

Criminal lineups use drivers' photos

Senator wants state practice stopped as invasion of privacy

By Julia C. Martinez

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Maybe you haven't, but the picture on your driver's license might have, and could be in the future.

Legislation to restrict law enforcement's use of face-recognition technology shed new light Tuesday on the practice, which surprised many people.

Law enforcement routinely scans the state's driver's license photographs to find look-alikes for criminal photo lineups.

Are you a heavy blond female, with long hair and freckles?

Maybe a 40-ish male with dark hair, mustache and spectacles?

Whatever your description, if it matches the facial characteristics - or even the composite - of a suspect, your photograph could be among those laid out alongside the photo of an alleged armed robber or murderer for a witness or victim to identify.

The pictures are among some 9 million in Colorado's Division of Motor Vehicles database available to law enforcement. Joan Vecchi, the state's operations manager for Driver Control, said use of license photos for criminal lineups has never been an issue.

But the practice shocked Sen. Ron Teck, a Grand Junction Republican who told the Senate Judiciary Committee he wants to put an immediate stop to it.

"No one I know had any idea this was going on," said Teck, co-sponsor of House Bill 1071, which restricts law enforcement's use of the Division of Motor Vehicles' face-recognition technology, but allows authorities to continue to access DMV's photos for their criminal lineups. "I was a bit appalled. What if my wife's picture were chosen at random. . . . What would the effect be on my wife?"

Teck and other opponents said they were troubled by the fact that if someone other than the suspect is picked from the lineup, police run a background check, contact the person in the photo and sometimes contact the person's employer to ensure that he or she was at work when the crime

occurred, according to testimony from Denver police Sgt. Tony Lombard.

Funding account executive Sharon Trzos of Denver said she, too, was shocked to learn about the photo lineups.

"They could be using my picture and I don't know that. I don't like that. That involves privacy," Trzos said. "I have a lot of clients and it could be damaging to my reputation if someone saw me on a lineup."

Bob Ford, who moved to Colorado a year ago from New Hampshire with his wife, Julie, said he wouldn't mind being in a lineup "as long as they don't go after me if I get picked by the victim."

But Julie Ford said she finds the practice "frightening to the average citizen."

In Denver, photo lineups include six pictures, one of the suspect and five photographs chosen randomly from the driver's license bureau, but with the same facial characteristics as the suspect, said Lombard.

"First you find your suspect, then you look at the photo. What does he have on his face? Does he have short or long hair? Glasses? Mustache? You have to match those characteristics as closely as possible," he said.

The practice is used statewide as well as nationally, Lombard said, and is an important tool for law enforcement.

Physical lineups are still in use, but photo lineups have become more common and are legal under state law, he said.

"I could be on a photo lineup if they needed an old guy with a receding hairline," Lombard said.

The issue is fairness to the suspects and "similarity" in the quality of the photograph, he said. Law enforcement must ensure that one picture doesn't stand out from the rest and get inadvertently singled out. A police mug shot probably would be, whereas driver's license photographs have the same background, the same general pose and the same coloring.

Once a victim picks a photo out of the lineup, the entire lineup can be introduced as evidence at trial. And that's another thing that bothered Teck.

What if a juror recognizes you and you're not the suspect? Or, what if the trial is broadcast and the photo lineup ends up on television with your photo on it?, Teck asked.

Lombard said the chances are slim. He said the practice has been in effect for about 30 years in Denver and he

didn't recall any problems.

Teck tried to amend the measure to put an end to the practice. "Who owns your image? Some people say it belongs to Motor Vehicles. I argue that my picture and the use of my picture belongs to me," he said.

But none of the seven lawmakers on the committee would put the amendment in play so it could be voted on, so it died. Teck said he will present the amendment on the Senate floor when the bill comes up for debate.

"This has to do with civil liberties and privacy," Teck said. "This needs to be openly debated."