

**NINETEENTH JUDICIAL DISTRICT COURT**  
**PARISH OF EAST BATON ROUGE**  
**STATE OF LOUISIANA**

**NO.** \_\_\_\_ **DIVISION** \_\_\_\_ **SECTION:** \_\_\_\_  
**ALANAH ODOMS**  
**VERSUS**  
**CHAVEZ CAMMON**

**FILED:** \_\_\_\_\_  
\_\_\_\_\_  
**DEPUTY CLERK**

**PETITION FOR WRIT OF MANDAMUS**  
**PURSUANT TO THE LOUISIANA PUBLIC RECORDS LAW**

NOW INTO COURT, through undersigned counsel, comes petitioner Alanah Odoms, who requests, pursuant to Article XII, Section 3 of the Louisiana Constitution of 1974, La. R.S. 44:31 *et seq.*, and other applicable law cited herein, that this Court issue a Writ of Mandamus directing Louisiana State Police Captain Chavez Cammon, in his official capacity as records custodian for Louisiana State Police (“LSP”), to provide Petitioner with public records in LSP’s possession. In addition, Petitioner seeks penalties for violation of the State public records law. In support of this Petition, Petitioner states the following:

**I. INTRODUCTION**

1. Whether you know it or not, you are routinely being watched and tracked by invisible strangers. Although emerging technology has brought convenience and advantages, it also has created invasive spying equipment such as powerful imaging tools, location-tracking devices, eavesdropping systems, and all manner of data-grabbing gadgets. Perhaps the most obvious among these are digital cameras used to monitor public and private spaces.

2. Cameras have proliferated in public spaces in recent years. As of December 2019, the City of New Orleans alone claimed to have access to the live video feeds of 773 cameras, including 442 owned by the City and 331 owned by private individuals.<sup>1</sup>

3. Along with surveillance cameras, facial-recognition technology can be used to identify and track human beings as they pass through public spaces. Facial-recognition systems are capable of matching a human face from a digital image or a video frame against a database. Computerized facial recognition measures a person's biometrics, or physiological characteristics, such as the distance between one's eyes or the length of one's nose.

4. Law enforcement has been using facial recognition technology to identify people suspected of committing crimes.<sup>2</sup> In Louisiana, police agencies have been using this technology for several years, as more fully explained below.

5. The Louisiana State Police employ a facial recognition system through a center known as the Louisiana State Analytical & Fusion Exchange ("LA-SAFE," or the "Fusion Center") in Baton Rouge.<sup>3</sup> The Fusion Center opened in 2008 and is "basically the state's version of" a Central Intelligence Agency.<sup>4</sup>

6. In late 2019, Mrs. Odoms became aware of the Fusion Center's use of facial recognition through a criminal proceeding in Orleans Parish Criminal District Court. Testimony adduced by a public defender demonstrated that LSP had identified his client by comparing an image to its database using a then-pilot program.<sup>5</sup>

7. During the hearing, an employee of the LSP's Fusion Center, Jordan Morris, testified that he had been working with facial-recognition software for about two years, and the company that created the software program, Idemia,<sup>6</sup> had given a two-day training to LSP.

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<sup>1</sup> Michael Issac Stein, *Louisiana Supreme Court affirms that map of city surveillance cameras is public information*, THE LENS (March 19, 2020), available at: <https://thelensnola.org/2020/03/19/louisiana-supreme-court-affirms-that-map-of-city-surveillance-cameras-is-public-information/>

<sup>2</sup> Kashmir Hill, *Activists Turn Facial Recognition Tools Against The Police*, THE NEW YORK TIMES (Oct. 21, 2020), available at: <https://www.nytimes.com/2020/10/21/technology/facial-recognition-police.html#:~:text=Law%20enforcement%20has%20used%20facial,AI%2C%20from%20the%20public%20internet.>

<sup>3</sup> See [www.la-safe.org](http://www.la-safe.org).

<sup>4</sup> WAFB Staff, *Louisiana fusion center to be model for others in US*, WAFB (May 14, 2012), available at: <https://www.wafb.com/story/18393920/br-fusion-center-to-be-model-for-others-in-us/>

<sup>5</sup> See Exhibit A, redacted transcript of June 13, 2019 proceeding, pp. 49-50, State v. [], No. 545-068, Section A. The name of the defendant in this proceeding is redacted to protect his privacy.

<sup>6</sup> See [www.idemia.com](http://www.idemia.com) ("We are the leader in Augmented Identities in an increasingly digital world.")

8. Upon learning this fact, Mrs. Odoms became very concerned that LSP was using an invasive technology to surveil the public without its knowledge. Many commentators have criticized facial recognition as an extremely faulty technology that raises issues of racial justice because it falsely identifies people of color as criminals. As one recent editorial noted, this technology “supercharges racial profiling by police and has resulted in the wrongful arrests of innocent people.”<sup>7</sup>

9. To find out more about LSP’s use of this technology, Ms. Odoms sent a public-records request (“PRR”) to the agency in September 2019.<sup>8</sup> LSP responded to part of the request with a denial that it “maintains no responsive records”; in response to another part of the request, LSP cited an exception to Louisiana’s Public Records Law (“PRL”).

10. Separately, the City of New Orleans recently released e-mail communications in response to a different PRR that demonstrate LSP is, despite its denial, in possession of responsive documents and illegally refused to produce them. Its denial, and its attempt to claim an inapplicable exception, are the subject of this legal action.

## II. PARTIES

11. Petitioner Alanah Odoms is a resident of New Orleans and Executive Director for the American Civil Liberties Union of Louisiana. Her organization strives to protect the civil liberties and constitutional rights of all Louisianans. She sought LSP documents about its use of facial-recognition technology to better understand its application and share that information with the public.

12. LSP is a Louisiana State law enforcement agency headquartered in Baton Rouge. It is a “public body” as defined by the PRL. La. R. S. 44:1(A)(1).

13. Defendant Chavez Cammon is an LSP captain and commander of LSP’s Public Affairs/Recruiting Sections. Upon information and belief, Mr. Cammon is the official records

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<sup>7</sup> Boston Celtics Players, *Governor Baker, regulating facial recognition technology is a racial justice issue*, THE BOSTON GLOBE (December 16, 2020), available at: <https://www.bostonglobe.com/2020/12/16/opinion/governor-baker-regulating-facial-recognition-technology-is-racial-justice-issue/>

<sup>8</sup> See Exhibit B, September 4, 2019 PRR to LSP.

custodian for LSP,<sup>9</sup> and he serves as the central point for public records requests. La. R. S. 44:1(A)(3).

### III. STATEMENT OF FACTS

14. On September 4, 2020, Mrs. Odoms made the following public records request to LSP:
1. All documents referencing facial recognition software currently being used by the Louisiana State Police, including its “Fusion” center, including but not limited to meeting agendas, meeting minutes, public notice, communications between your office and elected leaders, and analyses.
  2. All documents referencing training conducted by the security company IDEMIA and provided to the Louisiana State Police, including but not limited to e-mails, calendar invitations, and memoranda.

Notably, her request broadly defined “documents,” including but not limiting the term to memoranda, letter, electronic mail (email), notes, and recordings of any kind. A copy of this request is attached at Exhibit B.

15. On September 27, 2019, an LSP attorney, Adrienne Aucoin, responded by asserting that LA-SAFE maintained no records responsive to the first request; she also claimed an exception to the PRL in response to the second request, La. R.S. 44:3(A)(3). She wrote that the statute exempts “from the public records [sic] containing ... investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof ...” A copy of this denial is attached as Exhibit C.

16. Because the LSP’s denial stated that LA-SAFE did not maintain records responsive to the first request, but the request was made more broadly to LSP, Mrs. Odoms wanted clarification of LSP’s denial. Additionally, she wanted LSP to specify which portion of the cited statute covered the requested records. She directed her staff to send a follow-up letter.

17. In a letter to Ms. Aucoin dated October 2, 2019, the ACLU of Louisiana’s former legal director requested clarification, re-iterated the request, and noted that responsive records with

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<sup>9</sup> Although Ms. Odoms’ original request was sent to J.B. Slanton, the former Recruiting Commander of Public Affairs, Mr. Slanton is no longer LSP’s records custodian. Mr. Chavez has identified himself as the LSP’s records custodian in communications with undersigned counsel. Counsel was unable to otherwise confirm the identity of LSP’s records custodian through publicly available information on the Internet. Notably, the agency is legally required to make that information “available to the public in a manner that will allow a member of the public to quickly determine the appropriate person to whom a public records request should be submitted, including by placing such information on the internet.” La. R.S. 44:33.1 (The C.B. Forgotson Act). Upon information and belief, LSP’s website does not identify its records custodian. This violation of the PRL is not the subject of this lawsuit, but Petitioner retains her right to proceed against any other LSP employee subsequently identified as the agency’s records custodian.

otherwise protected information could be redacted for production of inspection. A copy of this letter is attached as Exhibit D.

18. In response, Ms. Aucoin sent a letter on December 13, 2019, which re-iterated that LSP, including LA-SAFE, “does not maintain records responsive to” the first request. Additionally, she wrote:

The Louisiana State Police asserts that any facial recognition software is technical equipment covered by the exception found in La. R.S. 44:3(A)(3). The records you seek referencing any facial recognition software and training are also covered by the exemption found in La. R.S. 44:3(A)(3).

A copy of this letter is attached as Exhibit E.

19. In mid-September 2020, Mrs. Odoms obtained, through a third party’s PRR, an LSP “Activity Event Update” showing a listserv disseminated from the Fusion Center that highlighted public events throughout the state, including protests, demonstrations, parades, walks, and press conferences in Baton Rouge, New Orleans, Chatham, Houma, Lafayette, Monroe, and Shreveport.

This “update” stated that the information provided was “for situational awareness in the interest of public safety.” Upon information and belief, the Fusion Center’s law-enforcement partners use this information to observe public events personally and through video cameras and other surveillance technology.

A copy of this record is attached as Exhibit F.

20. On December 9, 2020, in response to another PRR, another ACLU of Louisiana staff member obtained from the City of New Orleans several pages of emails between the New Orleans Police Department and LSP. These e-mail demonstrate requests by NOPD for LSP to run images through its database using facial recognition software.

A redacted copy of these emails is attached as Exhibit G.

21. For example, one October 25, 2018 e-mail from Jordan Morris to NOPD Detective Gus James states, “Good evening, Unfortunately, there were no possible matches on the requested photo for a facial recognition search. Please let me know if you need any other assistance.”

22. Another July 20, 2018 email from the Fusion Center to other law-enforcement agencies describes the process by which those other agencies can request facial-recognition analysis. It

attached an electronic request form as well as an “explanation of databases, product lines, Fusion Center Liaison (FLO) Application, and the additional forms required for facial recognition and FinCEN.” It adds, “Please feel free to share with others within your agency.”<sup>10</sup>

23. Believing that these records provide *ipso facto* proof that LSP possesses records responsive to Ms. Odoms’ original request—which was illegally denied, undersigned counsel again contacted LSP’s attorney. On December 14, 2020, counsel sent an e-mail asking if the agency’s position has changed with respect to the request.

A copy of this email is attached as Exhibit H.

24. On December 19, 2020, Ms. Aucoin responded that she would provide a response once she conferred with her client. A copy of this email is attached as Exhibit I.

Undersigned counsel has not received an additional response since.

#### IV. STATEMENT OF LAW

25. The public’s right of access to public records is a fundamental right, guaranteed by the Constitution. *Title Research Corp. v. Rausch*, 450 So. 2d 933, 936 (La. 1984) (citing La. Const. art. 12, § 3, which must be “construed liberally in favor of free and unrestricted access to the records”). Access can be denied “only when a law, specifically and unequivocally, provides otherwise.” *Id.* “Whenever there is doubt as to whether the public has the right of access to certain records, the doubt must be resolved in favor of the public’s right to see.” *Id.*

26. A writ of mandamus “may be directed to a public officer to compel the performance of a ministerial duty required by law,” La. C.C.P. art. 3863. This writ is appropriate to compel Defendant to abide by his statutory duty to produce the records requested by Petitioner.

27. Suits filed under the PRL “shall be tried by preference and in a summary manner.” La. R.S. 44:35(C).

28. The burden of proving “that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian.” La. R.S. 44:31(B)(3).

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<sup>10</sup> See Exhibit F at p. 49, July 20, 2018 Louisiana Fusion Center e-mail.

## V. CLAIM

29. Defendant's response to Petitioner's request violates the PRL in two crucial respects.

LSP's reply erroneously asserted that the agency maintained no records responsive to a portion of her request, and it claimed an exception that has no application to some—if not many, most, or all—of the requested documents.

30. LSP clearly and undeniably maintains records responsive to Ms. Odom's request, including documents referencing facial recognition software "including but not limited to meeting agendas, meeting minutes, public notice, [and] communications between your office and elected leaders, and analysis."

31. First, as the above-cited exhibits—incorporated here by reference—demonstrate, LSP's Fusion Center has been using facial-recognition software for about three years or more.<sup>11</sup>

32. During the previous three years, as the above-cited exhibits demonstrate—LSP has generated and maintains documents "referencing facial recognition software currently being used by" LSP.<sup>12</sup>

33. For example, the Fusion Center's "Privacy Policy," which is publicly available on the Internet,<sup>13</sup> explicitly references LSP's use of facial recognition software.<sup>14</sup> This document was revised on March 13, 2019. Thus, this document—which is responsive to Mrs. Odoms' request—was maintained by LSP at the time of her request, and it should have been produced. It was not; undersigned counsel discovered it after the request had been denied.

34. As long ago as July 20, 2018, the Fusion Center began communicating with other law-enforcement agencies throughout the state about its facial-recognition technology, including

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<sup>11</sup> See, e.g., June 13, 2019 testimony of LSP Investigative Specialist II Jordan Morris; Exhibit A, pp. 49-50 ("Q. And how long have you been working with facial recognition software? A. A little under two years."); see also October 24, 2018 e-mails of LSP Investigative Specialist II Jordan Morris, Exhibit G at pp. 35, 40 ("Subject: RE: Requested information (Facial Recognition) ... Unfortunately, there were no possible matches on the requested photo for a facial recognition search.") ("LA-SAFE has received your request for information.").

<sup>12</sup> See, e.g., e-mails in Exhibit G.

<sup>13</sup> The policy is attached to a Fusion Center web page for download here: <http://la-safe.org/privacy.html>.

<sup>14</sup> See Privacy Policy, available here: [http://la-safe.org/Privacy\\_Policy.pdf](http://la-safe.org/Privacy_Policy.pdf), at pp. 10-11, under § VI "USE LIMITATION" ("Information obtained from or through LA-SAFE can only be used for lawful purposes" (¶A); ("The set of identifying information sufficient to allow merging will utilize reasonable steps to identify the subject ... and may include ... the following") (¶D); ("Facial recognition") (¶D(6)(c)).

sending them electronic request forms, explanations of databases, and “Fusion Liaison Officer” applications.<sup>15</sup>

35. The attached exhibits, which show those communications, are *ipso facto* proof that LSP maintained records responsive to Mrs. Odoms’ request. Upon information and belief, LSP maintained—and still maintains—volumes of other documents that are also responsive to Mrs. Odoms’ request and should have been produced.

36. The existence of other responsive documents, which were not produced, is not only demonstrated by the documents otherwise obtained—it is obviously and logically dictated by the Fusion Center’s operations. For at least two years, it has been communicating regularly with law enforcement agencies across the state about its facial-recognition technology and encouraging those agencies to submit requests for investigation.

37. Given the length of time and scope of the Fusion Center’s operations, it necessarily follows that it maintains “meeting agendas, meeting minutes, public notice, [and] communications between [its] office[s] and elected leaders, and analyses.” Moreover, the documents requested include memoranda, letters, electronic mail, notes, and recordings.

38. Secondly, the exception claimed by LSP does not apply to the records that Mrs. Odoms requested. Although portions of the exception may apply to a portion of those records, a blanket claim of a broad exemption was neither justified nor appropriate.

39. As a threshold matter, LSP’s claim that “facial recognition software is investigative technical equipment”<sup>16</sup> covered by La. R.S. 44:3(A)(3) is factually and legally incorrect. Software is not “equipment” by any definition. In contrast to a computer, which is the physical hardware that performs a task, software is intangible data or information.

40. Also erroneous is LSP’s earlier denial, which claimed the “information you seek pertains to investigative techniques, investigative technical equipment or instructions on its use, and investigative training information or aids.”<sup>17</sup> The statute does not exempt information, regardless of the subject to which it pertains.

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<sup>15</sup> See Exhibit G at p. 49 (July 20, 2018 Louisiana Fusion Center e-mail listing 11 attachments including “Facial Recognition Form.docx”).

<sup>16</sup> See Ms. Aucoin’s December 13, 2019, letter (Exhibit E).

<sup>17</sup> See Ms. Aucoin’s September 27, 2019, letter (Exhibit C).



41. On the contrary, the statute contains limited exceptions for records *containing* “investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof ...” La. R.S. 44:3(A)(3).
42. This statute does not establish an exemption to the PRL but a permissive exception with a limited application that is not present here. Subsection A broadly states that the PRL “shall not be construed to require disclosure” of certain records, La. R.S. 44:3(A), but it does not specifically exempt the records enumerated therein.
43. The statute’s specific exceptions are found later in the statute in Subsection B, which states that certain records and information contained therein “pertaining to or tending to impart the identity of any confidential source of information of any of the state officers, agencies, or departments mentioned in Subsection A ... shall be privileged[.]” La. R.S. 44:3(B).
44. As previously noted, facial-recognition software is not equipment, and it therefore cannot be considered neither “investigative technical equipment” nor “instructions on the use thereof.” Software also is neither a technique nor training information; therefore, it cannot be considered “investigative training information or aids” or “investigative techniques” under La. R.S. 44:3(A).
45. As the above illustrates, the exception found in La. R.S. 44:3(A) has no application to the first paragraph of Mrs. Odoms’ request. Even assuming *arguendo* that the statute could apply here, it cannot serve as a blanket prohibition on documents that merely reference facial recognition without revealing otherwise privileged information.
46. In short, the statute was never intended to, and does not, shield from public disclosure all documents that contain references to surveillance technology, even when it is used in law-enforcement investigations. Defendant’s misinterpretation would lead to the absurd result of forbidding disclosure of thank-you notes for the Christmas gifts of binoculars, a microscope, or a magnifying glass.
47. Finally, although the second paragraph of Mrs. Odoms’ PRR included the word “training,” the limited statutory exception for “investigative training information” does not justify withholding “all documents referencing training conducted by the security company Idemia and provided to the Louisiana State Police, including but not limited to emails, calendar invitations, and memoranda.”

48. Petitioner denies that portion of the statute applies here because training on the use of software does not necessarily qualify as investigative. As noted above, the software at issue is a technology, instruction in the use of which is not in itself investigative.

49. Even if that portion of the statute has application here, which Petitioner denies, it cannot prohibit disclosure of documents that reference such training, i.e. noting when and where it took place, by whom it was conducted, or other peripheral information that does not disclose the substance of the training

50. LSP's reliance on a blanket, inapplicable "exemption," coupled with its false claim that it maintains no responsive documents, shows a deliberate attempt to shirk the agency's obligation under the PRL and cloak the Fusion Center's operations in secrecy, in defiance of the public's constitutional right of access to public information. LSP is a public body, doing the public's work, using public tax dollars. Documents that demonstrate its use of an invasive, faulty, and racist technology must be disclosed.

## VI. RELIEF REQUESTED

WHEREFORE, Petitioner prays:

1. That a writ of mandamus be issued directing the Defendant to disclose the records requested or show cause why Defendant should not be ordered to do so, and
2. For an award of attorneys' fees, damages, sanctions, and costs as provided by law, including, specifically, penalties for intentional, unreasonable, and arbitrary denial of a valid public records request pursuant to La. R.S. 44:35(E) and 44:37.

Respectfully submitted,



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