreement (collectively referred as “agreements”) by which the MassDOT and its agents share ID pictures, give access to the databases where ID pictures are stored, or otherwise make ID pictures available. This request includes agreements with state agencies, local agencies, federal agencies, private actors or companies;**

As discussed on our August 9 phone call, the software for the RMV’s database was updated in March 2018. Also, there are over 1,000 access agreements for various users of the database, but only six that have access to the complete database of photographs. Those access agreements (dated post-March 2018) were produced: AAA; Department of Transitional Assistance; the State Police fusion center; the Boston FBI; Indemia, and CJIS.

- Please note, on some of these documents, the following information (if included) was redacted: driver’s license number and last four digits of social security. *See* G.L. c. 4, § 7(26) paras. (a) and (c) as well as the federal Drivers Privacy Protection Act (18 U.S. Code § 2721)

We are further intending to produce relevant documents showing that those six organizations have access to the photographs and also any relevant access agreements pre-March 2018.

**2. Manuals, policies, procedures, and practices governing the sharing of ID pictures with, or granting access to the databases where ID pictures are stored to, other state agencies, local agencies, federal agencies, private actors or companies;**

The following documents were produced:

- RMV PowerPoint training for new hires dealing with License/ID training and the Driver Privacy Protection Act (“DPPA”)
- RMV training about the DPPA
- A 2007 DPPA Workshop presented by the RMV Training and Support Services
- MassDOT-RMV Division System ID Policy NON-RMV Users
- MassDOT-RMV Division User Credentials Policy

**3. Records showing the state agencies, local agencies, federal agencies, private actors or companies that requested the sharing of ID pictures or access to databases where ID pictures are stored, and how many times they each made such requests;**

A document titled “Access Requests\_Denials\_Redacted” was produced in response to this request as well as a March 1, 2018 letter from the Chief of Workplace Security and Records Management.

We are continuing to search to determine if there are any more responsive documents to this request.

**4. Records showing how many times the MassDOT shared ID pictures with, or gave access to the databases where ID pictures are stored to, other state agencies, local agencies, federal agencies, private actors or companies;**

**5. Records showing how many times the MassDOT did not share ID pictures with, or denied access to the databases where ID pictures are stored to, other state agencies, local agencies, federal agencies, private actors or companies;**

We intend to create and produce a report responsive to Requests No. 4 and 5.