

Utah Legislature looks to limit Department of Public Safety's use of facial recognition technology

Daily Herald

December 30, 2019

https://www.heraldextra.com/news/local/govt-and-politics/utah-legislature-looks-to-limit-department-of-public-safety-s/article_e1f48e8d-4f0b-5080-8677-8a8148ab416e.html

The Utah Legislature is looking to regulate the Utah Department of Public Safety's use of facial recognition technology after reports that DPS had scanned driver's license photos at the request of federal law enforcement agencies.

In July, the Georgetown Law Center on Privacy and Technology found that the FBI, United States Immigration and Customs Enforcement (ICE) and other agencies had sent more than a thousand requests to Utah DPS asking that the agency scan the state driver's license database to look for matches in criminal investigations. Those requests were granted.

Technology experts and civil rights advocates say the practice raises serious concerns for Utah's right to privacy and due process.

In October 2017, ICE agents sent a photo to Utah's public safety department to compare against every driver's license photo in Utah, according to a [blog post](#) from Harrison Rudolph, an associate with the Center on Privacy and Technology. Public records show that staffers repeated this search every few minutes but never received a single likely match.

"Face recognition technology gives police unprecedented power," Rudolph said while testifying before the Government Operations Interim Committee on Sept. 18. "Left unchecked, face recognition threatens our rights and liberties."

Sen. Kirk Cullimore, R-Sandy, will propose a "Facial Recognition Technology Amendments" bill during the 2020 General Session that would impose regulations over the public safety department's use of facial recognition at the request of outside agencies, according to the Utah State Legislature [website](#).

In an interview with [Fox 13](#), Cullimore said his bill, which is still being drafted, could include an "opt-in" feature that lets residents consent to their driver's license photo being used by law enforcement. Another possibility is requiring police to obtain a warrant before requesting a driver's license search.

"We're not trying to ban the outright use of this," the state senator told Fox 13. "Just making sure the public is aware and, if it is being used, that appropriate due process and opt-in options are in place."

Cullimore could not be reached to comment for this story or clarify what his bill will look like.

In his testimony before Utah lawmakers, Rudolph said facial recognition technology is error-prone and falsely matches the faces of women and people of color at a disproportionate rate. He added that the technology has the potential to misidentify innocent people as suspects to a crime.

Between 2015 and 2017, Utah's Statewide Information Analysis Center (SIAC) conducted over a thousand facial recognition searches, without warrants, of the Utah Driver's License Database on behalf of federal agencies, according to Rudolph, and hundreds more at the request of state and local law enforcement agencies across the country.

"Nearly every Utah adult has been affected by face recognition technology," said Rudolph.

Rep. Brady Brammer, R-Highland, said he shared some of Rudolph's concerns but questioned how a driver's license search was different from, for example, police taking fingerprints from a public place.

Brammer also said he wondered how Rudolph could characterize the technology as error-prone when also calling it a privacy concern.

"You can't say that it doesn't work and then say that it works tremendously well," Brammer said.

Rudolph said the danger of facial recognition technology, in his view, is its ability "to amplify the amount of information being collected."

"I personally believe the best way for Utah to protect the public from face recognition is for Utah to press the pause button," he said.

Utah's Commissioner of Public Safety, Jess Anderson, testified that the public safety department would repeal its memorandum of understanding with the FBI regarding driver's license searches after hearing concerns raised.

The technology has helped the Utah Driver License Division prevent driver's license fraud, Anderson said. Before facial recognition technology, it was "next to impossible" to prevent such offenses.

Gayle Ruzicka, president of the Utah Eagle Forum, said she believes DPS's use of facial recognition software should be regulated.

"We're all entitled to privacy," Ruzicka said in an interview. "Something as private as your own facial (identity) should not be used without your permission."

Utah residents need to be educated on the ways the information is being used, Ruzicka added. "Most people don't even know or understand it's going on."

Marina Lowe, legislative and policy council for the American Civil Liberties Union of Utah, said facial recognition technology also raises privacy concerns for children.

If a child applies for a driver's license permit, "that child's photograph is in this database as well and is searched on a regular basis by law enforcement," Lowe said.

Lowe acknowledged that the technology could be used in productive ways, such as helping police solve crimes or preventing driver's license fraud.

"It's just important that, whatever tools are used, we want to make sure that they are being used in a way that does not infringe on people's rights," said Lowe.

Connor Richards covers government, the environment and south Utah County for the Daily Herald. He can be reached at crichards@heraldextra.com and 801-344-2599.