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VIA ELECTRONIC MAIL

June 18, 2018

Deborah Coder  
Records Access Officer  
Lockport City School District  
130 Beattie Avenue,  
Lockport, NY 14094

RE: Public Records Request Regarding Facial Recognition Technology

Dear Ms. Coder:

It has come to our attention that the Lockport City School District (“Lockport” or the “District”) is using its state funds provided through the Smart Schools Bond Act (“SSBA”) to purchase facial recognition technology for use in its schools. The New York Civil Liberties Union (“NYCLU”) seeks further information regarding the District’s acquisition and planned utilization of this technology. Accordingly, we attach hereto a public records request pursuant to the New York Freedom of Information Law (“FOIL”).<sup>1</sup>

According to Lockport’s Smart School Investment Plan, Lockport proposed to use \$3,810,833 of SSBA funds for high-tech security features, including “new cameras and wiring... to provide viewing and automated facial and object recognition of live and recorded surveillance video,” as well as “additional surveillance servers...to provide enhanced storage of recorded video and processing.”<sup>2</sup> The District held a public hearing on the proposal on August 17, 2016 and it was approved by the Smart Schools Review Board in November 2017.<sup>3</sup>

The use of this technology in a school setting raises many issues, including concerns with accuracy, the unnecessary exposure of children to discipline and the criminal justice system, infringement on the privacy rights of those in the school community, as well as lingering questions on the maintenance of the system and access to its information. Further, the use of a significant

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<sup>1</sup> N.Y. PUB. OFF. LAW § 84, et seq.

<sup>2</sup> Lockport City School District, Smart Schools Investment Plan (2016-2017), <http://p1232.nysed.gov/mgtserv/documents/LOCKPORTCITYSD.pdf> (last modified October 23, 2017)(“Lockport SSBA Plan”).

<sup>3</sup> Lockport City School District, August 17, 2016 Proceedings of the Board of Education, <https://www.lockportschools.org/site/handlers/filedownload.ashx?moduleinstanceid=11244&dataid=21438&FileName=August%202016%20Regular%20Board%20Meeting%20Minutes%208%2017%2016.pdf>; See also Tim Fenster, *Trying for More Secure Schools: Lockport district turning to facial recognition software* (March 4, 2018), [http://www.lockportjournal.com/news/local\\_news/trying-for-more-secure-schools-lockport-district-turning-to-facial/article\\_f1cc9cfa-0898-5da0-ac5d-d600df21bed7.htm](http://www.lockportjournal.com/news/local_news/trying-for-more-secure-schools-lockport-district-turning-to-facial/article_f1cc9cfa-0898-5da0-ac5d-d600df21bed7.htm).

amount of state funding for this proposal is concerning given the potential budget shortfall faced by the District.<sup>4</sup> Accordingly, because substantial questions remain, the NYCLU seeks public records related to the purchase, use, and maintenance of the facial recognition technology, as listed in Exhibit A.

As you know, FOIL requires a response within five business days of your receipt of this letter. Please provide an estimated timeframe within which the requested records are to be produced. If for any reason any portion of this request is denied, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed. If you determine that any portion of the requested records are exempt from disclosure pursuant to FOIL, please redact only the material claimed as exempt, inform us of the basis for the exemption claim, and furnish copies of those portions of the records that you determine not to be exempt.

We agree to compensate you for the cost of duplicating the records we request, as provided by law. Upon locating the requested documents, please contact us prior to photocopying and advise us of the actual costs of duplication so that we may decide whether a narrowing of the request will be necessary. To the extent that records are available in electronic format, we request that they be provided in that format.

Please send responsive records to:


Stefanie Coyle  
New York Civil Liberties Union Foundation  
125 Broad Street, 19<sup>th</sup> Floor  
New York, NY 10004  
scoyle@nyclu.org

Thank you for your prompt attention to this matter. Please do not hesitate to contact us if you have any questions regarding this request.

Sincerely,



John A. Curr III  
Western Regional Office Director



Stefanie D. Coyle  
Education Counsel

cc: Michelle Bradley, Superintendent of Schools, Lockport City School District

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<sup>4</sup> *Id.*

## Exhibit A

### Definitions and General Parameters:

This request applies to records created or obtained by the Lockport City School District (“Lockport” or the “District”) or any of its subsidiaries at or relating to any and all of its existing or proposed locations. This request refers to Lockport’s proposed use of funds under the Smart Schools Bond Act (“SSBA”) to purchase facial recognition technology (the “Proposal”).

The term “record(s)” is to be construed in its broadest sense in accordance with New York FOIL to include anything upon which information is recorded, including all documents, papers, letters, email correspondence, maps, books, tapes, photographs, films, recordings or other material, and electronic records, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business.<sup>5</sup>

The request is limited to records created or obtained between **January 1, 2014 and the present**, except as to items specifying a different timeframe.

### Specific Requests:

1. Any records reflecting the stakeholder engagement process undertaken by Lockport in the planning process for the Proposal, including, but not limited to engagement with parents, teachers, students, and community members;
2. Any records reflecting Lockport’s financial arrangement with SN Technologies, Tony Olivo, Corporate Screening and Investigative Group, LLC, and Ferguson Electric Construction Company, Inc.;
3. Any records reflecting any non-disclosure agreement between SN Technologies and Lockport;<sup>6</sup>
4. Any records indicating Lockport’s short-term and long-term plans to pay for the maintenance of the facial recognition technology;
5. Any records of Lockport’s SSBA application and Proposal documents, including, but not limited to, records reflecting the District need that will be met by the facial recognition technology;
6. Any records reflecting communications between Lockport and the Smart Schools Review Board;
7. Any records reflecting communications by Lockport to the NYSED Office of Facilities Planning;

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<sup>5</sup> N.Y. PUB. OFF. LAW § 86(4).

<sup>6</sup> Fenster, *supra*, note 3.

8. Any records reflecting minutes and materials from any Lockport school board meeting in which the Proposal was discussed;
9. Any records reflecting materials from the August 17, 2016 Lockport school board meeting and any public comments on the Proposal;
10. Any records reflecting materials from the March 28, 2018 Lockport school board meeting and public comments on the Proposal;
11. Any records reflecting the Lockport facial recognition technology's object detection capabilities, specifically weapon detection, including, but not limited to which types of weapons it can identify, as well as whether, and to what extent, it can identify concealed weapons, and which other types of objects it will detect, track, and store;
12. Any records indicating the ownership and maintenance of the images and data produced by the Lockport facial recognition technology, including but not limited to whether the district, individual schools, law enforcement, or others are involved in its ownership and maintenance;
13. Any records indicating whether individuals in state and federal law enforcement, including those from Immigration and Customs Enforcement ("ICE") may review the images and data produced from the Lockport facial recognition technology, and any limitations on their access;
14. Any records indicating how long the images and data produced by the Lockport facial recognition technology will be kept, as well as when, how, and whether they will be destroyed;
15. Any records reflecting policies, procedures, training materials, protocols or other rules regarding the implementation and use of the Lockport facial recognition technology;
16. Any records regarding the databases and/or other datasets used for individual identification, tracking, hot lists, or other matching functionalities, as well as how and under what circumstances new entries can be added;
17. Any records regarding what types of information are generated and stored by the facial recognition system, including but not limited to personal profiles, relationship networks, personal interactions, location visits, meta-data and other intelligence gathered from the analysis of video streams;
18. Any records on cybersecurity measures, including encryption of data in transit and at rest, security audits, user account management, and logging of user interactions, searches, and requests;
19. Any records indicating the specific locations where cameras have been or will be installed;

20. Any records reflecting the timeline for installation of the Lockport facial recognition technology;
21. Any records regarding any meetings at the Erie-1 BOCES in which facial recognition was discussed, and any accompanying materials;<sup>7</sup> and
22. Any records reflecting research, studies, or data regarding the efficacy of facial recognition technology that was considered by the school board in its development of the Proposal.

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<sup>7</sup> Fenster, *supra*, note 3.