

Written testimony for July 30, 2021 Special Commission on Facial Recognition

Chris F <chrisefelice@gmail.com>

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To: Manning, Jacqueline O. (HOU) <Jacqueline.O.Manning@mahouse.gov>

Hello Ms. Manning,

I hope it's not too late - below is written testimony for tomorrow's Special Commission on Facial Recognition hearing. Thank you!

Christine

Dear Senator Eldridge, Representative Day, and members of the commission,

I am writing in support of strengthening the existing facial recognition law in Massachusetts. The choices we make now on oversight and regulation of this powerful technology will impact how widely and frequently it's used in the future, and therefore, how likely it is for an innocent person to get caught up in dragnet surveillance.

This issue is important to me because I don't think the state should have easy access into people's lives or movements. This protection is what makes America different from many countries and allows for true freedom. Additionally, we know facial recognition technology is not perfect and can enhance discrimination felt by minorities. This is a problem we can mitigate with proper oversight of the technology.

Governor Baker recently signed into law "An Act Relative To Justice, Equity And Accountability In Law Enforcement In The Commonwealth," an omnibus police reform legislation. The law contains several provisions pertaining to government agencies' use of facial recognition technology. While it is a start, there are gaps that must be filled to protect us from irresponsible use of the technology.

Notably, the existing law 1.) does not prohibit or regulate the use of facial recognition technologies for purposes of surveillance of public spaces like streets and parks; 2.) does not establish any limitation regarding who can directly use and operate a facial recognition system. It also imposes very weak regulations to govern police requests for facial recognition searches, establishing a very low standard for court orders and allowing the use of the technology in all criminal investigations, without limitation; and 3.) does not provide any enforcement mechanism to ensure public officials comply with the law.

Lawmakers have addressed these concerns in legislation filed this session. H.135, An Act To Regulate Face Surveillance, sponsored by Representatives Rogers and Ramos, and S.47, An Act To Regulate Face Surveillance, sponsored by Senator Creem, provide for some useful policy solutions to those outlined above.

H.135 and S.47 prohibit the use of facial recognition for surveillance of public spaces. As a result, government agencies would be forbidden from using our biometric characteristics to track our activities and locations in the park, at the library, at school, or on public transit.

H.135 and S.47 establish that only two agencies would be allowed to use the technology directly. These agencies are the R.M.V. and the M.S.P. As to the former, the use of the technology is allowed to verify an individual's identity when issuing licenses, permits, or other

documents. As to the latter, the bills establish that facial recognition searches performed by the M.S.P, whether for its own use or on behalf of other law enforcement agencies, should only be used (i) to investigate violent felonies and (ii) after a warrant issued under probable cause, except in cases involving an emergency or the identification of a deceased person.

H.135 and S.47 establish an exclusionary rule that would apply when law enforcement uses facial recognition in a manner that does not conform with the law.

Please consider bills H.135 and S.47 when you decide on further regulations of the use of biometric surveillance technology by government entities. We need strong regulations to ensure it doesn't infringe on our civil rights and civil liberties, and this legislation provides an excellent model.

Christine Felice
20 Joseph St.
Somerville, MA