

Liane Moriyama

From: Liane Moriyama
Sent: Tuesday, September 13, 2011 7:13 AM
To: 'Casteel, Diane M.'
Cc: 'Williams, Gary L.'; 'Jones, David L.'; Lauren Uwaine
Subject: RE: Tried to call today AND **FACIAL RECOGNITION MOU**
Attachments: Final_IPSFRP_MOU_3-18-2011.wpd

Importance: High

Big OOPS...meant to send the facial recognition MOU because a RISC MOU is not necessary anymore and the comments from the attorney would just be 2:

- I think it would be a good idea to have an idea how long the agreements will last. As currently drafted they have no end date but are reviewable annually to see if they should be continued. I suggest that in the last section that discusses the annual review, perhaps a stated date should be used - e.g., this MOU . . . will be reviewed annually on or before the anniversary date . . . " That way you can put it in your tickler file.
- The only other comment I would make is you might consider in paragraph 6, Funding, revising the last sentence to read: "The parties expressly acknowledge that this in no way implies that Congress or the State of Hawaii will appropriate funds for such expenditures."

Sorry, knew I should have had my cup of coffee before sending this!

Thanks,
Liane

*Liane M. Moriyama, Administrator
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-----Original Message-----

From: Liane Moriyama
Sent: Tuesday, September 13, 2011 7:04 AM
To: 'Casteel, Diane M.'
Cc: Williams, Gary L.; Jones, David L.; Lauren Uwaine
Subject: RE: Tried to call today AND **RISC MOU**
Importance: High

Hi Diane and gang ☺

I have brought this to the attention of our Department liaison to the APEC Exec Committee which the Secret Service Chairs.

On another note, here are some comments on the MOU from our attorney. I discussed this with our State Investigative team at our last APEC meeting and they want to proceed to use this technology. I am still working with our vendor but thought we should get the paperwork taken care of.

Here are the comments:

- I think it would be a good idea to have an idea how long the agreements will last. As currently drafted they have no end date but are reviewable annually to see if they should be continued. I suggest that in the last section that discusses the annual review, perhaps a stated date should be used - e.g., this MOU . . . will be reviewed annually on or before the anniversary date . . . " That way you can put it in your tickler file.
- I note that the document for RISC has a date in its footer of 2007; is this pilot program really 4 years old? The facial recognition pilot uses the same language as the RISC.
- The only other comment I would make is you might consider in paragraph 5, Funding, revising the last sentence to read: "The parties expressly acknowledge that this in no way implies that Congress or the State of Hawaii will appropriate funds for such expenditures."

Let me know what you think...our attorney is very reasonable!

Thanks,
Liane

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-----Original Message-----

From: Casteel, Diane M. [mailto:Diane.Casteel@ic.fbi.gov]
Sent: Tuesday, September 13, 2011 4:00 AM
To: Liane Moriyama
Cc: Williams, Gary L.; Jones, David L.
Subject: Re: Tried to call today

Liane

Just wanted to let you know that as of late last week we have been unable to identify if anyone at CJIS is working to assist the Secret Service for the APEC.

----- Original Message -----

From: Casteel, Diane M.
To: Liane Moriyama <lmoriyam@hcjdc.hawaii.gov>
Cc: Williams, Gary L.; Jones, David L.
Sent: Tue Sep 06 13:44:47 2011
Subject: RE: Tried to call today

FYI...I reserved a conference number for the 3:30 ET meeting.

██████████-3400
access code
██████████#
pass code
██████████#

From: Liane Moriyama [lmoriyam@hcjdc.hawaii.gov]
Sent: Friday, September 02, 2011 2:03 PM
To: Casteel, Diane M.
Cc: Williams, Gary L.; Jones, David L.
Subject: RE: Tried to call today

Sure, no problem...good luck with TX!
I have Tuesday 9/6 at 9:30am hst/3:30pm est...would that work?

Thanks,
Liane

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-----Original Message-----

From: Casteel, Diane M. [mailto:Diane.Casteel@ic.fbi.gov]
Sent: Friday, September 02, 2011 7:56 AM
To: Liane Moriyama
Cc: Williams, Gary L.; Jones, David L.
Subject: Re: Tried to call today

Liane

We are still working on transition with TX. Can I postpone our discussion for later today or Tuesday?

----- Original Message -----

From: Casteel, Diane M.
To: 'lmoriyam@hcjdc.hawaii.gov' <lmoriyam@hcjdc.hawaii.gov>
Cc: Williams, Gary L.; Jones, David L.
Sent: Fri Sep 02 12:33:29 2011
Subject: Re: Tried to call today

We are worling with TX to transition to ngi this afternoon. When you call me this afternoon, will you please call my blackberry (██████████) since I might be away from my desk.
Kiana :)

----- Original Message -----

From: Liane Moriyama <lmoriyam@hcjdc.hawaii.gov>

To: Casteel, Diane M.; Jones, David L.; Williams, Gary L.
Sent: Thu Sep 01 21:30:56 2011
Subject: RE: Tried to call today

I am in the office tomorrow and will give you a call...are you available at 8am hst which is 2pm est?

Thanks,
Liane

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-----Original Message-----

From: Casteel, Diane M. [mailto:Diane.Casteel@ic.fbi.gov]
Sent: Thursday, September 01, 2011 2:21 PM
To: Liane Moriyama; Jones, David L.; Williams, Gary L.
Subject: Tried to call today

Hi Liane

Hope all is well in Hawaii. You probably got the phone message, but wanted to let you know Dave Jones and I tried to reach you this afternoon while you were in a meeting.

We wanted to talk with you about our brief discussion during the NGI User Conference regarding the Secret Service (?) contact who told you he had talked with Dave about support for the APEC.

Are you in the office tomorrow? We planned to call back on Tuesday after the holiday weekend, but if you are in the office tomorrow and if it would be more convenient, you can call me tomorrow. Just ask for Kiana! If you are not available, we can certainly wait until next week. Just let me know what works for you.

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE FEDERAL BUREAU OF INVESTIGATION

AND

THE (AGENCY)

FOR THE

INTERSTATE PHOTO SYSTEM FACIAL RECOGNITION PILOT

GENERAL PROVISIONS

1. **PURPOSE:** This Memorandum of Understanding (MOU) between the Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, and the (insert agency name and acronym), hereinafter referred to as the "Parties," is for the limited purpose of testing and piloting the FBI's Interstate Photo System Facial Recognition Pilot (IPSFRP). This MOU memorializes the Parties' understandings regarding the transmittal, receipt, storage, use, and dissemination of information relating to this piloting initiative.

2. **BACKGROUND:** The FBI maintains millions of digital representations of fingerprint images, features from digital fingerprint images, and associated criminal history record information in the Integrated Automated Fingerprint Identification System (IAFIS). The IAFIS provides automated fingerprint search capabilities, latent print search capabilities, electronic image storage and electronic exchange of fingerprints, criminal history and associated photos to support law enforcement and authorized civil organizations. Collectively, this data comprises the biometric content, format, and units of measurement for the electronic exchange of information that may be used for positive fingerprint identifications. Given the advances in biometric identification technology, including hardware, software, and digital imaging, it is essential that existing search capabilities be enhanced to meet authorized customer needs. The CJIS Division's Next Generation Identification (NGI) System expects to reduce terrorist and other criminal activities by implementing multiple search capabilities that will improve, expand, or create new biometric identification tools and investigative services for the FBI's user community.

The IPSFRP satisfies a subset of the NGI Interstate Photo System (IPS) requirements, and a prototype system was delivered to assist in the development of the IPS facial recognition system. Upon full implementation, IPS enhancements will: 1) expand storage capacity, thereby allowing a more robust photo repository; 2) permit photo submissions independent of arrests; 3)

permit bulk submission of photos being maintained at state and federal repositories; 4) accommodate the submission and searching of non-facial photos (e.g., Scars, Marks and Tattoos [SMTs]); 5) permit IPS photo retrieval via the National Crime Information Center (NCIC); and 6) provide facial recognition search capabilities.

It is important to note that although facial recognition technology has been under development since the 1960's, universal algorithmic approaches for facial recognition do not exist. Approaches originally tailored to low resolution, two-dimensional images have been improved to account for greater levels of resolution and three-dimensional data. The U.S. Government has performed multiple evaluations of facial recognition technology and preliminary results demonstrate that accuracy has greatly improved. Accordingly, these enhancements support the FBI's decision to enhance its photo processing capabilities in the early stages of NGI system development, to include facial recognition technology.

To address and enhance photo processing capabilities, the FBI is initiating the IPSFRP as a collaborative effort to identify user needs, provide proof of concept, establish thresholds for lights out searches at the national level and develop a useful investigative tool for the law enforcement community.

Agencies participating in this pilot program have implemented a facial recognition system for investigative, identity authentication and/or tracking purposes. In support of this initiative, the (AGENCY) will submit images to a state/regional photo repository and the repository will provide search results to the submitting law enforcement agency. The (AGENCY) will also request that the photo submission be forwarded to the CJIS Division, via the CJIS Wide Area Network (WAN) or other FBI approved secure web services, for comparison against the FBI's national photo repository. This pilot is designed to provide participating law enforcement agencies an automated facial recognition search of a subset of the FBI's national photo repository until full implementation of the IPS facial recognition search capability in 2014. The IPSFRP will represent a subset of the Interstate Photo System repository and will be expanded and updated periodically throughout the pilot. The subset repository will not represent a real time reflection of the IPS or III photo repository.

Technical specifications for the IPSFRP are derived from the CJIS Electronic Biometric Transmission Specification (EBTS) and the American National Standards Institute (ANSI) American National Standard for Information Systems - Data Format for the Interchange of Fingerprint, Facial, & other Biometric Information.

During the IPSFRP piloting phase, relevant transactions will be analyzed by the Parties and their authorized contractors to assess system performance. In addition, the NGI IPS system design will be recording lessons learned and user input.

System availability will be limited during this initiative. Accordingly, the CJIS Division will provide advanced notice of sporadic system availability, backup recovery limitations, and

failover shortfalls during the prototype phase. In addition, the CJIS Division may limit the number of transactions that will be accepted during the pilot phase.

3. **AUTHORITY:** The FBI enters into this MOU under the statutory authority provided by Title 28, United States Code, § 534.

4. **SCOPE:** This MOU applies to facial photo images provided by the (AGENCY) and the FBI's responses.

A. The FBI will:

1. Accept one frontal facial photo submission per IPSFRP search request;
2. Search each frontal facial image against the IPSFRP national repository;
3. Provide a candidate list per each applicable IPSFRP search request. The candidate list will contain the agency's requested number (minimum of 2) of candidates, or a default number (TBD) of candidates if not specified by the agency, as well as a caveat message;
4. Provide a valid FBI identifier for each candidate;
5. Maintain a log of all transactions and disseminations;
6. Designate a point-of-contact (POC) for issues and concerns related to this initiative;
7. Notify the submitting agency if a CJIS facial examiner determines (during post processing) that a probable match between the probe image and a gallery image on the returned candidate list exists; and

B. The (AGENCY) will:

1. Submit no more than one frontal facial photo (EBTS - ANSI compliant) per IPSFRP search request via the CJIS WAN or other FBI approved secure web services;
2. Request a specified number (minimum of 2, default of 20, maximum of 50) of returned candidates;
3. Conduct a search of the Interstate Identification Index to ensure information derived from the IPSFRP candidate lists are up-to-date;
4. Disseminate FBI responses to authorized criminal justice recipients as an investigative lead;

5. Provide the CJIS Division with post processing results, such as:
 - Agency identified a subject from the candidate list and what rank.
 - Search resulted in an investigative lead.
 - Search was of no value.

6. Designate a POC for issues and concerns related to this initiative.

5. **DISCLOSURE AND USE OF INFORMATION:** The IPSFRP pilot search will be limited to authorized criminal justice agencies for criminal justice purposes. The IPSFRP, and the photo search thereof, is considered to be a part of the IAFIS, therefore all CJIS rules regarding access to IAFIS and dissemination/use of FBI provided information will apply. The Parties acknowledge that information involved in this initiative may identify United States persons, whose information is protected by the Privacy Act of 1974, Executive Order 12333, any successor executive order, or other federal authority. Accordingly, all such information will be treated as "law enforcement sensitive" and protected from unauthorized disclosure. Each Party will immediately report to the other Party any instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).

Information derived from FBI IPSFRP search requests and resulting responses are to be used only as investigative leads. Though there are expected to be similarities between submitted images and candidate lists, results shall not be considered to be positive identifications nor considered to have active warrants. Although the emerging technology of facial recognition has made great strides over the years, facial recognition initiatives are not deemed to provide positive identifications and the Parties are prohibited from relying solely on IPSFRP search responses as the sole impetus for law enforcement action. Other indicators and factors must be considered by the submitting agency prior to making an identification.

6. **FUNDING:** There are no reimbursable expenses associated with this level of support. Each Party will fund its own activities unless otherwise agreed to in writing. Expenditures will be subject to budgetary processes and availability of funds and resources pursuant to applicable laws, regulations and policies. The Parties expressly acknowledge that this MOU in no way implies that Congress will appropriate funds for such expenditures.

7. **SETTLEMENT OF DISPUTES:** Disagreements between the Parties arising under or relating to this MOU will be resolved only by consultation between the Parties and will not be referred to any other person or entity for settlement.

8. **SECURITY:** It is the intent of the Parties that the transfer of information described under this MOU will be conducted at the unclassified level. Classified information will neither be

provided nor generated under this MOU.

9. AMENDMENT and TERMINATION:

- A. All activities under this MOU will be carried out in accordance to the above described provisions.
- B. This MOU may be amended or terminated at any time by the mutual written consent of the Parties' authorized representatives.
- C. Either Party may terminate this MOU upon thirty (30) days written notification to the other Party. Such notice will be the subject of immediate consultation by the Parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:
 - 1. The Parties will continue participation, financial or otherwise, up to the effective date of termination.
 - 2. Each Party will pay the costs it incurs as a result of termination.
 - 3. All information, copies thereof, and rights therein received under the provisions of this MOU prior to the termination will be maintained in accordance with the receiving Party's practices.

10. ENTRY INTO FORCE, AND DURATION: This MOU, which consists of ten Sections, will enter into effect upon the signature of both Parties, will be reviewed annually to determine whether amendments are needed, and will remain in effect until terminated or completion of the testing and piloting phase. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the Parties, their parent agencies, the United States, or the officers, employees, agents, or other associated personnel thereof.
