

EXHIBIT C



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrisette Drive
Springfield, Virginia 22152

Case Number: 19-00270-F

FEB 14 2019

Subject: Records concerning DEA's purchase and use of face recognition and other biometric recognition technologies from January 1, 2015 to the present

Nathan Wessler
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, New York 10004
nwessler@aclu.org

Dear Mr. Wessler:

This letter responds to your Freedom of Information/Privacy Act request emailed January 18, 2019, to the DEA.FOIA mailbox, seeking access to DEA records. Your request has been opened and assigned the above case number. Please include this case number when communicating with this office.

The records you seek require searches in another office or offices, and so your request falls within "unusual circumstances." *See* 5 U.S.C. § 552(a)(6)(B)(i)-(iii). Because of these unusual circumstances, we are extending the time limit to respond to your request beyond the ten additional days provided by the statute. We have not yet completed a search to determine whether there are records within the scope of your request. The time needed to process your request will necessarily depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in approximately one month, whereas complex requests necessarily take longer. At this time, your request has been assigned to the complex track. You may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located; or you may wish to await the completion of our records search to discuss either of these options.

As you are aware, the FOIA provides for three categories of requesters. *See* 5 U.S.C. § 552(a)(4)(A)(ii). The FOIA defines a representative of the news media as a person or entity "that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Id.* at § 552(a)(4)(A)(iii); *see also Cause of Action v. FTC*, 799 F.3d 1108 (D.C. Cir. 2015). We have determined that you are making this request as a "representative of the news media," therefore; you will not be charged search fees.

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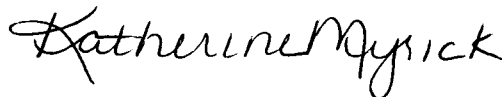
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We regret the necessity of this delay, but please be assured that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact Government Information Specialist Jewell W. Carroll at 202-307-4006, our Customer Service Hotline Representative at 202-307-7596 or mail your correspondence to:

DEA HEADQUARTERS
ATTN: FOI/PA UNIT (SARF)
8701 MORRISSETTE DRIVE
SPRINGFIELD, VIRGINIA 22152

In addition, you may wish to visit our website at www.dea.gov to determine if the information you are requesting is already available to the public. You may contact our FOIA Public Liaison at 202-307-7596 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrisette Drive
Springfield, Virginia 22152

FEB 14 2018

Case Number: 19-00270-F

Subject: Records concerning DEA's purchase and use of face recognition and other biometric recognition technologies from January 1, 2015 to the present

Nathan Wessler
American Civil Liberties Union (ACLU)
125 Broad Street, 18th Floor
New York, New York 10004
nwessler@aclu.org

Dear Mr. Wessler:

This letter responds to your Freedom of Information/Privacy Act request emailed January 18, 2019, to the DEA.FOIA mailbox, seeking expedited treatment. Your request has been opened and assigned the above case number. Please include this case number when corresponding with this office.

In your request letter, you request expedited treatment pursuant to the first, second, third, and/or fourth standards enumerated in the Department of Justice's regulations. Expedited treatment pursuant to the first standard will be granted where not doing so "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual." 5 U.S.C. § 552(a)(6)(E)(v)(I). *See also* 28 C.F.R. § 16.5(e)(1)(i) (2015). Under the second standard, you must show that there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). *See also* 28 C.F.R. § 16.5(e)(1)(ii) (2015). Under the third standard, you must show that the request involves "[t]he loss of substantial due process rights." 28 C.F.R. § 16.5(e)(1)(iii) (2015). Under the fourth standard, you must show that the subject matter of your request is a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." *Id.* at § 16.5(e)(1)(iv). This office makes determinations regarding the first three standards, while the Department's Director of Public Affairs makes determinations regarding the fourth standard. *See id.* at § 16.5(e)(2).

You have requested expedited processing of your request pursuant to the Department's standard permitting expedition for requests involving "[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information." 28 C.F.R. § 16.5(e)(1)(ii) (2015). Based on the information you have provided, we have determined that your request for expedited processing under this

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standard should be denied. This office cannot identify a particular urgency to inform the public about an actual or alleged federal government activity beyond the public's right to know about government activities generally. Please be advised that, although your request for expedited processing has been denied; it has been assigned to a Government Information Specialist in this office.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following website: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact our Customer Service Hotline Representative at 202-307-7596 or mail your correspondence to the above address.

Sincerely,



Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrissette Drive
Springfield, Virginia 22152

Case Number: 19-00270-F

APR 12 2019

Subject: Records concerning DEA's purchase and use of face recognition and other biometric recognition technologies, including information related to Rekognition or Face API face recognition technology by Amazon and Amazon Web Services (AWS) and Microsoft, and records pertaining to FBI's FACE services or NGI database from January 1, 2015 to the present

Nathan Wessler
American Civil Liberties Union (ACLU)
125 Broad Street, 18th Floor
New York, New York 10004
nwessler@aclu.org

Dear Mr. Wessler:

This letter responds to your Freedom of Information Act/Privacy Act request dated January 18, 2019, received by the Drug Enforcement Administration (DEA), Freedom of Information/Privacy Act Unit (SARF), seeking access to information regarding the above subject.

Please be advised that your request has been assigned and is being handled as expeditiously as possible. If you have any questions regarding the status of your request, please contact Paralegal Amber L. Freeman at 202-307-6817 or include your case number and forward your correspondence to the following address:

DEA HEADQUARTERS
ATTN: FOI/PA UNIT (SARF)
8701 MORRISSETTE DRIVE
SPRINGFIELD, VIRGINIA 22152

Sincerely,

A handwritten signature in black ink that reads "Angela D. Hertel".

Katherine L. Myrick, Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

American Civil Liberties Union & American Civil Liberties Union of Massachusetts

(b) County of Residence of First Listed Plaintiff NY (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Daniel McFadden, ACLU Foundation of Massachusetts, 211 Congress St., Boston, MA, 617 482 3170 (see complaint for complete list)

DEFENDANTS

U.S. Department of Justice, Federal Bureau of Investigation, & Drug Enforcement Administration

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Freedom of Information Act, 5 USC 552
Brief description of cause: Suit for disclosure of records under Freedom of Information Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 10/31/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Daniel L. McFadden

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) American Civil Liberties Union et al. v. U.S. Department of Justice et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 160, 400, 410, 441, 535, 830*, 835*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME /s/ Daniel L. McFadden

ADDRESS ACLU Foundation of Massachusetts, 211 Congress St., Boston, MA

TELEPHONE NO. 617 482 3170