



DAVE YOST

OHIO ATTORNEY GENERAL

January 29, 2021

Honorable Matt Huffman
President of the Ohio Senate
1 Capitol Sq., Senate Building, Rm. 220
Columbus, OH 43215

Honorable Bob Cupp
Speaker of the Ohio House
77 S. High St., 14th Floor
Columbus, Ohio 43215

Dear President Huffman & Speaker Cupp,

In August 2019, several articles were released scrutinizing the use of facial recognition technology both in Ohio and across the country. As a result of rising public interest in this subject, I created the Facial Recognition Task Force (FRTF) in the fall of 2019. The FRTF is comprised of 29 members, including members of the Ohio General Assembly, prosecutors, public defenders, members of executive branch agencies, professors, civilian technology experts, and the Ohio Law Enforcement Gateway (OHLEG) Steering Committee. The taskforce met 9 times between September 2019 and January 2020, and published 13 recommendations regarding Ohio's use of facial recognition technology.ⁱ

Presently, the facial recognition system at BCI is transitioning to a more modern facial recognition system. Many of the FRTF's recommendations have already been implemented, while others will be implemented alongside the new system. Below, please find FRTF's thirteen recommendations, including their implementation status and justification for any deviations:

Recommendation 1: The FRTF should continue to exist in an advisory capacity

Adopted. The Ohio Attorney General's Office will continue to use the FRTF for advisory support related to Ohio's use of facial recognition technology.

Recommendation 2: Encourage the General Assembly to weigh in on the appropriate use of facial recognition technology

Adopted. In addition to including members of the legislature on the FRTF, our office stands ready to engage with the General Assembly on any desired conversation about the use of this technology.

Recommendation 3: Limit access for the facial recognition system to trained BCI employees

Adopted. Facial recognition searches are currently limited only to the trained professionals at BCI. This move was made in August 2019 out of an abundance of caution while our office ensured that searches were being properly conducted. Even though our review of these searches did not find any evidence of abuse, BCI will continue to run facial recognition searches for all of Ohio's law enforcement agencies for the foreseeable future. Following the

implementation of the new system, BCI will evaluate the possibility of training and certifying local agency personnel to access the facial recognition system. However, if BCI continues to run all searches through this system, additional resources will eventually be needed to keep up with this expanded workload and responsibility.

Recommendation 4: “Declare a moratorium” on the use of “live” facial recognition technology

Adopted. The current system historically in use by our office was not used to do “live” scans for identification, and there are no plans at this time to utilize this function on the new system.

Recommendation 5: Expressly prohibit the use of facial recognition technology for impermissible purposes

Adopted. Both the current and new facial recognition systems will be run to the highest ethical standards, and with rigorous controls and safeguards in place to prevent abuse and protect privacy. BCI and other law enforcement officials have historically had access to photos taken for driver’s licenses. Impermissible use of these resources – whether through improper searches in LEADS or unauthorized access to the facial recognition database – will remain strictly prohibited.

Recommendation 6: Only allow facial recognition technology to be used to identify suspects (with reasonable suspicion) and victims (who are unable to identify themselves)

Not adopted. I agree that protecting Ohioan’s privacy is a laudable goal. This recommendation by FRTF would create significant inconsistencies in Ohio law, which would diminish law enforcement’s ability to protect public safety. Instead, my office will continue to use a “legitimate criminal justice purpose” for use of the facial recognition system. This current standard is also the standard for use of the Law Enforcement Automated Data System (LEADS), other portions of OHLEG, and the FBI’s Criminal Justice Information Services (CJIS). For example, if the recommended change was made, an officer could pull BMV photos one by one to attempt to identify a subject, witness, or victim, but would not be able to use the facial recognition system to automate the same process.

Recommendation 7: Operate database and use the Facial Identification Scientific Working Group (FISWG) standards for maintenance and security

Adopted. The new system being onboarded will maintain FISWG standards for maintenance and security as recommended by FRTF.

Recommendation 8: Use the National Institute of Standards and Technology (NIST) standards for accuracy assessments of the facial recognition system

Adopted. The new system being onboarded will use NIST standards for accuracy assessments of the system. Tests performed on the system show the OBIS system being onboarded to be one of the most accurate systems available.

Recommendation 9: Only enroll images and submit probe photos that meet set criteria for quality

Adopted. The new system being onboarded will maintain a set criterion for photo quality at both the enrollment and probe stages (probe images are used to search for a match in the database). This criterion will ensure a greater degree of accuracy and reliability for searches being performed on the facial recognition system.

Recommendation 10: Probe images are not to be enrolled in the database

Adopted. Probe images are not presently enrolled in our system and won't be enrolled in the new system for future use. This ensures a greater quality and accuracy of images and their associated identities.

Recommendation 11: Seek an agreement with DPS for the enrollment of BMV images

Adopted. Presently BCI and BMV have entered a memorandum of understanding that provides BMV drivers license photos to the facial recognition system. No funding exists to maintain this agreement however, and as a result the feasibility of ongoing updates of the facial recognition system is not be possible.

Recommendation 12: Routine audits of the system's use and transparency

Adopted. The current and future facial recognitions systems are and will be audited. Audits occur on a regular basis for both quality assurance and reliability standards. Additionally, audits ensure the system is not being accessed or used improperly.

Recommendation 13: Transparency on how technology is used

Adopted. The Attorney General's Office and BCI have consistently committed to transparency in the facial recognition system. The FRTF was given unprecedented access to the current and new facial recognition system's inner workings. The public having a full understanding of how, when, and why the system is used is critical to creating trust in the system itself. The Attorney General's Office and BCI remained committed to ensuring the public's trust through transparency and open communication regarding the use of facial recognition in Ohio.

I am grateful for the hard work the FRTF put into creating its Report and Recommendations. I am confident that implementing their recommendations has and will continue to make Ohio a leader in safely, respectfully, and effectively using facial recognition technology. If you or any of your members have any questions or concerns I will be happy to respond to them.

Yours,



Dave Yost
Ohio Attorney General

CC: Senate Minority Leader Kenny Yuko
House Minority Leader Emilia Strong Sykes
Facial Recognition Task Force

ⁱ Facial Recognition Task Force, *Reports & Recommendations*, OHIO ATTORNEY GENERAL'S OFFICE (January 26, 2020), <https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/AG-Facial-Recognition-Task-Force-Report-FINAL.aspx>.