IBIA
International Biometrics+Identity Association

IBIA Comments: San Francisco Ordinance Banning Use of Facial Recognition

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Overview

As facial recognition has become more widely adopted, it has brought with it questions of efficacy and propriety. The International Biometrics + Identity Association (IBIA) acknowledges that many people have concerns about privacy and anonymity that are rooted in moral and legal philosophies.

IBIA believes these are matters of opinion on which reasonable people may disagree, and they should be resolved in the public sphere, with robust debates based on facts and evidence to inform these debates, not hypothetical 'what ifs'.

IBIA commends the San Francisco Council on its efforts to establish a public policy on surveillance, including advance approval by elected officials and transparency.

However, the Council's decision to ban the use of facial recognition did not follow a transparent and thorough process to ensure a decision based on facts and a careful balancing of benefits with appropriate uses and safeguards to restrain the technology's misuse.

In view of this, the provision should be repealed and the issue reexamined before the ordinance takes effect.

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The Ordinance

The decision to ban facial recognition is based on a blanket hypothetical assertion of potential harm:

"The propensity for facial recognition technology to endanger civil rights and civil liberties substantially outweighs its purported benefits, and the technology will exacerbate racial injustice and threaten our ability to live free of continuous government monitoring," as the ordinance states in Sec. 19 B.2.d.

In making its decision, the Council **failed to:**

- Provide an opportunity for the kind of robust debate an issue of such great importance and impact deserves

- Present any factual evidence of harm or even evidence of any interest or efforts or inclination by law enforcement or other agencies of the city, to implement a comprehensive surveillance system

- Explain how law enforcement actually uses facial recognition as an investigative tool — as a mechanism to generate leads, often when an investigation is stalled and a surveillance photo is the only information

- Explain that facial recognition is not used by itself in police investigations to determine the identity of a suspect

- Demonstrate how such a comprehensive surveillance system is even feasible and at what cost in terms of money and personnel

- Consult with the IBIA or other noted biometrics organizations or leading academics to obtain other opinions prior to making its decision

- Exert effort to understand the advantages and limitations of the technology in order to formulate constructive and responsible guidelines for use by the police

In addition, the Council i**gnored the:**

- Numerous positive benefits of the technology and potential for good, including the ability to identify:
  - Missing children who do not know their names
  - Exploited children in dark web pornography
  - Disoriented (amnesia, Alzheimer's, etc.) adults
  - Likely driver license application fraud for human review
  - Leads for further investigation when a surveillance photo is the only information
  - Fraudulent use of stolen identity documents

- Massive gains in the performance of facial recognition technology, as demonstrated by recent testing by the National Institute of Standards and Technology (NIST)

- Data demonstrating the clear superiority of facial recognition compared to other investigative methods, like eyewitness testimony, and mugshots, both of which are notoriously error-prone and biased, and human recognition, which is far less effective

- Increasing sophistication of criminals and the continuing need to upgrade tools of law enforcement in spite of (or perhaps because of) budgetary restrictions

- Recent academic and NIST studies demonstrating that the argument that algorithms perform less effectively for other than white males is not supported by the facts. In fact, many of the top twenty (20) algorithms match blacks more accurately than whites

- Numerous safeguards that are readily available to protect all personal data, including biometric and facial recognition data

- Fact that reported surveillance in Chinese cities and in fictional TV shows and movies isn't representative of reality in the U.S.

Conclusion

Despite a page-long list of surveillance technologies covered by the Ordinance, the Council chose to **ban facial recognition only.**

Each generation has the responsibility to decide how to balance the benefits of new technologies with privacy and appropriate uses, and technologies with proven benefits should not be banned on the basis of unsupported assertions of a few.

The section of the Ordinance banning the use of facial recognition is misguided and unfounded, because it failed to take into account all relevant factors in making its critical decision. It should be repealed and the issue reexamined. The Council should commission objective studies from leading academics and other experts and invite representatives of all sides of the issues to participate.

#identitymatters

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