FACE RECOGNITION TECHNOLOGY

DOJ and FBI Need to Take Additional Actions to Ensure Privacy and Accuracy

What GAO Found

In May 2016, GAO found that the Federal Bureau of Investigation (FBI) had not fully adhered to privacy laws and policies and had not taken sufficient action to help ensure accuracy of its face recognition technology. GAO made six recommendations to address these issues. As of March 2017, the Department of Justice (DOJ) and the FBI disagreed with three recommendations and had taken some actions to address the remainder, but had not fully implemented them.

Privacy notices not timely. In May 2016, GAO recommended DOJ determine why privacy impact assessments (PIA) were not published in a timely manner (as required by law) and take corrective action. GAO made this recommendation because FBI did not update the Next Generation Identification-Interstate Photo System (NGI-IPS) PIA in a timely manner when the system underwent significant changes or publish a PIA for Facial Analysis, Comparison and Evaluation (FACE) Services before that unit began supporting FBI agents. DOJ disagreed on assessing the PIA process stating it established practices that protect privacy and civil liberties beyond the requirements of the law. GAO also recommended DOJ publish a system of records notice (SORN) and assess that process. DOJ agreed to publish a SORN, but did not agree there was a legal requirement to do so. GAO believes both recommendations are valid to keep the public informed on how personal information is being used and protected by DOJ components.

Key Dates of Privacy Notices

- June 2008: DOJ approved NGI-IPS PIA.
- December 2011: FBI began NGI-IPS pilot.
- September 2014: FBI fully deployed NGI.
- April 2015: NGI-IPS fully operational.
- May 2015: FACE Services PIA approved.
- May 2016: DOJ published updated System of Records Notice for NGI.
- September 2015: DOJ updated NGI-IPS PIA.

The FBI made significant changes to NGI-IPS

- Privacy documentation published prior to development or significant change to the information system
- Privacy documentation published after development or significant change to the information system

What GAO Recommends

In May 2016, DOJ and the FBI partially agreed with two recommendations and disagreed with another on privacy. FBI agreed with one and disagreed with two recommendations on accuracy. GAO continues to believe that the recommendations are valid.

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FBI. GAO also recommended the FBI take steps to determine whether systems used by external partners are sufficiently accurate for FBI’s use. By taking such steps, the FBI could better ensure the data from external partners do not unnecessarily include photos of innocent people as investigative leads. However, FBI disagreed with these two recommendations, stating the testing results satisfy requirements for providing investigative leads and that FBI does not have authority to set accuracy requirements for external systems. GAO continues to believe these recommendations are valid because the recommended testing and determination of accuracy of external systems would give the FBI more reasonable assurance that the systems provide investigative leads that help enhance, rather than hinder or overly burden, criminal investigation work.

GAO also recommended the FBI conduct an annual operational review of NGI-IPS to determine if the accuracy of face recognition searches is meeting federal, state, and local law enforcement needs and take actions, as necessary. DOJ agreed and in 2017 FBI stated they implemented the recommendation by submitting a paper to solicit feedback from NGI-IPS users on whether face recognition searches are meeting their needs. However, GAO believes these actions do not fully meet the recommendation because they did not result in any formal response from users and did not constitute an operational review. GAO continues to recommend FBI conduct an operational review of NGI-IPS at least annually.