

Automating the Thin Blue Line: Controversy, Authority, and the Governance of Police Technology in Canada

A work in progress by Daniel Konikoff
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Presentation Objectives and Goals



1. Shake off conference rust
2. Present a very brief (and incomplete) glimpse at a much larger work in progress
3. Stimulate discussion about and get feedback on the project

It all started with an article...



The screenshot shows the top portion of a New York Times article. At the top left is a hamburger menu icon. The page title "The New York Times" is centered at the top, and "Account" with a dropdown arrow is on the right. The main headline reads "The Secretive Company That Might End Privacy as We Know It". Below the headline is a sub-headline: "A little-known start-up helps law enforcement match photos of unknown people to their online images — and 'might lead to a dystopian future or something,' a backer says."

Account ▾

The Secretive Company That Might End Privacy as We Know It

A little-known start-up helps law enforcement match photos of unknown people to their online images — and “might lead to a dystopian future or something,” a backer says.



Kashmir Hill, January 18th 2020



It all started with an article...



Federal law enforcement, including the F.B.I. and the Department of Homeland Security, are trying it, as are **Canadian** law enforcement authorities, according to the company and government officials.

Kashmir Hill, January 19th 2020

...and then another, and another, and...

TECH

Clearview's Facial Recognition App Has Been Used By The Justice Department, ICE, Macy's, Walmart, And The NBA

A BuzzFeed News review of Clearview AI documents has revealed the company is working with more than 2,200 law enforcement agencies, companies, and individuals around the world.



Ryan Mac
BuzzFeed News Reporter



Caroline Haskins
BuzzFeed News Reporter



Logan McDonald
BuzzFeed Staff

Updated on February 27, 2020 at 11:37 pm

Posted on February 27, 2020 at 3:43 pm

Toronto Police Service & Clearview AI: Denial, Anger, Acceptance

The Current

The end of anonymity? Facial recognition app used by police raises serious concerns, say privacy advocates



Clearview AI scrapes billions of photos from public sites like Facebook and LinkedIn

CBC Radio · Posted: Jan 21, 2020 7:24 PM EST | Last Updated: March 4, 2020



Toronto

Toronto police admit using secretive facial recognition technology Clearview AI



Chief orders officers to stop using the technology, external review is requested

CBC News · Posted: Feb 13, 2020 1:54 PM EST | Last Updated: February 14, 2020



Feb. 13, 2020 update: Toronto police had previously said it uses facial recognition, but not through Clearview AI. However, [spokesperson Meaghan Gray confirmed Thursday some of their officers were, in fact, using Clearview AI software](#) and that those officers have been directed to stop using the technology.

Technological “Successes” and “Failures”



AI/Tech Governance Initiatives

TPSB's AI Framework

TPS' AI Procedure



TORONTO POLICE SERVICES BOARD

USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY

| | | |
|-----------------------|---|----------------|
| DATE APPROVED | 28 February 2022 | P2022-0228-6.3 |
| DATE(S) AMENDED | | |
| DATE REVIEWED | | |
| REPORTING REQUIREMENT | Chief to report to Board from time to time as required by this Policy and directed by the Board. | |
| LEGISLATION | <i>Police Services Act</i> , R.S.O. 1990, c. P.15, as amended, s. 31(1)(c). <i>Municipal Freedom of Information and Protection of Privacy Act</i> , R.S.O. 1990, c. M.56. Human Rights Code, R.S.O. 1990, c. H.19. The Canadian Charter of Rights and Freedoms | |

Chapter 17 – Information Management



17-14 Artificial Intelligence Technology

Status: New

Issued: R.O. 20XX.XX.XX-XXXX

Rationale

The Toronto Police Service (Service) is continually seeking to provide effective policing through the prudent adoption of new technologies while ensuring transparency, service provision in accordance with legislative requirements and the interests of the community. The Service strives to maximise its ability to protect the public while ensuring the legitimate use of all data collected, the preservation of privacy rights, and engaging in continuous evaluation of privacy and ethical implications of new technologies.

Artificial intelligence (AI) technology can support the Service's mission to deliver police services, in partnership with our communities, to keep Toronto the best and safest place to be. Technology can provide opportunities to improve efficiency and customer service, resolve complex issues, ensure business continuity, and provide assistance in performing repetitive tasks; however, AI technology also carries risks that must be identified and mitigated.

The purpose of this Procedure, in compliance with Toronto Police Services Board (Board) policy, is to provide a framework for the acquisition and use of AI technology, using a measured approach to risk assessment, costs, and benefits related to the use of this technology.

AI/Tech Governance Initiatives

RCMP's National Technology Onboarding Program (NTOP)

NATIONAL TECHNOLOGY ONBOARDING PROGRAM (NTOP) ASSESSMENT TOOL FORM

FILE DETAILS

Intake Request *

Look Up NAME OF TOOL (Intake list)

SME Request

Look Up – SME TEMPLATE LIST – NAME OF TOOL
Multiple choices

Request Status

Choice: Drop-Down

Accepted
Cancelled
Declined

If declined, please explain:

Multiple lines of text

RULE: ACTIVATE WHEN DECLINED IS SELECTED FROM PREVIOUS QUESTION

Prioritization Score

Single line of text

Project Status

Choice: Drop-Down

Intake
Inquiry
Assessment
Recommendation
Complete

Assigned to *

Person or group

Date Assigned *

Calendar

SME TRACKING

SME Type

Choice/Drop Down

Legal Services
ATIP
CIO / RPM
DSB
NTOP Analyst
Other - please specify (SharePoint option)

Date Assigned

Calendar

SME Name

People or group

Due Date

Calendar

Date Completed

Calendar

SME Recommendation



DRAFT

PROGRAM CHARTER

National Technologies

NTOP

On-Boarding Program

Technical Operations
Strategic Services Branch
Revision 0.1

Network Governance in the Police Technology Ecosystem



CANADIAN
CIVIL LIBERTIES
ASSOCIATION



ASSOCIATION
CANADIENNE DES
LIBERTES CIVILES



Office of the
Privacy Commissioner
of Canada



Clearview.ai

TORONTO STAR



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

THE
GLOBE
AND
MAIL



(Research) Questions

In Canada, how are police technologies governed both before and after their use? How do different stakeholders make sense of these technologies, and how does that impact the way governance and regulation mechanisms emerge to regulate them?

**Why is it so hard to
meaningfully and
effectively govern
digital police
technologies?**



Project Methodology

Qualitative Methods

- Semi-structured interviews (n=53) w/ relevant stakeholders in the *police technology ecosystem*
- Document analysis (FOIs, public access)
- Virtual and in-person participant observation

| Stakeholder Group | # of Participants |
|--|-------------------|
| Police consultants | 3 |
| Privacy offices | 9 |
| Police departments | 10 |
| Policing- and technology-related advocacy | 7 |
| Crime, technology, and security journalism | 5 |
| Police professional associations | 2 |
| Canadian governmental bodies | 7 |
| Police technology companies | 9 |
| Police boards | 1 |



So what?





Why is this a problem? Why should we care?



- Broader regulatory murkiness w/AI in Canada
- AI's potential risks to civil rights and liberties
- Police transparency, secrecy, and legitimacy

**Collaborative and
consensual
governance—both before
and after controversy—is
an empty promise**



Network governance

“The organizations that get things done **will no longer be hierarchical pyramids with most of the real control at the top**. They will be **systems** – interlaced webs of tension in which control is loose, **power diffused**, and centers of decision plural.” (Harlan Cleveland, 1972, p. 13)

“Because organizations will be horizontal, the way they are governed is likely to be more **collegial, consensual, and consultative**.” (p. 13).



AI/Tech Governance Initiatives



Potentially relevant governance mechanisms that don't cut the mustard

Municipal

- Toronto City Council
- City of Toronto Procurement Office

Provincial

- Ontario Digital Service's Trustworthy AI Framework
- Ontario Police Act

Federal

- Government of Canada's Directive on Automated Decision-Making
- Bill C-27: Artificial Intelligence and Data Act
- House of Commons Ethics Committee study into FRT
- Privacy Commissioner of Canada's FRT guidance/joint statement

Reforming Police Tech Governance?



POLICING POLICE TECH: A SOFT LAW SOLUTION

Barry Friedman[†], Farhang Heydari^{††}, Max Isaacs^{†††} & Katie Kinsey[†]

Transparency vs. secrecy?

Legitimacy & trust?

Regulation as reactive to controversy?

Bridging jurisdictional gaps?

Resolving stakeholder imbalances and playing

to stakeholder strengths?