

Congress of the United States
Washington, DC 20510

July 31, 2018

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington DC 20548

Dear Comptroller Dodaro:

We write to you today to request that GAO examine and evaluate commercial and law enforcement use of facial recognition technologies. These technologies raise serious concerns about individual privacy rights and the disparate treatment of minority and immigrant communities within the United States.

Previous GAO work on the subject has been instrumental in educating Congress and the public as to the use, and possible misuse, of these technologies. Given the recent advances in commercial facial recognition technology — and its expanded use by state, local, and federal law enforcement, particularly the FBI and Immigration and Customs and Enforcement — we ask that you investigate and evaluate the facial recognition industry and its government use. In particular, please consider the following topics.

1. In order to evaluate facial recognition impact on law enforcement, it is essential to understand which law enforcement agencies are using facial recognition, and how. Please conduct a survey to determine which state, local, and federal law enforcement agencies utilize facial recognition. As part of this survey, please consider evaluating:
 - a. What safeguards both the commercial vendors and law enforcement agencies employ to protect the constitutional rights and personal privacy of individuals subjected to facial recognition, including First Amendment rights;
 - b. What safeguards both the commercial vendors and enforcement agencies employ to protect individuals from disparate treatment on the basis of race, gender, ethnicity, or age;
 - c. Whether the government has adequate procedures in place to audit or test technology they purchase to assess its accuracy, particularly to assess whether errors in the technology disproportionately affect some groups more than others on the basis of race, gender, ethnicity, or age;
 - d. The extent to which law enforcement agencies have public and transparent policies governing the use of the technology to prevent adverse impacts on privacy, civil rights, and civil liberties;
 - e. The extent to which law enforcement agencies robustly engage public stakeholders prior to deployment of facial recognition technology to ensure that use reflects community concerns;

- f. Whether this technology is deployed in public areas or on photos of public areas, raising First Amendment concerns;
 - g. Whether this technology is used in real-time, or in other forms which involve scanning and seeking to identify every individual who appears in a live video or a video recording;
 - h. Whether law enforcement agencies provide sufficient notice and have redress procedures to address complaints in cases where facial recognition may have had an adverse impact;
 - i. The extent to which law enforcement agencies have standards to measure the efficacy of the technology on an ongoing basis, as measured against the cost and impact on individual rights; and
 - j. The extent to which law enforcement deployment of this technology, particularly in areas with prior complaints of discriminatory policing and in historically low-income, immigrant, or minority communities, can exacerbate discrimination and other policing disparities.
2. Please consider purchasing and evaluating commercial facial recognition technologies. This evaluation could include assessing whether commercial entities selling facial recognition adequately audit use of their technology to ensure that use is not unlawful, inconsistent with terms of service, or otherwise raise privacy, civil rights, and civil liberties concerns. Please also consider an evaluation of the software underlying facial recognition technologies and whether these programs have a disparate impact on certain racial or ethnic groups.
 3. Data collection and sale of facial imagery— and its associated concerns with location tracking — is a critical policy issue for Congress to understand:
 - a. What data do commercial vendors of facial recognition technology use to “train” the algorithms used to match images?
 - b. Please describe the market for purchasing facial images.
 - c. Please describe the market for selling images, including data brokers that may buy from multiple vendors with the intention of creating individualized profiles for marketing or other purposes.
 - d. Please describe any safeguards that may exist to protect against the creation of commercial databases of facial images with linked geolocation and timestamps.

We look forward to working with you and your staff to change, prioritize, and refine these parameters, as appropriate. For any questions, please contact Anderson Heiman on Senator Wyden’s staff at 202-224-5244.

Sincerely,


Ron Wyden
United States Senator

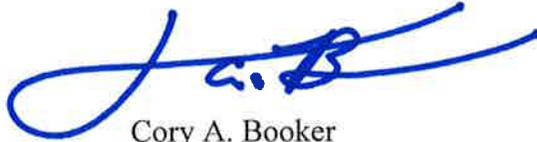

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