

Executive Office of Public Safety and Security



Facial Recognition Annual Report

September 2022

Secretary Terrence M. Reidy

Executive Office of Public Safety and Security

Facial Recognition Searches Annual Report M.G.L. c. 6, § 220

On December 31, 2020, Governor Charlie Baker signed “*An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*” (the Act). The Act created G.L. c. 6, § 220, which became effective on July 1, 2021, and imposes limitations and requirements on law enforcement agencies requesting or performing facial recognition searches and establishes reporting requirements for law enforcement agencies and the Executive Office of Public Safety and Security (EOPSS).

A “facial recognition search” is defined in the statute as “a computer search using facial recognition to attempt to identify an unidentified person by comparing an image containing the face of the unidentified person to a set of images of identified persons; provided, however, that a set of images shall not include moving images or video data.” G.L. c. 6, § 220(a). As of July 1, 2021, law enforcement agencies requesting or performing a facial recognition search may only do so via written request and only based on two newly established statutory justifications: court order or emergency. G.L. c. 6, § 220(b). This new requirement of a written request for limited purposes does not apply “to the department of state police when performing investigatory functions related to the issuance of identification documents by the registrar of motor vehicles.” G.L. c. 6, § 220(b).

Beginning July 1, 2021, law enforcement agencies were required to document certain information about facial recognition searches requested by law enforcement agencies, and report

that information to EOPSS on a quarterly basis. G.L. c. 6, § 220(c). The Act requires law enforcement agencies to provide the following information¹:

- (i) a copy of any written request made for a facial recognition search;
- (ii) the date and time of the request;
- (iii) the number of matches returned, if any;
- (iv) the database searched;
- (v) the name and position of the requesting individual and employing law enforcement agency;
- (vi) the reason for the request, including, but not limited to any underlying suspected crime;
- (vii) the entity to which the request was submitted; and
- (viii) data detailing the individual characteristics included in the facial recognition request.

The Act requires EOPSS to publish on its website annually the documentation provided to EOPSS on a quarterly basis by law enforcement agencies and the following information:

- (i) the total number of facial recognition search requests made by other law enforcement agencies to the department of state police, disaggregated by law enforcement agency;
- (ii) the total number of facial recognition searches performed by the department of state police, disaggregated by law enforcement agency on whose behalf the search was performed;
- (iii) the total number of facial recognition searches requested and performed by the state police;

¹Such documentation shall not be a public record. G.L. c. 6, § 220(c).

- (iv) the total number of facial recognition search requests made by the department of state police to the Federal Bureau of Investigation, disaggregated by law enforcement agency on whose behalf the requests were made; and
- (v) the total number of facial recognition searches performed by the Federal Bureau of Investigation on behalf of Massachusetts law enforcement agencies.

Quarterly Documentation and Information About Facial Recognition Searches Requested and Performed by Law Enforcement Agencies Between September 1, 2021, and September 1, 2022, Pursuant to G.L. c. 6, § 220(c) & (d).

The department of state police received a total of eight written requests to utilize facial recognition technology between September 1, 2021, and September 1, 2022. Of the eight requests, one was based on emergency circumstances whereas the other seven were pursuant to a court order. Photographs were submitted with all eight written requests received and the department's database, Issuance 360, was used to perform all the searches. None of the searches yielded any matches. The department of state police did not make any facial recognition requests of any type to the Federal Bureau of Investigation between September 2021 and September 2022.

Table 1 below includes the information required by G.L. c. 6, § 220(c) & (d) broken down by category.

Table 1

Copy of Written Request	Request Date / Time	Matches Returned	Database Searched	Name/ Position/ Department	Reason/ Suspected Crime	Entity to Which Submitted	Data Detailing Individual Characteristics
Yes, emergency circumstance	10.25.21 1303 hours	0	Issuance 360 (MSP)	Trooper Jerry Donovan #3224	Suicidal Threats	MSP	Photos submitted with request
Yes, court order	02.01.22 1000 hours	0	Issuance 360 (MSP)	Detective Tim Yerian, Lawrence PD	Home Invasion	MSP	Photos submitted with request
Yes, court order	02.03.22 1200 hours	0	Issuance 360 (MSP)	Gene Westerlind, Framingham State PD	Vandalism	MSP	Photos submitted with request
Yes, court order	02.08.22 1255 hours	0	Issuance 360 (MSP)	Gene Westerlind, Framingham State PD	Vandalism	MSP	Photos submitted with request
Yes, court order	02.14.22 0800 hours	0	Issuance 360 (MSP)	Lieutenant Ann Marie Robertson, MSP UCU	Aggravated Rape	MSP	Photos submitted with request
Yes, court order	04.08.22 1211 hours	0	Issuance 360 (MSP)	Officer Alex Nevarez, Marlborough PD	Fraudulent Identity	MSP	Photos submitted with request
Yes, court order	05.03.22 1200 hours	0	Issuance 360 (MSP)	Detective Steven Foley, Walpole PD	Armed Robbery	MSP	Photos submitted with request
Yes, court order	07.29.22 0816 hours	0	Issuance 360 (MSP)	Officer Alex Nevarez, Marlborough PD	Identity Theft	MSP	Photos submitted with request