

# FACIAL RECOGNITION TECHNOLOGY WARRANT ACT OF 2019

Sen. Chris Coons and Sen. Mike Lee

The Facial Recognition Technology Warrant Act requires federal law enforcement to obtain a court order before using facial recognition technology to conduct targeted ongoing public surveillance of an individual.

## **Congress should establish appropriate guardrails around the use of facial recognition technology to ensure that the American people are kept safe without infringing on their civil liberties.**

- Facial recognition technology is a valuable tool for law enforcement, but particular use cases have the potential to invade the privacy of everyday Americans.
- Some state and local jurisdictions have begun to implement moratoria on the use of facial recognition technology entirely.
- Given the legitimate law enforcement use cases, an outright ban may make Americans less safe and discourage innovation.
- Congress should take steps to balance appropriately the security benefits and privacy concerns that come with this new technology.

## **The persistent and targeted use of facial recognition technology should be subject to similar procedural guidelines as other investigative techniques that raise comparable privacy concerns.**

- Face recognition can be used to aid criminal investigations and is a valuable investigatory tool; however, given the potential for widespread and continuous surveillance, the government should not be able to track anybody they choose without probable cause to suspect an individual of criminal activity.
- Currently, government agencies can use facial recognition technology to surveil a person without any unified federal law, regulation, or oversight.
- Conversely, law enforcement must obtain a court order before conducting other forms of intrusive searches and surveillance, such as searching cellphones, conducting a wiretap, collecting cellphone location information, or installing a location tracking device.
- Federal law can close the gap and create important safeguards to protect the American public from inappropriate surveillance by requiring similar procedural constraints on the use of facial recognition technology.

## **The bill would require law enforcement to obtain a warrant in order to use facial recognition technology to conduct ongoing, targeted surveillance.**

- Requires federal law enforcement to obtain a warrant based upon a probable cause showing of criminal activity in order to utilize facial recognition technology for the purpose of ongoing public surveillance of an individual exceeding 72 hours.
- Limits the warrant's allowance of ongoing facial surveillance to a maximum of 30 days and requires the use of the facial recognition technology to be conducted in such a way as to minimize the acquisition, retention, and dissemination of information regarding individuals outside the warrant's purview.
- Permits law enforcement to use facial recognition technology without a court order in exigent circumstances.
- Requires the judge issuing or denying the warrant application to report the outcome of the warrant application to the Administrative Office of the United States Courts who must catalogue the data and submit a summarized report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.
- Requires federal law enforcement agencies to work with NIST to establish testing systems that would ensure the technology is accurate and does not have disparate error rates depending on a person's gender, age, or ethnicity.