Testimony in Support of HB 23 (SB 234) - Personal Information - State and Local Agencies - Restrictions on Access

To: Delegate Luke Clippinger, and Members of the Judiciary Committee

From: Jim Caldiero, Co-Chair, Immigration Task Force, Unitarian Universalist Legislative Ministry of Maryland

Date: January 27, 2021

Thank you for the opportunity to provide written testimony in support of HB 23 which denies access by federal agencies to any personal or photographic information held by state or local agencies for the purpose of immigration enforcement without a valid judicial warrant.

We have all seen the Hollywood thrillers where law enforcement agents, racing against time, scan the faces of every passenger at Grand Central Terminal, a computer screen whizzing through images until a match is found and agents swoop down and capture the terrorist averting a catastrophe. The problem, of course, is that Hollywood isn't Howard or Harford counties and federal studies have shown that facial recognition systems routinely misidentify people of color – African Americans and Asian Americans – 10 to 100 times more than Caucasian Americans.

The National Institute of Standards and Technology has found that most facial recognition software used by police departments and federal agencies is inherently biased, falsely identifying African American and Asian faces at alarming rates when compared to white Americans, with the greatest error rate among Native Americans.

Despite the bias, U.S. Immigration and Customs Enforcement (ICE) is using the technology to sift through millions of state driver's license databases to identify targets for immigration detention and deportation. Maryland's encouragement of immigrants' obtaining driver's license, which began in 2013 as a measure to ensure cooperation between the immigrant community and law enforcement and to ensure road safety, could be turned on its head if the unintended consequence of ICE trolling our records without judicial warrants is allowed to continue.

The use of biased technology to locate Marylanders regardless of their status is dangerous and violates our right to privacy. It will engender continued fear among our immigrant neighbors and lead to less cooperation between immigrant communities and law enforcement agents, thus making all Maryland communities less safe.

I understand that the Trump administration has retaliated against states such as New York for their attempts to limit cooperation with ICE. But limiting access to facial recognition services is more general, not specific to immigration and should not face the same retaliatory action.

It is important to note that:

- Access to MVA data in MD is one of the least restrictive among the states
- The National Immigration Law Center's study based on FOIA requests shows that DHS has no clear policies about how ICE uses driver information and controls about the security of the data that ICE keeps. (For example, two ICE users saved data from searches for more than 2 years.)
- Without warrants there is a lack of monitoring, accountability
- MD MVA does not notify individuals that its data may be used by ICE. It should, particularly as it encourages immigrants to obtain driver licenses to enhance traffic and road safety, thus creating a "bait and switch" environment.

I share my faith with more than 4000 Unitarian Universalists in Maryland and all of us affirm the inherent worth and dignity of every person. The indiscriminate use of obviously biased, routinely incorrect facial recognition software runs counter to this value and our constitutional right to privacy, to be secure in one's person without cause and the oversight of a judicial warrant.

I urge you to vote in favor of HB 23.

Thank you for your consideration.

Jim Caldiero
Ellicott City, MD 21043
Email: immigration@uulmmd.org
Unitarian Universalist Legislative Ministry of Maryland, 333 Dubois Rd., Annapolis, MD 21401, (410) 266-8044, info@uulmmd.org

Sources:

ICE Agents Buy Driver License Data To Track Immigrants, 12/3/2019, Quartz
    https://qz.com/1760046/ice-bought-state-driving-records-to-track-undocumented-immigrants/

Gold Mine --
https://www.zdnet.com/article/fbi-and-ice-are-using-dmv-gold-mine-for-facial-recognition-scans/
ICE Should Get Warrant or Subpoena for State Records
https://www.nilc.org/issues/drivers-licenses/ice-dmvs-share-information/
Seattle
https://www.governing.com/topics/public-justice-safety/gov-immigrant-drivers-licenses-ICE-washington.html
New Mexico (Slate)
https://slate.com/technology/2020/09/palantir-ice-deportation-immigrant-surveillance-big-data.html
Maryland (Washington Post)
https://www.washingtonpost.com/technology/2020/02/26/ice-has-run-facial-recognition-searches-millions-maryland-drivers/
New York
   a. https://www.thedailystar.com/news/local_news/state-wants-dmv-info-kept-from-ice/article_6095e570-ac58-5cc7-98c9-c7e6b1baeb19.html
   b. https://www.democratandchronicle.com/story/news/politics/albany/2019/12/17/ice-border-patrol-cut-off-new-york-dmv-database/2675218001/
Wrongful Arrests
ICE wrongly arrested over 1,000 US citizens in recent years: report | TheHill
Reliability of Facial Recognition Software
The Major Concerns Around Facial Recognition Technology (forbes.com)