# epic.org

**Electronic Privacy Information Center**
1519 New Hampshire Avenue NW
Washington, DC 20036, USA

📞 +1 202 483 1140
🖨 +1 202 483 1248
🐦 @EPICPrivacy
🌐 https://epic.org

VIA DC FOIA PUBLIC ACCESS PORTAL

November 6, 2020

General Counsel
300 Indiana Ave., NW
Room 4125
Washington, DC 20001

RE: Freedom of Information Act Request

Dear FOIA Officer,

This letter constitutes a request under the District of Columbia Government Freedom of Information Act (FOIA), DC Official Code § 2-531 et seq. (West 2001), and is submitted on behalf of the Electronic Privacy Information Center ("EPIC") to the Metropolitan Police Department.

EPIC requests records related to the National Capital Region Facial Recognition Investigative Leads System ("NCR-FRILS").

Background

The National Capital Region Facial Recognition Investigative Leads System ("NCR-FRILS") is a database capable of performing facial recognition searches.[1] According to the Washington Post, the system has been used over 12,000 times since the pilot started in 2017 to search a database of 1.4 million images. The NCR-FRILS "pilot program" is a project of the Metropolitan Washington Council of Governments ("MWCOG").[2] The NCR-FRILS system runs on the Rank One Computing facial recognition platform.[3] Fairfax County Police Major Christian Quinn, runs the NCR-FRILS program for MWCOG.[4] The Fairfax County Board of Supervisors received a grant supporting the development of NCR-FRILS.[5] At least 60 people across the region are approved to use the system.[6]

The NCR-FRILS system is related to the National Capital Region Law Enforcement Information Exchange (NCR-LInX), one member of the national LInX program sponsored by the

---

[1] Justin Jouvenal and Spencer S. Hsu, Facial recognition used to identify Lafayette Square protester accused of assault, Washington Post (Nov. 2, 2020) https://www.washingtonpost.com/local/legal-issues/facial-recognition-protests-lafayette-square/2020/11/02/64b03286-ec86-11ea-b4bc-3a2098fc73d4_story.html.
[2] *Id*.
[3] *See* https://www.rankone.io.
[4] Washington Post, *supra* note 1.
[5] *Id*.
[6] *Id*.

Naval Criminal Investigative Service (NCIS).[7] LInX is a national law enforcement exchange program which provides access to records from 2,000 agencies.[8] As of 2018 the system contains 1.27 billion records and 105.3 million mug shots.[9] The system provides access to local and regional documents and is integrated with the DoD Law Enforcement Data Exchange (D-DEx), the FBI's National Data Exchange (N-DEx) as well as DHS and its subcomponents, US Marshals Service, the US Capitol Police, and NCIS.[10] NCR-LInX is working with MWCOG to "test facial recognition capabilities with NCR-LInX arrest and booking photos."[11]

The NCR-FRILS system is currently in use and Metropolitan Police have access to it. The NCR-FRILS system was used to identify a protestor accused of assaulting a police officer during a June 1, 2020 protest in Washington, DC.[12] Maryland-National Capital Park Police performed a search using an image of the man on Twitter and fed that image into the NCR-FRILS system to identify him.[13] According to the Washington Post the agencies with access to NCR-FRILS "include the police departments in the D.C. area's core counties and some cities, as well as Metro police, the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Justice Department."[14]

Documents Requested

EPIC requests the following documents in searchable PDF format or equivalent searchable and analyzable electronic format.

(1) All Metropolitan Police Department policies, memoranda of understanding, staff guidance, and training materials regarding the use of the NCR-FRILS system;

(2) All audit logs of the NCR-FRILS system, produced every 3 weeks[15], and/or any similar audits conducted by Metropolitan Police;

(3) Requests for access to the NCR-FRILS system or requests for use of the system;

(4) Emails and other communications relating to the NCR-FRILS system including but not limited to: emails between MPD staff and Fairfax Police Major Christian Quinn or Montgomery Police employee Catherine Miller about the implementation of the NCR-FRILS system, emails about the test of NCR-FRILS using images from NCR-LInX;

(5) The pilot proposal for NCR-FRILS and any report analyzing the NCR-FRILS the pilot, any decision of whether Metropolitan Police should use the NCR-FRILS system.

---

[7] Kris A Peterson, Law Enforcement Information Exchange 2018 Annual Report https://pvaz.granicus.com/MetaViewer.php?view_id=5&event_id=1488&meta_id=130838.
[8] *Id* at 2.
[9] *Id*.
[10] *Id*.
[11] *Id* at 4.
[12] Jouvenal and Hsu, *supra* note 1.
[13] *Id*.
[14] *Id*.
[15] *Id* (according to Maj. Quinn audits are performed every 3 weeks).

<u>Request for Fee Waiver</u>.

EPIC requests that any fees be "limited to reasonable standard charges for document duplication" because the records are "records are not sought for commercial use" and EPIC is a "representative of the news media". D.C. Code Ann. § 2-532(b-1)(2) (West).

First, the "records are not sought for commercial use". D.C. Code Ann. § 2-532(b-1)(2) (West). EPIC is a registered non-profit organization committed to privacy, open government, and civil liberties.[16] EPIC has no commercial interest in the requested records and does not use the information obtained through FOIA for commercial purposes.

Second, EPIC seeks the requested records for a public purpose as a non-profit member of the news media. *See EPIC v. DOD*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003) ("EPIC satisfies the definition of 'representative of the news media,'" under the federal Freedom of Information Act 5 U.S.C. § 552). Therefore EPIC requests that any fees be limited to the cost of duplication (if applicable).

<u>Conclusion</u>

Thank you for your consideration of this request. We anticipate your determination on our request within 15 days. D.C. Code Ann. § 2-532(c-1) (West). For questions regarding this request, please contact Jeramie Scott at 202-483-1140 x108 or FOIA@epic.org.

Respectfully,

*/s Jeramie Scott*
Jeramie Scott
EPIC Senior Counsel

*/s Jake Wiene*r
Jake Wiener
EPIC Law Fellow

---

[16] *About EPIC*, EPIC.org, http://epic.org/epic/about.html.