



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, 11<sup>th</sup> Floor  
Boston, Massachusetts 02108

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*Via e-mail*

June 20, 2019

Emiliano Falcon  
American Civil Liberties Union of Massachusetts  
[efalcon@aclum.org](mailto:efalcon@aclum.org)

**Re: Public Records Request Dated June 10, 2019 – Facial Recognition Technology**

Dear Mr. Falcon,

The Executive Office of Health and Human Services (EOHHS) responds to the above referenced public records request (PRR) received on June 10, 2019, wherein you requested:

**Part I – EOHSS relationship with local, state, or federal agencies**

The ACLU requests all such records created on or after January 1, 2006, including but not limited to:

1. All contracts or MOUs with local, state, and federal agencies referencing or pertaining to facial recognition technology, including but not limited to all EOHHS agreements with the Massachusetts Registry of Motor Vehicles and the Department of Transportation.
2. All audits, annual reports, and other administrative reports referencing facial recognition technology or searches. This request includes but is not limited to all records containing or pertaining to:
  - a. Statistics and other reports that reflect how frequently facial recognition is used;
  - b. Statistics and other reports that show the evolution of facial recognition use over time;
  - c. Statistics and other reports that show the number of times the EOHHS misidentified an individual using facial recognition;
3. All training materials, including but not limited to PowerPoint presentations, used to train officials in the use of face recognition tools or capabilities.
4. Any document containing the EOHSS's legal analysis for any use of face recognition technology.

5. Any internal policy referencing or pertaining to the use of face recognition technology or searches, including policies governing how the EOHSS performs facial recognition searches of the drivers license database held by the Registry of Motor Vehicles.
6. All communications between or among members of the EOHSS and employees of the Registry of Motor Vehicles pertaining to facial recognition searches or capabilities.
7. All communications between or among members of the EOHSS and the Registry of Motor Vehicles, including but not limited to emails, policy memos, and official forms.

## **Part II – EOHSS relationship with private companies**

The ACLU requests all such records created on or after January 1, 2016, that show EOHSS relationship with private companies that relate to facial recognition. These private companies include but are not limited to MORPHOTRAK LLC, MORPHOTRUST USA, MORPHOTRAK, INC., MORPHOTRUST USA, LLC., MORPHOTRUST USA, INC., MORPHO USA, INC.

These records include but are not limited to:

1. Communications between any representative of the EOHSS and any representative of any private vendor or company offering any facial-recognition product or service.
2. Internal communications between representatives or employees of the EOHSS relating to any facial-recognition product or service.
3. Documents relating to the EOHSS purchase 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.
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 EOHSS.
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 EOHSS and elected leaders or county officials.

EOHHS has determined that it does not have documents responsive to your request in its possession, custody or control. EOHHS now considers your request closed.

Pursuant to G.L. c. 66, § 10A, if you believe the agency has violated G.L. c. 66, § 10 and your request was made in writing, you may submit an appeal to the Supervisor of Public Records in the Office of the Secretary of the Commonwealth or seek judicial review by commencing a civil action in Suffolk Superior Court.

Sincerely,

*Alexander D. deBlicck*

Alexander D. deBlicck  
Records Access Officer