



*The ACLU's Border Litigation Project investigates, documents, and litigates civil and human rights violations in the U.S.-Mexico border region.*

August 11, 2017

**Sent Via U.S. Mail and fax**

Sheriff William D. Gore  
San Diego County Sheriff's Department  
9621 Ridge Haven Court  
San Diego, CA 92123  
Attn: Legal Affairs  
Fax: 858.974.2244

**Re: Public Records Act request related to iris recognition technology**

Dear Sheriff Gore:

This is a request under the California Public Records Act (California Government Code § 6250 et seq.) ("CPRA") on behalf of the American Civil Liberties Union of San Diego and Imperial Counties.

The ACLU seeks records<sup>1</sup> relating to the San Diego County Sheriff's Department's ("Department") acquisition or use of iris-recognition devices or software<sup>2</sup>, particularly products produced by Biometric Intelligence and Identification Technologies ("BI2 Technologies" or "BI2") including IRIS and MORIS.

According to a July 2017 news report<sup>3</sup>, the Southwestern Border Sheriffs' Coalition ("Coalition") and BI2 are providing sheriffs in counties along the U.S.-Mexico border with BI2's

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<sup>1</sup> Throughout this request, the term "**records**" includes but is not limited to any paper or electronic information, reports, evaluations, memoranda, correspondence, letters, emails, charts, graphs, flyers, meeting agendas, meeting minutes, training materials, diagrams, forms, DVDs, tapes, CDs, notes, or other similar materials.

<sup>2</sup> Throughout this request, the term "**iris-recognition devices or software**" is any technology, including mobile applications, that can capture, analyze, store, or transmit digital images of an individual's iris; and/or confirm an individual's identity by comparing the person's iris pattern against enrolled computer records of those patterns. This includes, but is not limited to BI2 Technologies' iris recognition devices and software, including but not limited to BI2 Technologies' Inmate Identification and Recognition System (IRIS) or its handheld biometric device, MORIS.

<sup>3</sup> Specifically, the Coalition voted to "adopt tools that will capture, catalog and compare individuals' iris data." George Joseph, *The Biometric Frontier: "Show Me Your Papers" Becomes "Open Your Eyes" as Border Sheriffs Expand Iris Surveillance*, INTERCEPT (Jul. 8, 2017, 5:10 AM), <https://theintercept.com/2017/07/08/border-sheriffs-iris-surveillance-biometrics/>.

iris-recognition devices and software. This program is potentially funded in part by the Department of Justice's Bureau of Justice Assistance ("DOJ-BJA").<sup>4</sup>

### Records Requested

Specifically, the ACLU requests copies of the following records created or received by the Department since January 1, 2015:

1. Agreements referencing iris-recognition devices or software or any related database or mobile application, including contracts, licensing agreements, or memoranda of understanding.
2. Communications referencing iris-recognition devices or software or any related database or mobile application between the Department and:
  - a. Any representative of BI2; or
  - b. Any representative the Southwestern Border Sheriffs' Coalition.
3. Funding records referencing iris-recognition devices or software, including grant applications, invoices, purchase orders, budgets, and any record discussing grants administered by DOJ-BJA.
4. Marketing or training materials referencing iris-recognition devices or software—either stationary or mobile— including emails, handouts, presentations, advertisements, or specification documents.
5. Policies governing the Department's use of iris-recognition devices or software—either stationary or mobile—or the sharing of any information collected or generated through such use, including whether probable cause is required for its use.
6. Policies governing the Department's access to *any* database containing information related to or collected by iris-recognition devices or software, including but not limited to a federal database of iris scan data or to the B12 national database.
7. All records referencing the public process of acquiring iris-recognition devices or software, including meeting agendas or minutes, public notice, analyses, or communications between the Department and elected leaders or county officials.

Consistent with the CPRA, a response is required within ten days.<sup>5</sup> To the extent that the Department chooses to withhold information based on one or more exemptions under the CPRA, please list in writing each record that is withheld, as well as the legal authorities on which you rely to withhold such information.<sup>6</sup> For records that contain some exempt material and some non-exempt material, we request that you release records consistent with appropriate redactions.<sup>7</sup>

Because this request is on a matter of public concern, we request a fee waiver. We are also requesting that documents be provided in electronic format where possible. Doing so would

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<sup>4</sup> *Id.* The Coalition requested a grant of \$750,000 from BJA to "improve and expand the biometric identification capabilities of the 31 sheriff's offices along the U.S. and Mexico border."

<sup>5</sup> Cal. Gov't. Code § 6253(c).

<sup>6</sup> *Id.* at § 6255.

<sup>7</sup> *Id.* at § 6253 (a).

eliminate the need to copy the materials and provides another basis for our requested fee waiver. If, however, such a waiver is denied, we will reimburse you for the reasonable cost of copying. Please inform us in advance if the cost will be greater than \$50.

If we can provide any clarification that will help expedite your attention to our request, please contact Matt Cagle at (415) 621-2493. Thank you for your prompt attention to this matter. Please furnish all applicable records to us at [mcagle@aclunc.org](mailto:mcagle@aclunc.org) if in electronic format or, if in physical form, at 39 Drumm Street, San Francisco, CA 94111.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mitra Ebadolahi', with a long horizontal flourish extending to the right.

Mitra Ebadolahi  
Staff Attorney  
ACLU Foundation of San Diego  
& Imperial Counties

A handwritten signature in black ink, appearing to read 'Matt Cagle', with a long horizontal flourish extending to the right.

Matt Cagle  
Technology & Civil Liberties Policy  
Attorney  
ACLU of Northern California