

Article - Criminal Procedure

[\[Previous\]](#)[\[Next\]](#)

§2–503.

(a) (1) A police officer or other employee or agent of a law enforcement agency may not, in the furtherance of a criminal investigation:

(i) use facial recognition technology to investigate a crime other than the commission of or the attempt to commit:

1. a crime of violence as defined in § 14–101 of the Criminal Law Article;
2. a human trafficking offense under Title 3, Subtitle 11 of the Criminal Law Article;
3. first– or second–degree child abuse under § 3–601 of the Criminal Law Article;
4. a child pornography offense under § 11–207 of the Criminal Law Article;
5. a hate crime under § 10–304 of the Criminal Law Article;
6. a weapon crime under § 4–102, § 4–103, § 4–203(a)(1)(iii) or (iv), § 4–204, or § 4–303(a)(2) of the Criminal Law Article;
7. a weapon crime under § 5–138, § 5–140, § 5–141, § 5–207(c)(16), § 5–406(a)(3), or § 5–703(a) of the Public Safety Article;
8. aggravated cruelty to animals under § 10–606 or § 10–607 of the Criminal Law Article;
9. importation of fentanyl or a fentanyl analogue under § 5–614(a)(1)(xii) of the Criminal Law Article;
10. stalking under § 3–802 of the Criminal Law Article;
11. a criminal act involving circumstances presenting a substantial and ongoing threat to public safety or national security; or

12. a crime under the laws of another state substantially equivalent to a crime listed in items 1 through 10 of this item involving a fugitive from justice charged with a crime in that state and sought under Title 9 of this article;

(ii) analyze an image or a recording of an individual:

1. engaged in activity protected under the United States Constitution, the Maryland Constitution, or the Maryland Declaration of Rights, unless there is reasonable suspicion to believe that the individual has committed, is in the process of committing, or is about to commit a crime; or

2. who is not intended to be identified;

(iii) use facial recognition technology to analyze a sketch or manually produced image;

(iv) disclose to a witness in the criminal investigation, prior to the witness participating in a live identification or photo array identification, that a particular suspect or image of a suspect was identified using facial recognition technology; or

(v) use facial recognition technology for the purpose of live or real-time identification of an image or a recording.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, an image being evaluated using facial recognition technology may be compared only to images contained in:

1. the database of images of driver's license and identification card photos maintained by the Motor Vehicle Administration or the department of motor vehicles of another state; or

2. a database of mugshot photos maintained by a local, State, or federal law enforcement agency or a law enforcement agency of another country.

(ii) An image being evaluated using facial recognition technology may be compared to an image contained in a database other than a database described in subparagraph (i) of this paragraph if:

1. the law enforcement agency conducting the investigation has entered into an agreement with the entity that maintains the database governing the methods by which images in the database are collected; and

2. the agreement provides that the agreement will be terminated in the event that the entity maintaining the database commits a material breach of the provisions governing the methods by which images in the database are collected.

(3) Before being used for any purpose in relation to a criminal investigation, a result generated by facial recognition technology shall be independently verified by an individual who has completed training in accordance with § 2–505 of this subtitle.

(b) A police officer or other employee or agent of a law enforcement agency may not use facial recognition technology to identify an individual solely based on:

(1) the police officer's, employee's, or agent's personal interest not related to legitimate duties or objectives of the law enforcement agency;

(2) the individual's political or social beliefs or activities;

(3) the individual's participation in lawful activities; or

(4) the individual's race, color, religious beliefs, sexual orientation, gender, disability, national origin, or status as being homeless.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, a result generated by facial recognition technology in violation of this section and all other evidence subsequently derived from the result may not be introduced by the State for any purpose in a criminal court proceeding or in a juvenile court proceeding under Title 3, Subtitle 8A of the Courts Article.

(2) Evidence derived from a result generated in violation of subsection (a)(1) of this section may be introduced for a purpose described in § 2–502 of this subtitle if the court finds that the evidence would otherwise be subject to a legally valid exception to the exclusionary rule.

(3) This subsection may not be construed to allow the use of a result generated using facial recognition technology to be introduced as evidence in a criminal trial or in an adjudicatory hearing held under § 3–8A–18 of the Courts Article.

[\[Previous\]](#)[\[Next\]](#)