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FOIL Disclosure: SI District Attorney Used Federal Asset Forfeiture Funds to Employ Controversial Facial Recognition Software on Unsuspecting New Yorkers

(NEW YORK, NY) - The Legal Aid Society released [documents](#) obtained via a Freedom of Information Law (FOIL) request which [reveals](#) that Richmond County District Attorney Michael McMahon used the Federal Equitable Sharing Program (FESP), also known as asset forfeiture, to purchase and employ Clearview AI facial recognition technology.

[The Federal Equitable Sharing program](#) is a large-scale asset forfeiture program that allows local municipalities to access a shared pool of funds, in exchange for cooperating with federal investigations. Furthermore, it enables law enforcement agencies to circumvent local asset forfeiture restrictions evading due process.

Earlier this week, the House Committee on Oversight and Reform issued a press release on a [bi-partisan letter](#) sent to the U.S. Department of Justice (DOJ) requesting additional information on the DOJ's efforts "to address long standing abuses of its Equitable Sharing Program, which allows state and local governments to partner with DOJ by transferring property, money, or assets that have been seized by law enforcement to the federal government for forfeiture which then shares up to 80% of the proceeds with local and state law enforcement agencies, regardless of state law."

In the disclosure, the DA's office wrote, "*With regard to source funding, as I understand it, the funding for Clearview came from the Equitable Sharing Program.*"

Essentially, the Richmond County DA is using property and money taken from communities, with little to no due process, to fund surveillance to use on those same communities.

Additional RCDA FOIL disclosures relating to facial recognition:

- <https://tinyurl.com/bdzxyaak>
- <https://tinyurl.com/afwx3ufv>

Asset forfeiture programs have come [under scrutiny](#) for undermining basic constitutional rights. Homes, money, and property are often seized without due process and on mere suspicion. The practice incentivizes "policing for profit," and has devastating consequences for communities that are already over-policed.

Clearview AI is primarily used by law enforcement to match photos of unknown suspects to online images. Clearview has [garnered intense criticism](#) for [infringing](#) on basic privacy and civil rights by collecting and storing data on people without their knowledge or consent. More troubling, no amount of oversight, guidelines, or audits can change that facial recognition technology is fundamentally flawed.

After revelations about DA McMahon's [contract with Clearview AI](#) for use of their facial recognition software, The Legal Aid Society and lawmakers [called](#) on their office to end the practice. RCDA used the technology for nearly two years, from May 2019 through March 2021.

“Law enforcement and government agencies have a proven history of concealing the use of facial recognition and utilizing it against the public, without any oversight or regulation,” said **Diane Akerman, Staff Attorney with the Digital Forensics Unit at The Legal Aid Society**. “The revelation that the funds used to access the Clearview AI service was derived from property obtained without due process, from the same individuals who are most at risk to the devastating consequences of its flaws, is nearly dystopian.”

This week's inquiries into the FESP emphasized the lack of oversight of agencies' use of funds. Though their own guidelines required regular auditing of the use of Clearview AI, [no such measures were taken](#).

The DA's office wrote that, “[t]here are no records concerning any quarterly reviews or internal audits.”

Coupled with the RCDA's office failure to engage transparently with the public, it is further proof that government and law enforcement agencies cannot be trusted with this highly invasive technology.

The Legal Aid Society calls on lawmakers to immediately act now to ban the use of this invasive, racially biased, and flawed technology.

Background:

Last January, 2021, through a FOIL request, Legal Aid received documents which [revealed](#) that DA McMahon's Office paid \$10,000 in May of 2019 for eleven employees [to use Clearview's services for one year](#). At the time, the source of the funds was unclear. The records also exposed that the DA's office internal protocols did not limit the use of Clearview to specific case types, potentially allowing for the controversial service to have been used on even the most minor of charges.

DA McMahon is currently the only prosecutor in New York City known to have contracted with Clearview AI.

Previously Released FOIL documents:

Clearview contract, requisition and user list: <https://tinyurl.com/y4g2el56>.

Richmond County DA's Clearview AI protocol: <https://tinyurl.com/y2ond5na>.

Richmond County DA's IT Guidelines: <https://tinyurl.com/y5ljxm9o>.

List of Richmond County DA employees who used Clearview AI: <https://tinyurl.com/y6qzsq17>

More information on how the Richmond County DA utilized facial recognition software here: <https://tinyurl.com/4pkv9dh4>.

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