



## **SB 1038 – Biometric Surveillance by Law Enforcement**

### **SUMMARY**

SB 1038 preserves existing civil rights protections against the use of biometric surveillance (facial recognition) by law enforcement on officer-worn body cameras.

### **BACKGROUND**

Law enforcement body-worn cameras were intended to guard against police misconduct, not to be used as a tool for government surveillance. Keeping facial recognition technology off of police-worn cameras maintains their original purpose, protects constitutional rights, prevents potentially fatal misidentification, and promotes public safety.

Facial recognition has been repeatedly demonstrated to misidentify women, young people, and people of color, and proven to create an elevated risk of harmful “false positive” identifications.

In 2019, the Legislature passed AB 1215 to temporarily prohibit law enforcement in California from adding facial recognition and other biometric surveillance technology to officer-worn body cameras for use against the public. This protection is set to expire on January 1, 2023.

### **PROBLEM**

Officer-worn body cameras are fundamentally incompatible with biometric surveillance, in part because officers are in near-constant motion and because the wide angle of the images causes blurred and low-quality images that risks false matches and wrongful arrest. According to research by the National Institute of Standards and Technology

(NIST), Asian and Black people were up to 100 times more likely to be misidentified by facial recognition than white men.

Against this background, prominent technology companies like Microsoft, Amazon, and IBM have declined to sell facial recognition systems to law enforcement. Axon, the most prominent body camera maker has also specifically rejected the use of facial recognition for body-worn cameras, citing the potential inaccuracy and serious ethical concerns.

### **SOLUTION**

SB 1038 would indefinitely prohibit a law enforcement agency or law enforcement officer from installing, activating, or using any biometric surveillance system in connection with an officer camera or data collected by an officer camera.

### **SUPPORT**

ACLU California Action (Sponsor)  
Electronic Frontier Foundation  
Media Alliance

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