

MIKE CRAPO, IDAHO, CHAIRMAN

RICHARD C. SHELBY, ALABAMA
PATRICK J. TOOMEY, PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA
BEN SASSE, NEBRASKA
TOM COTTON, ARKANSAS
MIKE ROUNDS, SOUTH DAKOTA
DAVID PERDUE, GEORGIA
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA
MARTHA MCCALLY, ARIZONA
JERRY MORAN, KANSAS
KEVIN CRAMER, NORTH DAKOTA

SHERROD BROWN, OHIO
JACK REED, RHODE ISLAND
ROBERT MENENDEZ, NEW JERSEY
JON TESTER, MONTANA
MARK WARNER, VIRGINIA
ELIZABETH WARREN, MASSACHUSETTS
BRIAN SCHATZ, HAWAII
CHRIS VAN HOLLEN, MARYLAND
CATHERINE CORTEZ MASTO, NEVADA
DOUG JONES, ALABAMA
TINA SMITH, MINNESOTA
KYRSTEN SINEMA, ARIZONA

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

GREGG RICHARD, STAFF DIRECTOR
LAURA SWANSON, DEMOCRATIC STAFF DIRECTOR

July 1, 2020

Mr. Brad Bylenga
President
DataWorks Plus, LLC
728 North Pleasantburg Drive
Greenville, SC 29607

Dear Mr. Bylenga:

I write to express concern that DataWorks Plus is assisting in violating the civil liberties of citizens across the nation where your FACE Plus or FACE Watch Plus facial recognition technology has been deployed—including in Michigan, Pennsylvania, California, South Carolina, and Illinois.¹

Your facial recognition technology played a critical role in forever altering a Michigan man's life this past January.² Robert Julian-Borchak Williams was wrongfully accused of shoplifting due to a lead your software created. Mr. Williams was humiliated when he was arrested in front of his family, "patted down probably seven times," fingerprinted, and "spent the night on the floor of a filthy, overcrowded cell next to an overflowing trash can", during his unlawful 30 hour detention.³ This trauma is a wholly unacceptable byproduct of your facial recognition technology.

Mr. Williams's case illustrates the harm and abuse resulting from the use of your company's facial recognition technology. The result is also entirely predictable. For years, scientific studies have repeatedly shown that facial recognition algorithms are significantly less accurate for people with non-white skin tones.⁴ In addition, despite touting that your FACE Plus and FACE Plus Watch technologies are "accurate and reliable" in marketing materials,⁵ your company reportedly does no scientific or formal testing for accuracy or bias.⁶

¹ <https://www.npr.org/2020/06/24/882683463/the-computer-got-it-wrong-how-facial-recognition-led-to-a-false-arrest-in-michig>; <http://www.dataworksplus.com/newsarchives.html>; <http://www.dataworksplus.com/news.html>

² <https://www.washingtonpost.com/opinions/2020/06/24/i-was-wrongfully-arrested-because-facial-recognition-why-are-police-allowed-use-this-technology/>

³ <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html>

⁴ <https://www.wired.com/story/amazon-facial-recognition-congress-bias-law-enforcement/>;
<https://news.mit.edu/2018/study-finds-gender-skin-type-bias-artificial-intelligence-systems-0212>;
<https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software>

⁵ <http://www.dataworksplus.com/faceplus.html>; <http://www.dataworksplus.com/rts.html>

⁶ <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html>

Inaccuracies aside, today, facial recognition technology is too often used to sustain systemic racism. In Detroit, your technology has been used “almost exclusively against Black people so far in 2020, according to the Detroit Police Department’s own statistics.”⁷ Racially-targeted surveillance is just one aspect of systemic racism that America as a society is finally confronting following George Floyd’s killing on May 25. Furthermore, providing real-time identification has a chilling effect on First Amendment rights to assembly and speech.

To address these concerns, please respond to the following questions no later than July 10, 2020.

1. Do you plan to follow the lead of other technology companies⁸ and impose a moratorium on the use of your facial recognition technologies by law enforcement?
2. What is the factual basis that supports your marketing and advertising claims that FACE Plus and FACE Plus Watch technologies are accurate and reliable?
3. Do you have an executive in company leadership responsible for facilitating conversations on ethical decision-making, specifically with regards to how DataWorks Plus technologies interact with the public?
 - a. If so, have they considered how facial recognition in combination with live video surveillance monitoring of a peaceful protest could pose a threat to Americans’ constitutionally-protected rights of speech and assembly?
 - b. If not, do you have plans to create this leadership position?
 - c. If you do not have plans for such a position, please explain your rationale given the risks and concerns identified above.

Thank you for your prompt attention to this important issue.

Sincerely,



Sherrod Brown
Ranking Member

⁷ https://www.vice.com/en_us/article/dyzykz/detroit-police-chief-facial-recognition-software-misidentifies-96-of-the-time

⁸ <https://www.technologyreview.com/2020/06/12/1003482/amazon-stopped-selling-police-face-recognition-fight/>