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Judged By Computers

**Introduction**

Facial recognition Artificial Intelligence (AI) is software that integrates AI software to search and compare databases of faces to identify a face. One can input a high-quality image of the human face in the software, which then analyzes the facial features to create a faceprint unique to the individual, which then compares against a database of faceprints. To some form or another, many of us have had some exposure to artificial recognition technology. Whether it be for unlocking a phone, automated face tagging on Facebook, or perhaps having to scan your face using identity verification website ID.me to sign up for an account for a government website. Facial recognition technology aims to make our lives simpler and safer. For example, in the workplace, we would be able to clock in/out or gain access to rooms and areas that we are permitted to enter completely hands-free, which reduces touch points and COVID Transmission (5 Benefits of Facial Recognition Technology in the Workplace, 2021). Aside from making our lives simpler, facial recognition technology aids law enforcement agencies in solving crime. By using facial recognition, AI law enforcement agencies can quickly search through a database of facial images to identify criminals faster than manually searching through videos and pictures. Facial recognition software was used in 2019 by detectives in the New York City Police Department to arrest a man who was causing terror by leaving rice cookers in a subway by using facial recognition technology within several hours. While this incident was pretty harmless, the NYPD celebrated the effectiveness of this software's capabilities (McCarthy, 2019).

**Issue**

Unfortunately, this technology is far from perfect. The National Institute of Standards and Technology (NIST) found that facial recognition systems were up to 100 times more likely to falsely identify Asian and African American faces than Caucasians (NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software, 2020). NIST proved that many of the facial recognition technology software on the market is biased. As a result of the biased algorithm and lack of review by trained examiners on 9 January 2020, Robert Julian-Borchak Williams was arrested due to a false positive match in Detroit. Similarly, in February 2019, Nijeer Parks was arrested for multiple crimes and spent 11 days in jail because the judge signed the warrant based on a mistaken facial recognition match (General & Sarlin, 2021). These incidents are not simply due to just algorithmic bias but rather systematic racism. In Detroit, most cameras are in areas with more African American residents (Harmon, 2019). These incidents beg the question of whether this technology should be used, considering its ability to oppress minorities.

## Stakeholder Analysis

There are multiple stakeholders when it comes to the use of facial recognition technology in law enforcement. The general public, law enforcement agencies, facial recognition technology developers, and the government are stakeholders. For the sake of this argument, we will explore this argument from the perspectives of the American Civil Liberties Union (ACLU) and law enforcement. Currently, the ACLU is suing Clearview AI to sell facial recognition software to law enforcement agencies backed by three billion faceprints they've gathered without consent (American Civil Liberties Union, n.d.).

**Stakeholder I: The ACLU**

The ACLU fights to protect the civil rights of the people. They have been at the forefront of many causes, for example, Brown v. Board of Education, which ended segregated schools. Now they have taken up to fight against using facial recognition for law enforcement.

The ALCU values equity and dignity for everyone and defends the fundamental rights of all Americans; as such, they believe that facial recognition technology violates our privacy and gives the governments, companies, and others the power to spy on everyone.

The ACLU claims that facial recognition technology threatens core constitutional rights because facial recognition technology allows the government to track and log every move made by anyone, which invades privacy. The ACLU makes claims of policy to support their position. As Such, the ACLU has written a letter to President Biden to put a moratorium on the use of facial recognition technology (*ACLU News & Commentary, n.d.*).

**Stakeholder II: Law Enforcement**

Law enforcement agencies aim to mitigate and prevent crime, promote public safety, and provide emergency services. Most law enforcement agencies share similar values of protecting and serving the public. For decades the work of law enforcement has involved manual labor, which in most cases results in lower rates of solved cases.

For Law Enforcement agencies, facial recognition technology is a tool that can aid them in identifying and tracking a criminal, finding a missing person, or help identify locations with higher crime rates (*AI in Police Work, 2019*).

Multiple police departments throughout the country have claimed that facial recognition technology has helped solve crimes that would've unfortunately gone unsolved due to the labor intensiveness of the case. In our current society, most cities have cameras throughout the city. Still, the sheer number of cameras and recorded content makes it impossible for a human to analyze all the recordings to search for a criminal. The use of facial recognition technology quickly solves this issue. Law enforcement agencies use claims of fact to support their position

**Argument Question:**

Numerous companies have created their versions of facial recognition technology, some backed by images scraped off the internet and others supported by pictures from government databases. Still, ultimately all of these algorithms show some amount of racial bias. Considering that facial recognition technology is biased and has its flaws, this begs the question: Should law enforcement be allowed to use facial recognition software?

## Stakeholder Arguments

**Stakeholder I: The ACLU**

The ACLU has fought against the government and companies that have tried to infringe upon civil liberties. In this case, the ACLU sees facial recognition technology as a way for the government and law enforcement to monitor its citizens, much like China. The ACLU uses Kantian ethics to argue this topic; they believe all people should be treated equally and that people should be treated as an end and not a mean. Kantian ethics falls under the deontological ethical framework, and it was developed by Immanuel Kant. Kantian Ethics is based on the view that the only good thing is goodwill. In Kantian ethics, one's duties are determined by categorical imperatives, the ultimate standard for accepting actions. Categorical imperatives have three different formulations. First, you aren't allowed to do anything that you would not let everyone

else do as well, and as such, you aren't allowed to make exceptions. Second, treat everyone as an end and not as a means to an end. Lastly, the will of every rational being is a universally legislating will (Johnson & Cureton, 2016). Kantian ethics emphasizes that people should be treated equally and should not be treated as a means.

Still, facial recognition technology discriminates against people and treats them as a means to an end. Companies like Clearview AI scraped the internet for images of faces and then used those images for their facial recognition AI and sold the software to law enforcement for profit (Matsakis, 2020). Clearview AI's actions are another example of treating people as a means to an end. Thus, by Kantian ethics' morals, the ACLU is taking the correct action to fight against the use of facial recognition software used for law enforcement in effort to protect the publics civil liberties; considering that facial recognition technology is inherently racially biased. Several cities, including San Francisco and Oakland, have banned facial recognition for policing, and states like Maine and Vermont have banned facial recognition state-wide.

**Stakeholder II: Law Enforcement**

The police choose to continue using facial recognition technology regardless of the algorithm's accuracy and the algorithmic bias. The police are using utilitarian ethics. Utilitarian ethics asserts that the most ethical choice is the one that produces the greatest good for the most significant number of people. Utilitarianism has three principles. First, pleasure or happiness is the only thing that has intrinsic value. Second, actions are correct as long as they promote happiness or wrong if they promote unhappiness. Lastly, everyone's happiness counts equally (Westacott, 2019). In this case, through facial recognition technology, the various departments

can successfully arrest criminals and solve crimes, resulting in safer communities and the greater good.

Furthermore, the use of facial recognition would free up time that was previously spent on manual searching through recordings and images, allowing for preventing and solving more crimes. From the perspective of the police, the use of facial recognition has helped prevent and solve multiple crimes in the past, and it will continue to be an excellent tool for that purpose which is why this is the correct course of action for them. Additionally, the few false-positive matches do not outweigh the good that comes from facial recognition technology; thus, it is morally the correct choice from the police's perspective.

**Student Position:**

While this technology is still inherently flawed and racially biased, if it is used for the sole purpose of solving crimes, then I believe law enforcement agencies should be allowed to continue using facial recognition technology with specific stipulations. Multiple states have started implementing regulations that altogether ban the use of facial recognition or restrict the use of facial recognition. I believe the software should be restricted to a case-by-case method where law enforcement agencies must get authorization from the court before checking for a match.  My position aligns with the law enforcement agencies because I believe that facial recognition for investigations has more benefits than negatives. It must be emphasized that this technology is a tool, and results must be double-checked as not to implicate the wrong person. Additionally, developers need to reduce false-positive rates and use less biased datasets for this technology to be truly successful.

**Summary:**

Facial recognition software is inherently biased due to training data sets used, which resulted in greater false positives for minorities. Law enforcement agencies see facial recognition technology as a great tool that aids in solving crimes and tracking criminals. On the other hand, the ACLU views the use of facial recognition as an invasion of our privacy, and it infringes upon our civil liberties. Ultimately, both sides are hoping to protect the general public, although the ACLU is trying to prevent the United States from becoming a surveillance state like China.

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