

A Roadmap for Regulation of Facial Recognition and Other Remote Identification Biometrics Used by Law Enforcement

Sam Peterson
Brian Jackson
Dulani Woods
Elina Treyger

November 16, 2022



An aerial photograph of a complex multi-level highway interchange. The roads are filled with cars and trucks, creating a dense network of traffic. The interchange is interspersed with large green spaces, including several circular parks with trees and a baseball field. In the background, there are several high-rise residential buildings. The overall scene depicts a major urban infrastructure project integrated with green spaces.

**What do policy makers need
to know?**



Using what's already known to inform a framework for policy

Use and misuse cases

Subject Matter Expert Interviews: Law Enforcement, Civil Rights Groups, Technology Providers, Researchers

"Policy Roadmap" plotting concerns and policy options with risks and benefits



Can FR be used in a “high benefit, low risk” way?

A scenic landscape of rolling green hills under a clear sky. A paved road winds through the hills, with a small white car driving on it. The hills are covered in lush green grass and some small trees. The overall atmosphere is peaceful and natural.

Landscape of Concerns

What are the risks?

Is law enforcement use justified across a variety of situations?

Is there a legitimate law enforcement purpose for scanning someone?

How accurate is FR in the law enforcement setting?

Are FR systems biased against certain groups?

Are the data underlying FR use by law enforcement flawed?

What happens after the police use FR?

Does FR use bypass civil rights protections?

Does FR use by law enforcement violate privacy?

Are data being handled appropriately by law enforcement?

What unintended consequences might come from FR use?

Landscape of Concerns

What kinds of uses are appropriate?

Is law enforcement use justified across a variety of situations?

Is there a legitimate law enforcement purpose for scanning someone?

How accurate is FR in the law enforcement setting?

Are FR systems biased against certain groups?

Are the data underlying FR use by law enforcement flawed?

What happens after this police use FR?

Does FR use bypass civil rights protections?

Does FR use by law enforcement violate privacy?

Are data being handled appropriately by law enforcement?

What unintended consequences might come from FR use?

A scenic landscape of rolling green hills under a bright sky. A winding asphalt road curves through the hills, with a small white car driving on it. The hills are covered in lush green grass and some small trees. The overall atmosphere is peaceful and natural.

Landscape of Concerns

Does it provide useful and equitable results?

Is law enforcement use justified across a variety of situations?

Is there a legitimate law enforcement purpose for scanning someone?

How accurate is FR in the law enforcement setting?

Are FR systems biased against certain groups?

Are the data underlying FR use by law enforcement flawed?

What happens after the police use FR?

Does FR use bypass civil rights protections?

Does FR use by law enforcement violate privacy?

Are data being handled appropriately by law enforcement?

What unintended consequences might come from FR use?

Landscape of Concerns

What are the implications of use?

Is law enforcement use justified across a variety of situations?

Is there a legitimate law enforcement purpose for scanning someone?

How accurate is FR in the law enforcement setting?

Are FR systems biased against certain groups?

Are the data underlying FR use by law enforcement flawed?

What happens after the police use FR?

Does FR use bypass civil rights protections?

Does FR use by law enforcement violate privacy?

Are data being handled appropriately by law enforcement?

What unintended consequences might come from FR use?

Where can you walk? Setting acceptable uses

Designing guides and guardrails to stay on the path

Treading carefully with quality standards and supporting practices

Proving you stayed on the path with verification and auditing

Defining consequences for straying from the path

Why staying on the path matters



Setting Acceptable Uses

FR for what crimes?

Defining misuse

Predicates needed for use

Scope of application

“

One reason we're fighting to centralize and take surveillance off the table is there's no way to use surveillance that is centralized. Having a network of users leads to risk for abuse.

”

–Civil Rights Organization Interviewee

Where can you walk? Setting acceptable uses

Designing guides and guardrails to stay on the path

Treading carefully with quality standards and supporting practices

Proving you stayed on the path with verification and auditing

Defining consequences for straying from the path

Why staying on the path matters



**Policy
Roadmap**

Designing Guides and Guardrails

Authorization for taking photos

Who approves use

Who performs search

“

We were already using it but had no policy around its use ...I said lets disable them all. I want controls.

–*Law Enforcement Interviewee*

”

Where can you walk? Setting acceptable uses

Designing guides and guardrails to stay on the path

Treading carefully with quality standards and supporting practices

Proving you stayed on the path with verification and auditing

Defining consequences for straying from the path

Why staying on the path matters



Policy Roadmap

Quality Standards and Supporting Practices

Limits on data being used

Requirements to improve accuracy

Human training and review procedures

Limits on retention

“

If all you know to do is use the system, then you can't successfully do a comparison

—*Technology Company Interviewee*

”

Where can you walk? Setting acceptable uses

Designing guides and guardrails to stay on the path

Treading carefully with quality standards and supporting practices

Proving you stayed on the path with verification and auditing

Defining consequences for straying from the path

Why staying on the path matters



**Policy
Roadmap**

Verification and Auditing

Limits on using unapproved
technology

Technical standards

Audits and auditors

Specialized audits (bias,
privacy, etc.)

“

People trust FR more than their own eyes

—*Civil Rights Organization Interviewee*

”

Where can you walk? Setting acceptable uses

Designing guides and guardrails to stay on the path

Treading carefully with quality standards and supporting practices

Proving you stayed on the path with verification and auditing

Defining consequences for straying from the path

Why staying on the path matters



**Policy
Roadmap**

Why Staying on the Path Matters

Defining consequences

Transparency

Disclosure of use, policies, data reports

Detailed statistics on case types over time

Disclosure to defense counsel

Community involvement and approval

Future Directions

Real-world evaluation
of law enforcement
use

Develop clear
standards

Prepare for other
remote identification
technologies



Thank you!

Sam Peterson, PhD

speterso@rand.org

