

RCW 43.386.080 Use for surveillance, real-time identification, or persistent tracking—When permitted—Restrictions on law enforcement use. (1) A state or local government agency may not use a facial recognition service to engage in ongoing surveillance, conduct real-time or near real-time identification, or start persistent tracking unless:

(a) A warrant is obtained authorizing the use of the service for those purposes;

(b) Exigent circumstances exist; or

(c) A court order is obtained authorizing the use of the service for the sole purpose of locating or identifying a missing person, or identifying a deceased person. A court may issue an ex parte order under this subsection (1)(c) if a law enforcement officer certifies and the court finds that the information likely to be obtained is relevant to locating or identifying a missing person, or identifying a deceased person.

(2) A state or local government agency may not apply a facial recognition service to any individual based on their religious, political, or social views or activities, participation in a particular noncriminal organization or lawful event, or actual or perceived race, ethnicity, citizenship, place of origin, immigration status, age, disability, gender, gender identity, sexual orientation, or other characteristic protected by law. This subsection does not condone profiling including, but not limited to, predictive law enforcement tools.

(3) A state or local government agency may not use a facial recognition service to create a record describing any individual's exercise of rights guaranteed by the First Amendment of the United States Constitution and by Article I, section 5 of the state Constitution.

(4) A law enforcement agency that utilizes body worn camera recordings shall comply with the provisions of RCW 42.56.240(14).

(5) A state or local law enforcement agency may not use the results of a facial recognition service as the sole basis to establish probable cause in a criminal investigation. The results of a facial recognition service may be used in conjunction with other information and evidence lawfully obtained by a law enforcement officer to establish probable cause in a criminal investigation.

(6) A state or local law enforcement agency may not use a facial recognition service to identify an individual based on a sketch or other manually produced image.

(7) A state or local law enforcement agency may not substantively manipulate an image for use in a facial recognition service in a manner not consistent with the facial recognition service provider's intended use and training. [2020 c 257 s 11.]