

ICE officials running unchecked facial recognition searches on Maryland drivers

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US Immigration and Customs Enforcement (ICE) has been using facial-recognition software to search through Maryland's state database of registered drivers and hunt down undocumented immigrants without seeking state or court approval.

The data for driver's licenses is collected by the Maryland Motor Vehicle Administration (MVA). The software employed by ICE allows an agent to take a photograph of an unidentified person and see if they have a Maryland license and whether they are undocumented. Beginning in 2013 Maryland allowed immigrants to get driver's licenses without supplying proof of legal immigration status, despite federal guidelines. Since that time, the state has issued over 275,000 licenses.

The *Washington Post* broke the story based on a previously unpublished letter, according to which a top Maryland law enforcement official told state lawmakers in November that ICE officials had logged nearly 100 sessions in the Maryland driver's license database since 2018, each of which could have included multiple searches.

In other states such as Utah, Vermont and Washington, ICE has had access for years to the driver's license databases but required a state official to actually run the search. In the case of the Maryland database, ICE agents anywhere in the country are able to search through it without seeking approval from state officials.

Harrison Rudolph, a senior associate at Georgetown University Law School's Center on Privacy and Technology, told the *Post* that it appears that any law enforcement official with access to the National Crime Information Center maintained by the FBI can search the state's database, calling it "an unprecedented level of access for federal agents—including ICE deportation

agents."

According to Maryland Sen. Clarence K. Lam (D-Howard), "They have a wide-open door to be able to search through anything in this database. They've not been forthcoming in their willingness to [stop it] or coming up with solutions."

A spokeswoman for ICE, while refusing to go into details, claimed that the agency did not "routinely" use facial-recognition searches for civil immigration enforcement. Given the complete absence of oversight, these assurances cannot be given any value. Further, several immigrants detained by ICE have claimed they were told by law enforcement officials that they were found based on information taken from their driver's licenses.

The *Post* quotes Rockville resident Maribel Cortez, who told a court hearing how Jose Santos Quintero, her husband of 21 years and father of five with her, was arrested. Speaking to lawmakers through an interpreter, she said, "They came to the house. They took him. The kids that were there, they didn't give the kids any explanation. And it wasn't until they finally were detaining him and taking him to the car that they were telling him they were arresting him because of a license." She further said that they have never before had any encounters with immigration or criminal law enforcement authorities.

The origins of ICE's access to the Maryland database remain murky, however Lam told the *Post* he gathered from meetings with ICE officials that it started with a 2012 memorandum of understanding. This 2012 memorandum precedes the 2013 decision to allow undocumented immigrants access to driver's licenses, raising the possibility that some lawmakers could have been aware of ICE's access when the push was being made to give undocumented immigrants driver's

licenses.

For his part, Maryland's Republican Governor Larry Hogan has refused to condemn the practice and said he will not support recently introduced legislation to place limits on ICE's ability to conduct warrantless searches of MVA records. Hogan has frequently been lauded by Democrats as a "moderate" Republican as opposed to the overt racism and demagoguery of Trump. There were even suggestions last year that he run as a primary challenger to the president in this year's election. This episode makes it clear that Hogan has no fundamental differences with Trump when it comes to brutal attacks on immigrants.

Other Maryland Republicans have evinced the same perspective. State Senator Justin D. Ready (R-Carroll) callously said that immigrants should have expected this outcome all along, saying, "We didn't force them to give [their personal information] up."

Maryland state Democrats have confined their opposition to ICE along the most narrow lines. Delegate Dana Stein (D-Baltimore County) made clear that the party delegates "don't want to do anything that impedes criminal law enforcement investigations." Stein took no issue with federal intelligence agencies, such as the FBI, who are similarly unencumbered by warrants or oversight.

Democratic Party commentators have taken aim at the particular use of facial recognition software, highlighting that they are often unreliable and exhibit racial biases. The *Post*, basing its concern upon the technology's tendency to misidentify individuals, states: "The searches ... could affect everyone, not just immigrants ... Facial-recognition algorithms were shown to be up to 100 times more likely to misidentify people if they were Asian or black, a federal study found last year."

While concerns about the potential for misidentification are warranted, such criticism evades the central issue, which is the overall threat to democratic rights that mass state surveillance represents. Based upon this argument, all that is required is more accuracy in facial recognition, not democratic safeguards against state spying.

The Maryland state lawmakers' 2013 decision to grant undocumented immigrants driver's licenses parallels the implementation of the Deferred Action for Childhood Arrivals (DACA) policy of the Obama

administration. Enacted by Democrats on both the state and national levels, both policies offered undocumented immigrants supposed benefits in exchange for registering personal information with the state.

In both cases these seemingly "immigrant-friendly" policies were then used as a tool to go after immigrants instead. In the case of DACA, immigrants were left wide open to attacks by the Trump administration, who took over the executive programs put in place by the Democrat Obama. This sort of bipartisan attack is standard practice for the political parties of the ruling class, who, regardless of party, want to keep immigrants as precarious and exploitable as possible.



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