

# FACE SURVEILLANCE MORATORIUM

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There is currently no regulation of face surveillance in Massachusetts. We need a moratorium on the use of biometric surveillance technologies by the government to protect privacy, free speech, and democracy.

Police in Massachusetts are using face recognition technology without legislative approval or judicial oversight, threatening core civil rights and civil liberties. The spread of face surveillance technology is occurring in the dark, absent public debate or democratic oversight. Government agencies are adopting these technologies despite the absence of privacy regulation, the technology's inaccuracy, and the threats face surveillance technology in the hands of governments poses to free societies and free peoples. Meanwhile, agencies like the FBI are already using voice and gait recognition to track the identities and movements of people across the country. The future is coming fast; soon enough, agencies in Massachusetts will look to use voice and gait recognition as well.

*An Act Relative to Unregulated Face Recognition and Emerging Biometric Surveillance Technologies* responds to these dangers by instituting a moratorium on government use of these forms of biometric surveillance until the legislature passes regulation of the technology to protect civil rights and civil liberties.

## Unregulated face surveillance in Massachusetts

For years, law enforcement in Massachusetts has been using face recognition technologies absent any legislative approval, public debate, or judicial oversight. According to the Boston Globe, the Massachusetts Department of Transportation allows law enforcement to use the Registry of Motor Vehicles' driver's license database as a perpetual face

recognition lineup, searching against the database using face surveillance technology. In 2015, the Globe reports, law enforcement agencies submitted 258 photos to the RMV for searching against the driver's license database, which contains millions of images of people in Massachusetts. According to the Globe, 72 of those requests for face scans came from federal agencies. The RMV does not require that law enforcement obtain any judicial approval before performing these searches, and people are not notified that their images may be used for these purposes when they apply for a driver's license.

## Companies sound the alarm

In December 2018, Google announced that the company had opted not to release a general face surveillance product "before working

through the important technology and policy questions.” Google CEO Sundar Pichai told the Washington Post that tech companies have to be careful not to build and sell technologies merely because they can. “I think tech has to realize it just can’t build it and then fix it,” Pichai said. “I think that doesn’t work.” Also in December, the President of Microsoft, Brad Smith, published a blog post calling for regulation of face surveillance technology, recognizing the danger the technology poses to free societies. Smith wrote:

“When combined with ubiquitous cameras and massive computing power and storage in the cloud, a government could use facial recognition technology to enable continuous surveillance of specific individuals. It could follow anyone anywhere, or for that matter, everyone everywhere. It could do this at any time or even all the time. This use of facial recognition technology could unleash mass surveillance on an unprecedented scale.”

As Smith says, this nightmare scenario is “not inevitable.” But to avoid it, legislatures must act.

## WHY WE NEED A MORATORIUM:

Given these threats to individual rights and democracy, the Massachusetts legislature must pass a moratorium to “press pause” on statewide implementation of biometric surveillance technology by government entities. We need a robust public debate to examine this complex issue, and strong regulation to ensure it doesn’t infringe on our liberties. We should not put the technology cart before the policy horse, but unfortunately—absent the moratorium—that’s exactly what’s happening.

### Face surveillance technology

- Is inaccurate when identifying dark-skinned women
- Falsely identified 28 members of Congress in a mug shot database
- Threatens core civil liberties, including freedom of speech and association, and privacy
- Is in widespread use in authoritarian countries like China, where it has been used to round up religious minorities and police petty crimes like jaywalking
- Could be used, in secret, to track politicians, journalists, and whistleblowers

### The Face Surveillance Moratorium Act

- Recognizes the dangers unregulated biometric surveillance poses to core constitutional rights and basic freedoms
- Bars government agencies in Massachusetts from using face, voice, and gait recognition surveillance until the legislature passes comprehensive regulation to protect individual rights and open society
- Advances racial, gender, and religious justice