



March 10, 2015

VIA EMAIL

CLETS Administration Section
California Department of Justice
4949 Broadway Room J231
Sacramento, CA 95820
Email: steve.kennedy@doj.ca.gov

RE: CLETS Advisory Committee/Standing Strategic Planning Subcommittee

To Whom It May Concern:

I am writing on behalf of the Electronic Frontier Foundation (EFF), a San Francisco-based non-profit that defends civil liberties in the digital age. Having reviewed recent meeting minutes from the CLETS Advisory Committee (CAC) and its Standing Strategic Planning Subcommittee (SSPS), as well as documents obtained through the California Public Records Act, EFF is deeply concerned about the privacy and civil rights implications of CAC/SSPS's recent actions and proposals. Please enter this letter into the public record for the March 25 meetings of both CAC and SSPS.

The public records indicate that these bodies are moving beyond mere advisory roles by applying for grants and meeting with heads of law enforcement agencies to expand both the collection of personal information and the sharing of this sensitive information with outside entities. In particular, CAC/SSPS appears headed towards a process of sharing facial images held by the California Department of Motor Vehicles (DMV) and enabling facial recognition for investigative purposes, despite DMV concerns that some of these steps may be insecure and inconsistent with existing statutory authorization.

First, EFF is greatly concerned about CAC/SSPS's recent efforts to obtain funding to build out DMV's infrastructure and to allow the state to access driver license photos from other states through the National Law Enforcement Telecommunications System (NLETS). While this may not directly affect California drivers, it is clear from the documents that CAC/SSPS believes that this first step will open the door—both in terms of policy and technology—for the sharing of California drivers' photos nationwide. We share the concerns of the director of the DMV, who stated in response to CAC/SSPS inquiries:

[T]he transmission and wholesale sharing of DL/ID photos between Cal-Photo and NLETS raises significant concerns. DMV has a statutory and regulatory obligation to protect all information, including photos that are maintained in the department's database. There is no viable method for DMV to account for each disclosure of California DL/ID photos via NLETS under this proposal. The proposed expansion of photo-sharing between CLETS/Cal-Photo and NLETS may open the door to random accessing of photos without providing identifying points of information. The inability to account for each California DL/ID photo disclosure via NLETS would make it difficult, if not impossible to track the source of a security breach involving the NLETS network.

At this time, DMV cannot support Goal #8 to the extent it depends on the use of any California DMV information, specifically DL/ID photos. Existing statute and regulations require a vast array of security measures to protect DMV record information for the reasons stated.

815 Eddy Street • San Francisco, CA 94109 USA

voice +1 415 436 9333

fax +1 415 436 9993

web www.eff.org

email information@eff.org

Despite this warning from the DMV, CAC/SSPS is continuing to move forward with this proposal, as well as pursuing the ability for law enforcement to leverage facial recognition technology against DMV records for investigations.

Beyond the obvious civil liberties concerns, there are also data security issues with these CAC/SSPS proposals. CAC meeting minutes regularly outline deficiencies in encryption and other security compliance failures among California law enforcement agencies, including problems in the Los Angeles County Sheriff's Office and the Los Angeles Police Department, two of the largest law enforcement agencies in the state. No personal information should be collected, stored, or shared without effective security techniques and detailed auditing to ensure this sensitive information is adequately safeguarded.

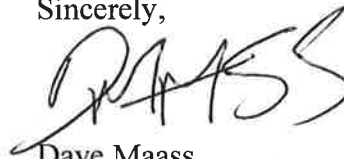
Finally, we are concerned with CAC/SSPS efforts to collect thumbprints from Californians during traffic stops for low-level infractions and misdemeanors, as well as the expansion of GPS tracking and sharing of locational data statewide. Although CAC/SSPS cited Proposition 47 as justification for these measures, the primary purpose of Proposition 47 was to reduce the consequences of non-violent and less serious crimes. These proposals simply serve as an end-run around the will of California voters.

Given the specific privacy and security concerns surrounding these proposals, and the growing concerns about privacy and government surveillance generally among the public and state legislators, it was surprising to see CAC/SSPS is scheduling meetings with law enforcement officials on these issues without engaging civil liberties advocates and other stakeholders.

EFF asks CAC/SSPS to immediately put the brakes on these plans. These policies will have substantial and long-lasting ramifications for both law enforcement and the public. Therefore, decisions of this magnitude must be made with full public engagement and the involvement of the legislature, not in obscure advisory and planning committee meetings or in closed-door sessions with law enforcement associations.

In the coming days, we plan to publicize our position on these issues in anticipation of the CAC/SSPS March 25 meetings, with a goal of generating letters for public comment. If representatives of these committees would like to speak with us directly, you can reach me at dm@eff.org.

Sincerely,



Dave Maass
Investigative Researcher

CC: Attorney General Kamala Harris
attorneygeneral@doj.ca.gov

815 Eddy Street • San Francisco, CA 94109 USA

voice +1 415 436 9333

fax +1 415 436 9993

web www.eff.org

email information@eff.org