



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chairman and
Members of the Senate Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 8, 2023

RE: **SB 192 Criminal Procedure - Facial Recognition Technology -
Requirements, Procedures, and Prohibitions**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 192.

The MCPA and MSA fully support strict guardrails and audit protocols to mitigate the risk of impartial and biased law enforcement and misuse of the technology. However, as currently drafted, SB 192 contains several provisions that would unacceptably impact public safety in Maryland as well as hamper effective implementation of the requirements.

1. **SB 192 limits the types of crimes to be investigated to crimes of violence, human trafficking, and those presenting a substantial and ongoing threat to public safety or national security. (Page 3, lines 7-15)**

The successful use of facial recognition technology in Maryland has aided in the identification of people whose images have been recorded on-camera committing robberies, burglaries, car jacking's, assaults, rapes, sexual assaults, shootings, homicides, kidnappings, hate crimes, human trafficking, sexual exploitation, threats of mass violence and other serious crimes. The technology has also been used to identify missing persons, deceased persons, incapacitated persons who can't identify themselves and to mitigate an imminent threat to health or public safety (e.g., to thwart an active terrorism scheme or plot). Striking this limitation will assist law enforcement with solving the other types of crimes listed as well as aid vulnerable populations.

2. Limiting databases to be matched only to driver's license and IDs by MVA's and databases of mug shots. (Page 4, lines 5-11)

A further limitation in the bill is only allowing queries to the Maryland Motor Vehicle Administration or other state Department Motor Vehicle images and mug shots maintained by local, state or federal law enforcement agencies. Individuals committing crimes in Maryland may not have a mug shot or a driver's license. They could be from out of state, another the country, or too young to have one. This limitation also extends to the search for missing children, human trafficking victims, missing adults, etc. The limitation prohibits the technology from accessing this state or other state's sex offender websites, the Maryland and National Center for Missing and Exploited Persons images, wanted posters or other images posted by law enforcement or families. Striking these limitations will allow law enforcement investigators to use FRT to possibly identify individuals with no prior criminal history, do not have an ID card or driver's license, non-MD residents or minors, who are suspects or unidentified victims.

3. Limits use to just one single facial recognition technology reviewed and approved by DPSCS. (Page 6, lines 24-25)

Due to the complexity of investigating crimes such as human trafficking and child sexual exploitation, using more than one facial recognition system to conduct searches of databases beyond driver's license, identification cards and booking photos may be necessary. People who engage in criminal activity often travel from out of state to commit crimes. Limiting use to a single facial recognition technology would prevent law enforcement from leveraging other legally obtained photos such as photos from other states and open-source photos which could assist with the identification of human trafficking/sexual exploitation victims, and individuals traveling from far outside the area to commit crime, as we saw with the unrest at the U.S. Capitol on January 6 last year.

The MCPA and MSA is aware there may be an amendment offered to the bill to require the technology used by Maryland law enforcement to be made available to any third party for testing. MCPA and MSA do not support this amendment. The majority of facial recognition systems in use for law enforcement applications have algorithms which have been evaluated by the National Institute of Standards and Technology (NIST) for matching efficiency and accuracy, which includes an evaluation of the accuracy of the algorithm across demographics. Algorithms utilized for these systems are periodically updated as necessary based on subsequent NIST evaluations. The NIST Facial Recognition Vendor Test Program, located here in Gaithersburg, MD is already the world standard for independent, scientific evaluation of the technology.

Facial recognition is a valuable time savings investigatory tool and MCPA and MSA agree there should be safeguards in place for government use of the technology to ensure there is no intrusion on constitutionally protected activities. However, SB 192 as it stands limits the use of the technology, prevents human trafficking and juvenile victims from being identified and restricts law enforcement's ability to effectively investigate cases. Unless the limitations described above are addressed, MCPA and MSA must oppose SB 192 and respectfully request an UNFAVORABLE Committee report.