

# **Exhibit A**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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CENTER ON PRIVACY & TECHNOLOGY,

Petitioner,

- against -

NEW YORK CITY POLICE DEPARTMENT,

Respondent.

**AFFIDAVIT OF EDWIN  
COELLO IN SUPPORT OF  
RESPONDENT'S VERIFIED  
ANSWER**

Index No. 154060/2017  
IAS Part 17  
(Hagler, J.)

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules.

----- X

STATE OF NEW YORK     )  
                                  ) SS.:  
COUNTY OF NEW YORK    )

**EDWIN COELLO**, being duly sworn, deposes and says:

1. I am employed by the New York City Police Department ("NYPD") as a sergeant assigned to the Facial Identification Section ("FIS"), a sub-unit of the Real Time Crime Center ("RTCC"). I have been employed by NYPD since 2001 and was promoted to sergeant in 2007. I have been assigned to FIS since 2011. I submit this affidavit, which is based on my personal knowledge, discussions with other employees of the NYPD, and records of the NYPD maintained in the ordinary course of business, in support of Respondent's Verified Answer.

2. FIS is staffed by NYPD investigators who use facial recognition technology ("FRT") as one of many investigative tools for identifying unknown probe images, post incident. FIS investigators receive images of unknown persons from ongoing law enforcement investigations and run those images through facial recognition software to search for a possible match lead in criminal photo arrest mugshots. No state's Department of Motor vehicle images are searched against by FIS.

3. My primary job responsibilities in FIS include assigning investigative searches to investigators, supervising active investigations and reviewing, approving and forwarding possible matches for final review by the commanding officer of RTCC.

4. It is my understanding that Petitioner requested records by letter dated January 5, 2016, pursuant to the Freedom of Information Law ("FOIL"), related to the NYPD's use of FRT.

5. Pursuant to Petitioner's FOIL request, a reasonable and diligent search for responsive documents was conducted. Pursuant to that search, documents have been located that are responsive to Petitioner's request for procedures, training materials, user manuals, and purchase and procurement documents. No documents responsive to Petitioner's other requests were located.

6. Specifically, with respect to Petitioner's request for procedures and training materials, NYPD has located: (1) a Chief of Detectives Memo from March 27, 2012, which details procedures to be followed by the requesting investigator for probe submissions to FIS; (2) an FIS PowerPoint training presentation; (3) a video tutorial which includes a step-by-step guide on how to use NYPD's intranet program to perform a facial recognition search; (4) an FIS Overview Investigator's Guide, which is in draft form; and (5) a facial recognition instructions guide, which also includes a step-by-step guide on how to use NYPD's intranet program to perform a facial recognition search. I have been informed that NYPD disclosed a copy of the Chief of Detectives Memo but is withholding the remainder of these records.

7. With respect to Petitioner's request for manuals from companies providing FRT system components, the following documents have been located: (1) a user's guide for the FACE Plus Case Management module by DataWorks Plus; (2) a user's guide for Animetrics'

ForensicaGPS program; (3) a MorphoTrust Face Examiner Workstation Quick Reference Guide; and (4) a MorphoTrust Face Examiner Workstation user guide. I have been informed that Petitioner has already received substantially similar DataWorks Plus and Anometrics user guides from the Maryland Department of Public Safety and Correctional Services and the Seattle Police Department, respectively. I understand that the remaining records are being withheld.

8. Additionally, NYPD has located records responsive to Petitioner’s request for purchasing and procurement documents—specifically, two contracts for FRT components—which I also understand are being withheld.

9. No records were located in response to Petitioner’s request for audits, warrant applications, judicial decisions, or memoranda of understanding in FIS.

10. FRT is a specialized, non-routine technology used by FIS to assist in identification in law enforcement investigations. Disclosure of the records requested by Petitioner would reveal the capabilities of the technology and specifications of its use, and conversely, would reveal the limitations of the technology and limitations on its use. Such information becoming publicly available would allow individuals to modify their conduct to undermine the technology, thereby frustrating the purposes for which such techniques are employed.

11. Moreover, NYPD’s facial recognition technologies utilized by FIS are important information technology assets and the disclosure of records replete with details and specifications of those technologies, like those being withheld, could jeopardize NYPD’s ability to secure those assets.

12. Additionally, disclosure of certain records would also constitute an unwarranted invasion of privacy to those individuals listed thereon and NYPD employees. Names,

photographs, NYSID numbers and other personal information should remain private and not be disclosed to the public at large.

13. Finally, I understand that Petitioner refers to certain statistics cited in news articles concerning NYPD's use of FRT to suggest the existence of records responsive to Petitioner's request for audit records. The statistics cited in those articles are not from an audit. Statistics can be generated from the total number of submissions to the unit.



EDWIN COELLO

Sworn to before me this

7<sup>th</sup> day of August, 2017



**LESA MOORE**  
Notary Public, State of New York  
No. 02MO6174796  
Qualified in Bronx County  
Commission Expires 09/24/2019