National Artificial Intelligence Advisory Committee
Law Enforcement Subcommittee
Meeting Minutes
January 19, 2024

The National Artificial Intelligence Advisory Committee Law Enforcement Subcommittee (NAIAC-LE) held a hybrid public meeting on Friday, January 19, 2024. The meeting was recorded and is available online.

NAIAC-LE Members
- Jane Bambauer (Chair)
- Armando Aguilar
- Anthony Bak
- Jennifer Eberhardt

- Farhang Heydari
- Benji Hutchinson
- Cynthia Rudin

NIST Staff Members
- Melissa Taylor, NIST
- Alicia Chambers, Designated Federal Officer (DFO), NIST

Meeting Minutes

Welcome Remarks
- Chambers called the meeting to order at 1:02 PM Eastern Time and confirmed that the committee is operating under the Federal Advisory Committee Act and accessible to the public both in-person and via livestream. The Committee had received one written public comment as of Thursday, January 18. Members of the public watching online were encouraged to submit additional questions to the Subcommittee using the Q&A link in the video description.

- Taylor spoke on behalf of the U.S. Government, the Department of Commerce, and the National Institute of Standards and Technology (NIST)—the agency administering the National Artificial Intelligence Advisory Committee (NAIAC)—to welcome NAIAC-LE members and thank them for their service. NAIAC-LE advises the President through NAIAC on matters regarding law enforcement use of artificial intelligence (AI). Taylor thanked members of the public for their participation and shared the email and mailing list by which to contact NAIAC and NAIAC-LE.

- Bambauer thanked the Miami Police Department for hosting the meeting and outlined the meeting agenda: (1) Subcommittee discussion and vote on the Year 1 Report and Roadmap, (2) Subcommittee discussion and votes on Process working group (WG) recommendations, and (3) updates from the three other WGs.

Discussion and Vote on Year 1 Report and Roadmap
- Bambauer introduced the Year 1 Report and Roadmap, which defines the scope of the Subcommittee's work and outlines two broad categories of topics that lie within the Subcommittee's scope: (1) a taxonomy of **use cases**, describing how AI tools are deployed in law enforcement contexts, and (2) **legal and ethical themes** that arise across use cases.
- The Year 1 Report and Roadmap presents 11 use cases: (1) event detection methods, (2) person identification algorithms, (3) AI-assisted surveillance, (4) investigation and case development of an identified suspect, (5) risk assessment or scoring as a basis for adverse action, (6) dot-connecting methods not involving personal information, (7) resource allocation decisions and investigation and case-management systems, (8) accountability algorithms, (9) private pipelines, (10) robots, (11) case study on facial recognition technology.
- The Year 1 Report and Roadmap also identifies 14 legal and ethical themes: (1) AI performance and evaluation, (2) bias, (3) embedded policy choices, (4) risks and harms from AI underutilization, (5) misuse of AI tools, (6) privacy, (7) stewardship of data held by law enforcement, (8) managing discretionary application of AI tools, (9) translating Fourth Amendment rules to AI tools, (10) cumulative impact of multiple AI systems on system performance and on lost liberty, (11) transparency and public input, (12) pre-adoption procedures, (13) post-adoption procedures, audits, and rights to appeal, (14) impact on law enforcement employees.
- NAIAC-LE has established four working groups to develop recommendations that address topics outlined in the Year 1 Report and Roadmap.

- Bambauer invited NAIAC-LE members to discuss the *Year 1 Report and Roadmap*.
  - The document was recently updated to include two additional examples of accountability algorithms (Use Case #8): (1) using AI-augmented virtual reality (VR) tools for officer training, assessment, and feedback, and (2) automation of report-creation using audio data or body-worn camera data.
  - NAIAC-LE members agreed to include ballistic matching algorithms (e.g., the Integrated Ballistic Identification System (IBIS) used by the National Integrated Ballistic Information Network (NIBIN) program) in dot-connecting methods not involving personal information (Use Case #6).

- Bambauer motioned a vote on the *Year 1 Report & Roadmap.* In the presence of quorum, each Member of the Subcommittee was polled and decided by majority vote to advance the recommendation.

- Jane Bambauer – Approve w/ edits
- Armando Aguilar – Approve w/ edits
- Anthony Bak – Approve w/ edits
- Esha Bhandari – Not present
- Jennifer Eberhardt – Approve w/ edits

- Farhang Heydari – Approve w/ edits
- Benji Hutchinson – Approve w/ edits
- Rashawn Ray – Not present
- Cynthia Rudin – Approve w/ edits

Approve with edits: 7 | Not present: 2

Process WG Introduction and Recommendations

- The Process WG develops recommendations about pre- and post-adoption procedures that law enforcement agencies should follow when adopting and using AI tools. The WG also addresses the impact of AI on the law enforcement workforce and workplace. The Process WG's recent work largely responds to the Office of Management and Budget's (OMB's) draft guidance released on November 1, 2023, which outlines procedural requirements for federal acquisition and deployment of AI. The WG has developed a set of recommendations that offer suggestions to better address acquisition and deployment of AI by law enforcement.

Discussion of Recommendation 1

- Heydari introduced *Recommendation 1*. The OMB draft guidance classifies rights- or safety-impacting federal AI tools as high-risk and outlines minimum procedures that federal agencies must conduct to address the risks posed by these tools. *Recommendation 1* asserts that law enforcement uses of AI should be presumed to be rights-impacting, and therefore subject to the minimum procedures required for high-risk AI tools. However, *Recommendation 1* exempts AI tools used by law enforcement for internal administrative operations from this presumption.

- Bambauer invited NAIAC-LE members to discuss *Recommendation 1.*

- WG members explained that AI applications used solely for internal administrative operations include predictive text algorithms embedded in word processing software and financial forecasting models used to inform department budgets.
- NAIAC-LE members noted that AI systems that evolve over time might necessitate the periodic reapplication of procedural requirements for high-risk AI. However, they noted that contracts between vendors and the federal government establish fixed expectations about AI system details and the intended scope of their application. Therefore, NAIAC-LE members concluded that procedural requirements should be linked to the contracts developed during the AI procurement process.
- Although NAIAC-LE members agree that law enforcement use of AI is presumptively rights-impacting, some members voiced concern that the procedural commitments that follow from this presumption could prove unduly onerous to federal agencies seeking to use AI for law enforcement purposes.
    - o OMB currently outlines eight minimum requirements for federal agencies seeking to acquire rights-impacting AI: (1) complete an AI impact assessment, (2) test the AI for performance in a real-world context, (3) independently evaluate the AI, (4) conduct ongoing monitoring and establish thresholds for periodic human review, (5) mitigate emerging risks to rights and safety, (6) ensure adequate human training and assessment, (7) provide appropriate human

consideration as part of decisions that pose a high risk to rights or safety, and (8) provide public notice and plain-language documentation through the agency's AI Use Case Inventory.

- o Members observed that the requirements outlined by OMB are consistent with those that NAIAC-LE would be inclined to recommend. Indeed, NAIAC-LE WGs are currently developing recommendations that directly complement some of the OMB requirements.
- o Members emphasized the importance of aligning NAIAC-LE recommendations with the OMB framework so that NAIAC-LE's guidance for the regulation of law enforcement AI use employs policy rationales consistent with those that guide federal AI regulation more broadly. Members observed that applying the OMB risk classification and mitigation framework to law enforcement AI applications is a key step in that alignment.
- o Members noted that rights- and safety-impacting AI use is already subject to minimum procedural requirements under the OMB guidance. Recommendation 1 simply clarifies that law enforcement use of AI tools should be assumed to be rights-impacting due to the nature of law enforcement work and the authority possessed by law enforcement personnel to employ force and make arrests.
- Members identified additional OMB exemptions and potential NAIAC-LE recommendations that might mitigate concerns about the administrative burden posed by the OMB minimum requirements.
  - o The OMB guidance waives procedural requirements for early-stage engagement with AI tools (e.g., when agencies are evaluating vendors or conducting R&D). Thus, federal agencies are not subject to procedural requirements until they are certain they will benefit from the use of an AI tool and have begun the formal acquisition process. Members agreed that this policy significantly alleviates their concerns about the administrative burdens posed by procedural requirements.
  - o Members noted that OMB is gathering input on these minimum requirements from federal agencies and the public. Therefore, the final list of minimum requirements may differ from the initial list. However, if NAIAC-LE members find that the final list of minimum requirements poses undue burdens on federal agencies acquiring AI for law enforcement purposes, they can develop recommendations to mitigate these burdens.

Discussion of Recommendation 2

- Heydari introduced *Recommendation 2*, which addresses OMB minimum requirements for high-risk AI tools. *Recommendation 2* would authorize the Chief AI Officer (CAIO) of a federal agency to temporarily waive pre-adoption procedural requirements for the acquisition of a high-risk AI tool if the tool is needed to address exigent circumstances in a law enforcement context and no equally effective alternative tool is available. However, the recommendation requires agencies seeking such a waiver to document the circumstances necessitating it and to develop a provisional use limitation plan. To continue using the tool once the exigent circumstances have ended, agencies must fulfill the OMB minimum requirements for high-risk AI acquisition. Otherwise, they may cease

using the tool, but must publish a statement explaining why the tool is no longer needed.

- Bambauer invited NAIAC-LE members to discuss *Recommendation 2.*

- The text of the recommendation will be slightly modified to more clearly state the procedural requirements that follow the period of exigency: (1) to continue using the AI tool, the agency must fulfill OMB minimum requirements, and (2) to cease using the AI tool, the agency must release a statement explaining why it is no longer needed.

Discussion and Vote on Recommendation 3

- Heydari introduced *Recommendation 3*. Federal agencies are currently required to report the AI tools they use in publicly available AI Use Case Inventories. However, AI tools deemed to be "common commercial products" are exempt from this reporting requirement. NAIAC-LE recommends that this exemption not apply to law enforcement use of common commercially available AI tools if they are being used in a rights- or safety-impacting way.

- Bambauer motioned a vote on *Recommendation 3.* In the presence of quorum, each Member of the Subcommittee was polled and decided by majority vote to advance the recommendation.

- Jane Bambauer – Approve
- Armando Aguilar – Approve
- Anthony Bak – Approve
- Esha Bhandari – Not present
- Jennifer Eberhardt – Approve

- Farhang Heydari – Approve
- Benji Hutchinson – Approve
- Rashawn Ray – Not present
- Cynthia Rudin – Approve

Approve: 7 | Not present: 2

Discussion and Vote on Recommendation 4

- Heydari introduced *Recommendation 4*, which also addresses AI Use Case Inventory reporting requirements. Federal agencies are not currently required to report "sensitive law enforcement" uses of AI in their AI Use Case Inventories. However, public disclosure of AI tool use is unlikely to jeopardize law enforcement operations in many cases. Indeed, NAIAC-LE members are aware of several cases in which federal agencies publicly acknowledge law enforcement AI tool use on agency websites and in published reports, but do not include that use in agency AI Use Case Inventories. *Recommendation 4* therefore suggests that the "sensitive law enforcement" reporting exemption should apply only to the narrow set of cases in which public disclosure of AI tool use would compromise law enforcement activities, and it calls for federal agencies to justify claims to the exemption by explaining why law enforcement activities would be threatened by disclosure in each case.

- Bambauer motioned a vote on *Recommendation 4.* In the presence of quorum, each Member of the Subcommittee was polled and decided by majority vote to advance the recommendation.

- Jane Bambauer – Approve
- Armando Aguilar – Approve
- Anthony Bak – Approve
- Esha Bhandari – Not present
- Jennifer Eberhardt – Approve

- Farhang Heydari – Approve
- Benji Hutchinson – Approve
- Rashawn Ray – Not present
- Cynthia Rudin – Approve

Approve: 7 | Not present: 2

Discussion and Vote on Recommendation 5

- Heydari introduced *Recommendation 5*, which requires law enforcement agencies using high-risk AI tools to generate use policies that are accessible to the public. The recommendation also outlines several features that use policies should include.

- Bambauer invited NAIAC-LE members to discuss *Recommendation 5.*

- NAIAC-LE members agreed that *Recommendation 5* complements recommendations being developed by other WGs. *Recommendation 5* is a general directive that encompasses all use cases and technologies, whereas other WGs are developing recommendations that address specific use cases and technologies. Thus, subsequent recommendations from other WGs may provide application-specific clarifications or additions to the standards outlined in *Recommendation 5*.

- Bambauer motioned a vote on *Recommendation 5.* In the presence of quorum, each Member of the Subcommittee was polled and decided by majority vote to advance the recommendation.

- Jane Bambauer – Approve
- Armando Aguilar – Approve
- Anthony Bak – Approve
- Esha Bhandari – Not present
- Jennifer Eberhardt – Approve

- Farhang Heydari – Approve
- Benji Hutchinson – Approve
- Rashawn Ray – Not present
- Cynthia Rudin – Approve

Approve: 7 | Not present: 2

Discussion of Recommendation 6

- Heydari introduced *Recommendation 6*, which requires federal agencies to publish an annual public audit or usage report for high-risk AI tools used in law enforcement

contexts. These reports would capture the extent and nature of the agency's use of an AI tool by recording usage statistics such as the number of times the tool was used, by whom, and for what purpose. The recommendation intends for these reports to be composed of summary records and statistics that AI vendors can easily compile, alleviating the administrative burden on federal agencies using AI tools.

- Bambauer invited NAIAC-LE members to discuss *Recommendation 6.*

- The recommendation currently calls for publication of "audit or usage logs," which could be interpreted to mean granular information about items such as specific personnel involved in AI usage. However, the recommendation intends instead to require publication of *general* usage summary statistics that broadly capture the scale and purpose of AI tool use. WG members agreed to clarify the language of the recommendation to better describe the intended function of the summary report.
  - o NAIAC-LE members suggested that the usage summaries should report the purpose of AI use in general terms (e.g., by using the broad categories of acceptable use outlined in agency use policies) to prevent readers from making inferences about individual cases.
  - o NAIAC-LE members also suggested that usage summaries should not name individual personnel who used AI tools; instead, AI tool use should be attributed to the federal agency that employed the tool.

Public Comments on Proposed Recommendations
- A public commenter asked whether *Recommendation 4* applies to generative AI used for profiling purposes.
- A public commenter asked whether the audit log requirement outlined in *Recommendation 6* would require agencies to assess whether AI tools produce discriminatory results once deployed.
- A public commenter suggested that exemptions from public disclosure requirements apply to the names of law enforcement personnel.
- A public commenter observed that the recommendations provide guidance for federal agencies, whereas most people in the United States are more directly impacted by state and local law enforcement. The commenter asked whether NAIAC-LE plans to make recommendations to the Executive Branch to encourage or enforce adoption of best practices by state and local law enforcement.
- A public commenter asked whether federal agencies might use information developed by state and local law enforcement agency AI use, which is not subject to the regulations that apply to federal law enforcement AI use.
- A public commenter asked whether NAIAC-LE will develop guidance on AI use by state and local law enforcement.

WG Updates

Performance, Evaluation, and Bias
- The WG is developing guidance for the design and implementation of law enforcement AI field testing. The WG is outlining metrics of performance, bias, and other outcomes of law enforcement AI use and identifying ways to evaluate AI use according to those metrics.

Person Identification and Surveillance
- The WG is developing guidance for the appropriate use of several technologies employed for surveillance or the identification of suspects. The WG is currently drafting recommendations pertaining to facial recognition technology, automated license plate readers (ALPRs), and video analytics.

Predictive Policing
- The WG is addressing four law enforcement AI use cases: (1) event detection methods that indicate whether a crime has occurred, (2) investigation and case development of an identified suspect, (3) risk assessment and scoring as a basis for adverse action, and (4) pipelines for law enforcement acquisition of data from private sources.

Closing Remarks
- Bambauer thanked Subcommittee members for their work, NIST staff for their support, and the Miami Police Department for hosting the meeting.

- Members of the public are encouraged to share comments and questions with NAIAC and NAIAC-LE by emailing NAIAC@nist.gov. They can visit ai.gov/naiac to subscribe for Committee updates. A summary of the meeting will also be posted on ai.gov/naiac.

- Chambers adjourned the meeting at 2:29 PM Eastern Time.