Request for Information (RFI) on Public and Private Sector Uses of Biometric Technologies: Responses

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At the request of OSTP, I have prepared a comment on Topic 4; Exhibited and potential harms of a particular biometric technology. The main issue with the current biometric AI is that it was designed primarily by white men. Thus, the technology works best for that demographic. This will lead to concerns over the accuracy of the readings. Based on the RFI, the biometric data will be used to aid law enforcement, use for employment and student engagement, housing, and medical information. My concern is that we will be using a relatively new technology to make determinations that will have considerable impacts on people’s every day life that has an unreasonable certainty for error.

First, in respect to law enforcement, I would have concerns over the issue of warrants with this technology. At what point does our biometric information count as our private property, and when would a warrant need to be issued? Would law enforcement using a third-party, or their own, software to gain access to our biometric information be an unwarranted search or seizure? I am aware of the country’s hesitation to draw direct lines from the body to property (Moore v. Regents of the University of California), but at this point our biometric information is being treated by corporations, and now the government, like a commodity. A bit of data or information that can be bought and sold, stored for reference, or become a subject to study.

Second, I have concerns over the lack of humanity AI brings to the equation. I am a well-educated individual with a background in STEM, philosophy, and law. I am on board with using and developing technology to make life better for as many people as possible, but I have concerns with how it is being used. AI is a wonderful field and can bring so much to our society, but if it is used correctly. An AI, as much as it is developed, will always be artificial. The human
element in interactions will be lost and can never be recovered if AI is used to measure biometric data for such fundamental aspects of life – such as employment and housing. This would be using the technology for the wrong reason. After all, let’s not lie to each other, this would adversely affect low-income communities more than others. Imagine being denied a job because a software interpreted you’re biometric data to imply an angry or lazy disposition. Did we progress so far that we ended up back to old days of phrenology? AI denying people opportunities before they even get to talk to a person. I remember applying for a job. I had so many applications that were entirely automated messages. I never even talked to another person during the months of correspondence. Demoralizing did not even begin to describe it. I felt isolated. Like I was screaming my credentials into the void.

My third concern is notice and consent. AIs and its determinations are all made by the technology’s software. The hardware is simply the means to gather the data – while there are issues here the primary concern is the determinations made on this information. The issue of notice comes into play for me because there is no way to know what the software is doing. Is the software using the correct methodology set out in the scientific literature? Or did the company adjust the code to change how the AI reads certain values? That is where my concern lies. How can the people ever be aware about the goings on within this technology? How would we know whether there is not dubious code or a hack? For this technology to be implemented in these fundamental aspects of lives, not only does this technology need to be perfectly accurate, but it also needs to be hack-proof and have some transparency to it. If one does not know what the technology is reading, how it is reading it, and for whom, does that person have informed consent?
My concern is that this technology, AI biometric determinations, is in its infancy. It should not be implemented currently unless the state can guarantee complete accuracy, security, and transparency. Since these are unobtainable at the current moment, I strongly advise against using this technology in policy making. I also have issues with using this technology for these purposes. As I said earlier, I am not against this technology for medical applications. I think there are certain fields and aspects of life where this technology is not only dubious but immoral. Those fields are the ones currently being considered (employment, housing, law enforcement). There is an entire genre of books and media warning of the application of these technologies for these purposes. This technology is best for aiding humanity by overcoming tasks we as people cannot do – well cannot do within a reasonable time. AI technology and biometrics should be used to sieve through the seemingly endless amounts of data. What would take years could only take moments with this technology. This technology is wonderful and life-changing if it is used right. Just as nuclear energy is a great source of clean energy, but, when used for the wrong purposes, nuclear weapons can lead to Armageddon. Not only is using this technology for these fundamental purposes wrong, using flawed and imperfect versions of the technology in these areas borders on willful negligence.