

MEMORANDUM OF AGREEMENT

BETWEEN

**THE FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION**

AND

THE MICHIGAN STATE POLICE

**CONCERNING THE SEARCH OF PROBE PHOTOS AGAINST THE
MICHIGAN STATE POLICE STATEWIDE NETWORK OF AGENCY PHOTOS
REPOSITORY**

I. PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to document the agreed responsibilities and functions of the Parties with respect to conducting searches of the Michigan State Police (MSP) Statewide Network of Agency Photos (SNAP) facial recognition (FR) photo repository. These searches will be performed for the purpose of comparing Federal Bureau of Investigation (FBI) Facial Analysis, Comparison, and Evaluation (FACE) Services Unit probe photos against photos housed in the MSP's SNAP and obtaining information that will advance active FBI investigations, apprehend wanted fugitives or known or suspected terrorists, and locate missing persons nationwide. A probe photo refers to the photo of the subject of an active FBI investigation that is submitted for search against a photo repository. The anticipated result of that search will be a photo gallery of potential matches (candidates). These potential matches will be forwarded to the FBI, along with any associated information stored with the photo in the MSP SNAP FR photo repository. The FBI FACE Services Unit will then perform comparisons of the candidate photo(s) against the probe photo(s) to determine their value as investigative leads.

II. PARTIES AND POINTS OF CONTACT

- A. The parties to this MOA are the FBI and the MSP.
- B. The FBI, Criminal Justice Information Services (CJIS) Division, Biometric Services Section (BSS), FACE Services Unit provides investigative support to FBI field offices and headquarters divisions. The CJIS Division, through its Assistant Director, is the FBI's point of contact (POC) for this MOA. For certain day-to-day operations of the activities described by this MOA, the FBI's POC with the MSP will be the FACE Services' Management Unit and its Management and Program Analysts.

*John
8/21/12
2012 8/21/12*

319X-HQ- [REDACTED]

- C. The MSP Biometrics Identification Division (BID) provides and develops the science and technology to uniquely recognize individuals based on intrinsic physiological and behavioral characteristics, acquisition and access control. These services promote the safety of our officers and the communities they are sworn to protect. For purposes of this MOA, the MSP POC is the Section Manager, Digital Image Analysis Section, Biometrics Identification Division. For certain day-to-day operations of the activities described by this MOA, the FACE Services Unit will contact [REDACTED].

III. AUTHORITIES

- A. The FBI enters into this MOA pursuant to Title 28, United States Code (U.S.C.) Sections 533 and 534; Title 28, Code of Federal Regulations Section 0.85; Title 42, U.S.C. Section 3771; and Title 18, U.S.C. Chapter 123.
- B. The MSP is authorized to share driver's license information with the FBI for authorized law enforcement purposes pursuant to Title 18, U.S.C. Section 2721(b)(1) and MCL 257.307(2)(a).

IV. BACKGROUND INFORMATION

- A. General Information: The FACE Services Unit provides a facial recognition service in which FBI Special Agents, or other authorized FBI personnel, submit to the FBI CJIS Division a photo of the subject of an active FBI investigation. These probe photos are compared to photographs in databases authorized for use by the FBI (i.e., FR databases maintained by state motor vehicle departments/agencies, law enforcement, or other government agencies). In this case, a probe photo is sent to the MSP. The MSP compares the probe photo to its database, and candidates produced as a result of the search are sent by the MSP to the FACE Services Unit. The FACE Services Unit compares the MSP candidate list against the submitted probe photo in an effort to narrow down to the one or two most-likely candidates. These candidates are then provided to the requesting FBI contributor for use as an investigative lead. The number of candidates produced and provided to the FACE Services Unit as a result of these searches is dependent upon the searching threshold set by the individual agency.
- B. MSP-Specific: Once the MSP has conducted an automated search of the probe photo against the photos in its SNAP Program FR photo repository, the MSP will then provide the photo along with biographical information of the resulting candidate to the FACE Services Unit. Once the MSP has conducted an automated search of the probe photo against the photos in its SNAP Program FR photo repository, the MSP will then provide the driver's license or personal identification card number along with a photo of the resulting candidate to the FACE Services Unit. The FACE Services Unit will review the

information to determine a likely candidate and then submit to the MSP a MSP-provided form requesting copies of the candidate's driver's license and/or personal identification card. The number of candidates produced as a result of these searches is dependent upon the searching threshold set by the MSP.

- C. The intent of this service is not to provide a positive identification, but to provide the FBI Agent with a valuable investigative lead and analysis to support that lead. The FBI will utilize the MSP SNAP FR photo repository to supplement information provided by existing FBI photo database searches.

V. SPECIFIC RESPONSIBILITIES

A. The FBI will:

1. Submit probe photos, via Law Enforcement Online (LEO)-to-LEO e-mail, to the MSP for the purposes of comparing the probe photos with photos in the MSP SNAP FR photo repository. The LEO is accredited and approved by the FBI for Sensitive but Unclassified law enforcement information.
2. Manually analyze, compare, and evaluate the returned candidate photo gallery against the probe photo to determine the most-likely candidate(s).
3. Submit the photo(s) of the most-likely candidate(s) to be searched against the FBI Photo File in order to:
 - a. Locate any additional photos and associated arrest information relating to the most likely candidate(s).
 - b. Identify additional potential candidates and associated information.

The results of this search will be compared and analyzed against the original probe photo(s). Once the analysis is complete, the one or two most-likely candidate photo(s), along with their associated information, will be provided to the requesting agent as an investigative lead.

4. Store, in the FACE Services Work Log for record keeping purposes, photo images and text associated with the driver's license of the most-likely candidate(s) to the probe photo. This will adhere to National Archive and Records Administration retention schedule. Access to the FACE Services Unit Work Log is limited to FACE Services Unit personnel and other authorized FBI personnel who access the log for audit and legal purposes.

5. Immediately destroy all other unused gallery photos and associated information.

B. The MSP will:

1. Apply for a LEO e-mail account through the LEO Operations Unit.
2. Compare the probe photo submitted by the FACE Services Unit against the MSP SNAP Program FR photo repository.
3. Conduct the FR search on a MSP priorities basis and permanently return electronic photos of all possible candidates to the FACE Services Unit via LEO e-mail.
4. Ensure that only authorized MSP personnel will handle requests submitted by the FBI CJIS Division. Authorized MSP personnel refer to personnel who are currently trained to perform FR queries against the MSP SNAP FR photo repository for law enforcement purposes. Names of these predetermined MSP personnel will be submitted to the FBI CJIS Division for the purpose of the FACE Services Unit establishing and maintaining communications contact with those MSP personnel who will be providing services to the FACE Services Unit. The MSP, through its authorized personnel, will conduct queries of the MSP SNAP FR photo repository using the photo probe submitted by the FACE Services.
5. Include all information associated with the candidate's/candidates' driver's license in the response to the FACE Services Unit, including information relating to all aliases.
6. Immediately and permanently destroy all probe photos, and any associated data submitted from the FACE Services Unit, once the search has been completed and the response has been sent to the FACE Services Unit via LEO.
7. Ensure that probe photos received from the FACE Services Unit will not be electronically transmitted by any internal or external MSP systems.

VI. PRIVACY AND SECURITY

- A. The information involved in the MOA may identify United States persons, whose information is protected by the Privacy Act of 1974, 5 U.S.C. 552a. The FBI will ensure that all such information will be handled lawfully

pursuant to the provisions thereof. Conversely, the MSP will comply with its own state's privacy laws.

- B.** For purposes of this MOA, Personally Identifiable Information (PII) is defined as information which can be used to distinguish or trace an individual's identity, including any personal information which is linked or linkable to a specific individual. Examples of PII are name, social security number, date of birth, place of birth, citizenship, mother's maiden name, and photographs, fingerprints, and other biometrics.
- C.** Each party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.
- D.** Each party will immediately report to the other party each instance in which information received from the other party is used, disclosed, or accessed in an unauthorized manner (including any information losses or breaches).
- E.** All transmissions of probe photos submitted by the FACE Services Unit to the MSP and responses returned to the FACE Services Unit will be made through a LEO-to-LEO e-mail connection.
- F.** The MSP will ensure user accounts and authorities granted to its personnel are maintained in a current and secure "need-to-know" status.
- G.** Both FBI requests and MSP responses will contain PII, and LEO e-mail is approved and authorized to ensure security of information contained in these transmissions. After completing its response to the FACE Services Unit request, the MSP will then, in a secure manner, immediately and permanently dispose of the FACE Services Unit-supplied probe photo, along with the FACE Services Unit's image search request.
- H.** All hardcopy facial images determined by the FACE Services Unit not to be a most-likely candidate, along with all associated textual information, will be disposed via confidential trash. Textual information can include biographic information such as: name, address, date of birth, height, weight, eye color, driver's license/personal identification number, and signature. All electronic facial images, including those saved on thumb drives, determined by the FACE Services Unit not to be a most-likely candidate, along with all associated textual information, will be deleted.
- I.** Photo images of most-likely candidate will be retained by the FACE Services Unit in a log located in a secure folder on the FBINET Domain for record-keeping purposes. All others will be destroyed by the FACE Services Unit.

- J. The information and/or documents provided by MSP to the FACE Services Unit will contain PII about persons retained in the MSP FR systems. The FACE Services Unit will use this information for lawful/authorized purposes only. This material will be provided by MSP at no cost to the FBI.
- K. Each party shall be responsible for the safeguarding of any equipment used by it to access records and shall limit access to authorized users with a need to know the information and who have been properly instructed as to their duties and responsibilities under this MOA.
- L. Each party shall implement procedures to ensure that such equipment is located in a secure area and to prevent information, including any printed copies of records, from being viewed by individuals not authorized to use the equipment and from being viewed by individuals not authorized to see or have access to this information.

VII. EFFECT OF THIS AGREEMENT

- A. This MOA is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable by law or otherwise against any of the parties, their parent agencies, the United States, or the officers, employees, agents, or other associated personnel thereof. The parties will seek to resolve any disputes regarding this MOA by mutual consultation.
- B. This MOA is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties of the matters described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOA. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the language in this MOA in no way implies that funds will be made available for such expenditures.
- C. This MOA does not constitute an agreement for any party to assume or waive any liability or claim under any applicable law.
- D. Each party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing party, and that information is only made available to the receiving party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing party.
- E. Each party will provide appropriate training regarding the responsibilities under this MOA to individuals whose information-sharing activities are covered by the provisions of this MOA.

VIII. EFFECTIVE DATE, MODIFICATION, AND TERMINATION

- A.** This MOA shall be effective when executed by the parties, by and through their duly authorized representatives, and will continue in effect until terminated as hereinafter set forth. This MOA may only be amended by a written document signed by the parties, by and through their duly authorized representatives.
- B.** Either party may terminate this MOA for any reason, provided that at least thirty (30) days advance written notice of termination is given to the non-terminating party by the terminating party. This MOA will be reviewed annually to ensure that the terms remain current, complete, and relevant.
- C.** This MOA, in eight distinct sections, is the exclusive statement of the parties with respect to its subject matter and supersedes any and all prior agreement, negotiations, representations, and/or proposals, written or verbal, relating to its subject matter.

FOR THE FEDERAL BUREAU OF INVESTIGATION

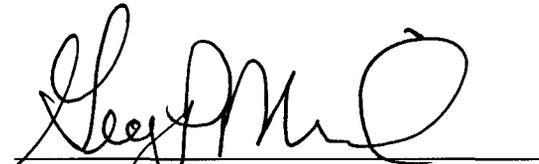


David Cuthbertson
Assistant Director
Criminal Justice Information Services
Division

9/4/12

Date

FOR THE MICHIGAN STATE POLICE



Captain Gregoire Michaud
Commander
Biometrics Identification Division
Michigan State Police

9/10/12

Date