State of Maryland
Department of State Police
Government Affairs Section
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: **March 11, 2020**

BILL NUMBER: **Senate Bill 857**   **POSITION: Letter of Concern**

BILL TITLE: **Facial Recognition Privacy Protection Act**

REVIEW AND ANALYSIS:

This legislation seeks to prohibit persons and units of State and local government from using facial recognition services.

Currently, law enforcement uses facial recognition software to identify unknown persons.   These people may be deceased without identification and otherwise never to be identified or they may be the suspect in a crime. For example, the Capital Gazette shooter would not provide any information regarding his identity. CJIS was out of service at the time so his fingerprints could not be run through the system. Facial recognition was used and he was able to be identified.

Law enforcement in Maryland uses the Maryland Image Repository System (MIRS) which is maintained by the Department of Public Safety and Correctional Services (DPSCS). Anyone who accesses the system uses their own unique log on and DPSCS maintains a record of each log on and what is viewed. The MIRS cannot be used to compare a photograph to search against live streaming video, it uses a single static photograph to compare to photographs in the system. The photographs in the system are obtained from F.B.I. arrests, DPSCS arrests and MVA photographs.

MIRS uses the geometry of an individual's face; the distance between the eyes, the structure of the check bones, the point of the chin etc. Then the system compares that to the pictures in the repository. The system does not use the color of the skin, the hair type or other presumably racial or ethnic indicators.   When demonstrated to members of the General Assembly at the MCAC, a State Police employee's identification was uploaded and the system returned several possible matches. They were both Caucasian and African American. It is then up to the investigator to manually scan the possible matches and make the comparison to decide if there is a match.

To eliminate this tool for legitimate law enforcement use, would hinder the ability to solve crime. This is just one tool. Facial recognition alone does not provide probable cause for an arrest, it just helps lead an investigator to a suspect to assist in building a case may lead to lead to probable cause and an arrest.