

Facial Recognition Technology Use

610.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the use of facial recognition technology (FRT) by a deputy to assist in the development of investigative leads. This policy also provides guidance for FRT data access, use, and retention.

This policy does not apply to the use of FRT in user identification applications for personal electronic devices, access control systems, or automated video redaction software.

The Milwaukee County Sheriff's Office considers the results, if any, of a facial recognition search to be advisory in nature as an investigative lead only. Facial recognition search results are not considered positive identification of a subject and do not, on their own, establish probable cause without further investigation. Any possible connection or involvement of the subject(s) to the investigation must be determined through further investigative methods.

610.1.1 DEFINITIONS

Definitions related to this policy include:

Facial recognition technology (FRT) - A software application, electronic system, or a third-party service that uses biometric algorithms to compare facial features of a probe image with the features of images contained within an image database.

Investigative Lead - Any information which could potentially aid in the successful resolution of an investigation, but does not imply positive identification of a subject or that the subject is guilty of a criminal act.

Probe image - A search image submitted to FRT for comparison with images contained within an image database.

610.2 POLICY

It is the policy of the Milwaukee County Sheriff's Office to limit FRT use to examine and compare distinguishing characteristics of a human face through the use of biometric algorithms contained within the FRT software while recognizing and protecting established constitutional and privacy rights.

This technology can be a valuable investigative tool to detect and prevent criminal activity, reduce an imminent threat to health or safety, and help in the identification of persons unable to identify themselves or deceased persons. The Milwaukee County Sheriff's Office has established access and use of a facial recognition software system to support investigative efforts. The software will be treated as any other investigative lead and should never be used as a sole guarantee or for probable cause to arrest.

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610.3 SHERIFF RESPONSIBILITIES

The Sheriff or the authorized designee shall approve any FRT system or service prior to its implementation and use by the Agency.

610.4 AUTHORIZED USE OF FRT

All use of FRT is for law enforcement use only and is considered law enforcement sensitive information. FRT may be used as a tool to develop investigative leads for legitimate law enforcement investigations to assist in the identification of the following:

- (a) A reasonable suspicion that an identifiable individual has committed a criminal offense or is involved in or planning criminal conduct or activity that presents a threat to any individual or the community.
- (b) Potential victims, as appropriate (e.g., human trafficking, child sexual abuse material)
- (c) To assist in the identification of a person who lacks the capacity or is otherwise unable to identify themselves (such as an incapacitated, deceased, or otherwise at-risk person).
- (d) For a person who an officer reasonably believes is concealing their true identity and has a reasonable suspicion the individual has committed a misdemeanor or felony crime other than concealing their identity.
- (e) Suspects in unsolved crimes
- (f) Missing or endangered persons
- (g) Unknown individuals pursuant to any other legitimate law enforcement investigations

610.4.1 ACCESS TO FRT

Only those members assigned to the Investigative Services Bureau (ISB) are authorized to utilize FRT. Authorized access to FRT will be granted only to personnel whose positions and job duties require such access and who have successfully completed the required training. Members will be provided individual usernames and passwords to the FRT that are not transferrable, must not be shared, and must be kept confidential.

An authorized ISB member may submit a probe image for comparison with images available within the agency FRT image database consistent with agency procedures.

FRT searches shall only be conducted using lawfully obtained probe images.

610.4.2 FRT REPORTING REQUIREMENTS

The investigating deputy shall document all FRT searches in the appropriate agency report, including any arrest report where FRT was used as an investigative tool. Documentation shall include:

- (a) The requesting deputy's name and position.
- (b) The appropriate RMS CFS code.
- (c) The purpose of the search.

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- (d) The search parameters, if any.
- (e) The date and time of the search.
- (f) The case number of the applicable investigation.
- (g) The results of the search, including the number of investigative leads produced and, where applicable, the matching score of each.
- (h) The additional means used to identify any person (e.g., visual comparison of images by a trained investigator, other subsequent investigation).

610.5 PROHIBITED USES

FRT shall not be used in a manner that targets individuals or groups solely based on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, or any other classification or status protected by law.

In addition, FRT shall not be used nor disseminated:

- (a) For real time tracking of individuals in public spaces.
- (b) For the arrest of individuals based solely on FRT results.
- (c) For any purpose that violates the U.S. Constitution or laws of the United States, including the protections of the First, Fourth, and Fourteenth Amendments.
- (d) For any non-law enforcement purpose.
- (e) As the sole basis for identification to establish probable cause in a criminal investigation.
- (f) To harass or intimidate any individual or group.
- (g) In any other manner that would violate applicable law, regulation, or policy.

No deputy shall request that a third-party use FRT to obtain results that would not be permitted under this policy. The agency will not connect FRT to any interface that performs live video surveillance (e.g. body-worn cameras, drone footage, surveillance cameras).

610.6 FRT CONTRACTED SERVICES

The Milwaukee County Sheriff's Office will contract with software service companies to provide access to legally permissible FRT. The agency will perform facial recognition searches utilizing mug-shot images, also known as booking photos. The booking photos are lawfully obtained from known offenders when they are arrested and booked by law enforcement.

Probe images are never saved in the contracted services software database.

610.7 FRT COORDINATOR

The Investigative Services Bureau (ISB) Inspector shall serve as the FRT coordinator. The responsibilities of the FRT coordinator include:

- (a) Managing the FRT program to ensure compliance with applicable laws, regulations, and best practices.

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- (b) Act as the authorizing official for individual access to FRT systems, services, and data.
 - 1. Access levels should be no higher than necessary to accomplish organizational tasks, missions, or functions.
- (c) Ensuring that random audits, at minimum annually, of user compliance with system requirements, FRT policy, and applicable laws are conducted and documented.
 - 1. Audits and documentation should contain requested, accessed, searched, or disseminated FRT information.
 - 2. Audits should include a summary of how the audit was completed, findings of the audit to include any identified policy violations, need for revisions, or actions taken to address any violations or revisions.
- (d) Confirming that authorized users have completed agency-approved FRT and forensic image comparison training prior to using FRT.
- (e) Coordinating with the information systems technology supervisor, agency counsel, and appropriate administrators to develop information-sharing procedures with outside agencies in accordance with state and federal law.

610.8 RELEASE / RETENTION OF FRT DATA

The Milwaukee County Sheriff's Office complies with Wisconsin's public record law. Unless disclosure is required by law or court order, FRT data should only be released to the public in accordance with Wisconsin public record laws. Requests for the release of FRT data shall be processed in accordance with the Records Maintenance and Release Policy.

FRT data shall be retained in accordance with the established records retention schedule.

610.9 TRAINING

Before access to FRT system is authorized, ISB members must receive familiarization training and acknowledge the applicable policies and procedures. Members will receive department-approved training for those authorized to use or access the facial recognition software system.