E-mail Received: November 29, 2021

From: Rich Neumeister

Subject: Testimony for 11/30/2021 Meeting

Commission members:

Just a bit over two years ago, the Commission predecessor had a hearing on the issue of Facial Recognition. I submitted written testimony then, please see attached. What I shared at that time is just as relevant today as you consider House File 1196.

The premise of the proposed legislation is a start for legislation. It should include the private sector as well.

When you review the attachment provided you will note there is reference to a short history of facial recognition in Minnesota.

There are also links to stories and documents with suggestions for legislation and policy.

I am sorry I will not be able to participate in the meeting.

My best,
Rich Neumeister

Comment on facial recognition for LCC Subcommittee on Data Practices
Rich Neumeister
11/7/2019

Good morning:

I will not be able to attend the meeting of the LCC subcommittee on Data Practices, but I wish to make brief comments and direct members to information.

A number of years ago I read about new technology being used at the 2001 Superbowl in Tampa, Florida. As thousands of fans entered the stadium, cameras with 'facial recognition' were being tested secretly. News reports later told about it. Ever since I have been involved in following the technology and its implications.

The state of Minnesota is involved with facial recognition technology. First, with digitization of millions of driver license photos with facial recognition standards. Same is with the booking and arrest photos that the Bureau of Criminal Apprehension collects in the Minnesota Repository of Arrest Photos known as MRAP. Both of these actions have happened within the last decade.

Comparison with photos (recognition purposes) has happened with these state databases in two significant ways. There has been an active use of the drivers license photo base in dealing with fraud in the human services area. MRAP has been used by law enforcement agencies in the past. I have done data requests with the Department of Public Safety on this topic which has given me information about their programs.

The MRAP program has increasingly over the years NOT been used for the purpose of comparing photos with facial recognition. In conversations with officials I've been told they are looking at new software.

Tony Webster did a data request to Hennepin County Sheriff covering biometrics and the use of it which facial recognition is a part of. What Mr. Webster discovered was that Hennepin County Sheriff Rich Stanek was in midst of researching and implementing facial recognition without policymakers and public knowledge. Mr. Webster did a story on this: "Hennepin County Sheriff circumvents state to expand facial recognition database"
Link: https://tonywebster.com/2016/06/hennepin-sheriff-facial-recognition/

Local media also reported on this issue brought to attention by Mr. Webster's piece.

Facial recognition technology challenges First and Fourth Amendment principles to their core. Nothing new as Minnesota policymakers have discovered with avalanche of new technology such as Stingray, license plate readers, for example. There are no restrictions or regulations in Minnesota with use and deployment of this particular technology. A recent paper entitled, "Facial Recognition and the Fourth Amendment" by Andrew Guthrie Ferguson gives some insight on implications of this new technology.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3473423

Racial bias in use of facial recognition is being discussed across the country by policymakers, law enforcement, and the public. In the City of Detroit debate is happening per the New York Times - "As cameras track Detroit's residents, debate ensues over racial bias https://www.nytimes.com/2019/07/08/us/detroit-facial-recognition-cameras.html

The Center on Privacy and Technology at Georgetown University (Washington DC) has done research on facial recognition. It focused on states use of facial recognition and extensive research on the topic in their study - "The Perpetual Line-Up: Unregulated Police Recognition in America" You find attached to this email the report and profile of Minnesota. The report is long, but has recommendations for legislatures and Congress. This is the link to those recommendations: https://www.perpetuallineup.org/recommendations

The Center recently released two additional reports:

- Garbage In, Garbage Out: Face Recognition on Flawed Data https://www.law.georgetown.edu/privacy-technology-center/publications/garbage-in-garbage-out-face-recognition-on-flawed-data/

- America Under Watch: Face Surveillance in the United States https://www.law.georgetown.edu/privacy-technology-center/publications/garbage-in-garbage-out-face-recognition-on-flawed-data/

The United States House of Representatives had a hearing on facial recognition this past summer.   One of the pieces of research done was by the General Accounting Office in a report entitled: "Face Recognition Technology" The report deals with the federal government initiative of having a connected database of photos among the states that can be used for facial recognition. A number of states have agreed to this with the federal government, some have banned used of drivers license photos, other states have current laws restricting use of of drivers license photos. The report is attached.

This is the first time that a body of the Minnesota Legislature is taking up the topic of facial recognition on it's own without being intertwined with other initiatives. Today's meeting is not to be one of reaching what the law to be, but the beginning of discussion with the public as to what the law should be.

It takes time and examination to answer the serious questions this new technology challenges us with.

I wish to thank Claire Garvie (Center on Privacy and Technology at Georgetown University) and Freddy Martinez (Open the Government) for providing information that was used in this comment.

Feel free to contact me for any questions or want more information.

Rich Neumeister