

# Facial Recognition and Privacy



**SAMUEL P. JENKINS**

**DIRECTOR FOR PRIVACY,  
DEFENSE PRIVACY &  
CIVIL LIBERTIES OFFICE**

# Scope of FR Use in DoD



- Intel/Counter Terrorism
  - FR already used for this purpose
  - Primarily non US Persons
  - Governed largely by E.O. 12333
- Law Enforcement
  - DoD has limited Law Enforcement role
- Access Control
  - Widest application of domestic FR for DoD
  - Potential use for both physical and logical access

# Collection Concerns



- Collect FR Images Only for a Narrowly Specified Purpose
- Where Possible, Ensure Individual has Notice and/or Consents to the Collection
- Do Not Collect Information on 1<sup>st</sup> Amendment Activities
- Collect Images Directly from the Individual
- How do You Ensure Images are Accurate?

# Collection Review Criteria



- DoD considers invasive technologies and searches on 3 levels:
  - Legality
  - Constitutionality
  - Social Acceptance

# Search Criteria



## Image Screened

- Has done something to trigger a screening
  - Consent/prerequisite
  - Involved in pertinent incident
- Image screened not retained unless necessary, authorized, or consented to
- May be required to provide subsequent information to verify, i.e. a password

## Images Screened Against

- Have done something to be included in this population
- Record retained for as long as relevant to the criteria of the population
- Subsequent information about subject should be withheld unless screener has a “need to know”

# Access and Dissemination



- Privacy Act requires need-to-know for access and dissemination to recipients
- Dissemination from one federal agency to another requires a routine use be established in the sending agency's system of records notice

# Retention and Disposal



- Conversion & Storage Concerns
  - Image Quality
    - ✦ Privacy Act requires Personally Identifiable Information be kept relevant, accurate, and timely
    - ✦ When images are converted, is accuracy degraded?
  - 'Face Prints' as PII
    - ✦ Policy doesn't explicitly state that Face Prints are PII
    - ✦ Face Prints can uniquely identify an individual, even if original image is not retained

# Retention and Disposition



- Whenever possible, images should be deleted after compared
  - Most cases should not retain screened image
  - Some cases may retain for short period
  - Rare cases retain permanently/life of the record
- Screener should be given only relevant info on matches (i.e. Red/Green/Yellow checks)
  - Mask sensitive or unnecessary data from screener

# Decision Concerns



- Acceptable Percent Error?
  - Conversion, lighting, angle, resolution etc can provide inaccurate decisions
  - Have legal responsibility to maintain accurate records
  - Cannot deny an individual a benefit they are entitled to because of inaccuracies
- Does individual have a right to redress?

# Questions



Defense Privacy & Civil Liberties Office

1901 S. Bell Street, Suite 920

Arlington, VA 22202

703.607.2943

[WWW.DPCLO.Defense.Gov](http://WWW.DPCLO.Defense.Gov)