Immigrant Advocates Sue DHS to Unearth Use of Clearview AI Facial Recognition

Mijente, Just Futures Law, the Immigrant Defense Project, and the ACLU of Northern California sued the Department of Homeland Security, Immigration and Customs Enforcement, and Customs and Border Protection this morning under the Freedom of Information Act to unearth their use of Clearview AI’s facial recognition tools.

The suit, filed in the United States District Court for the Northern District of California, is seeking any records that would indicate “past and present use of Clearview AI facial recognition technology, including contracts, policies, procedures for verifying results and auditing use of the technology, and related correspondence between the agencies and Clearview AI.”

All four groups filed FOIA requests against DHS, ICE, and CBP seeking these records in October 2020, but none of the agencies named have responded substantively to these requests, despite the fact that public reporting has shown ICE and CBP have either used Clearview AI’s tools in the past or indeed have active contracts with the company.

Clearview AI continues to rapidly expand its government work. It now works with over 3,100 law enforcement agencies in the United States, many of which did not know of or authorize its use by employees. Despite this growth, the company is facing significant legal challenges in states throughout the country and was recently ruled illegal in Canada; it is being investigated by several governments across the world.

“Clearview AI portends a grim future for us: Police officers, ICE agents, and border patrol with the ability to know our identity, our jobs, our relationships just by pointing their phones and taking a photo of our faces,” said Jacinta Gonzalez, senior campaign organizer with Mijente. “This technology is a potential surveillance nightmare, and the bare minimum in public oversight requires that we have access to Clearview’s government contracts and know how our public agencies are using its tools.”

“Facial recognition algorithms erroneously match and misidentify Black and Brown people at a disproportionate rate,” said Jennifer Jones, Technology & Civil Liberties Fellow at the ACLU of Northern California. “This is particularly alarming information when coupled with the knowledge that Clearview AI has been added to the arsenal of tools federal immigration enforcement agencies have at their disposal. There is a blatant lack of transparency regarding the extent to which ICE and other agencies use face prints and how they share this information.”
“While cities across the country are banning the use of facial recognition technology because it violates basic rights, ICE and CBP have signed contracts with Clearview AI, a company that scrapes publicly available images from the internet” said Mizue Aizuki, Interim Director of the Immigrant Defense Project. “As DHS continues to invest in mass surveillance, it is critical that the agency share how it’s using this invasive technology so we can arm ourselves with the information to fight back against abuses.”

“ICE has proven to be an immoral, unaccountable, and dangerous agency. With the use of Clearview AI, ICE has unprecedented power to track immigrants and citizens alike, wherever they go – at demonstrations, places of worship, or simply while walking down the street,” said Sejal Zota, legal director of Just Futures Law. “Communities should be able to lead their lives without the fear of surveillance and criminalization. We’ll fight to ensure that ICE discloses how it is using this disturbing surveillance tool.”

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Mijente Support Committee is a national organization that coordinates and organizes with its members in several states to address issues relating to immigration enforcement and Latinx political participation.

The Immigrant Defense Project (IDP) is a New York-based nonprofit that works to secure fairness and justice for immigrants in the racially-biased U.S. criminal and immigration systems. IDP fights to end the current era of unprecedented mass criminalization, detention, and deportation through a multi-pronged strategy including advocacy, litigation, legal support, community partnerships, and strategic communications. Visit www.immigrantdefenseproject.org and follow @ImmDefense.

Just Futures Law is a transformative legal organization that defends and builds the power of immigrants’ rights and criminal justice activists, organizers, and base-building community groups working to disrupt and dismantle our deportation and mass incarceration systems.

ACLU of Northern California is a non-profit organization and an affiliate of the ACLU, a national organization that works to protect the civil liberties of all people, including the safeguarding of the basic constitutional rights to privacy, free expression, and due process of law.