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Data and Algorithms: Ethics and Policy - Memo 3

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Case study and analysis

January 2020, Robert Julian-Borchak Williams was arrested on mistaken identity alone. The mistake was made by a facial recognition algorithm because there was no requirement for a person to consider the evidence prior to executing an arrest warrant. Law enforcement departments around the country might have limited resources to deal with crime. Population growth may outpace the number of new police applicants every year. It is therefore both judicious and logical that technology is developed to help reduce the impact of these types of shortfalls.

Today's facial recognition algorithms have the capability to correctly identify objects and may do a reasonable job at identifying individuals. The software can measure the relative size, position of facial features, and decide whether there is a match. The ethical dilemma comes into play when the algorithm, as is the case for Williams, is completely wrong. Even a proper arrest adversely affects one's autonomy. The entire purpose of detention is exactly this, it removes a person's ability to dictate their life: they are remanded, they must appear to court, immediate possessions confiscated until release, etc. Williams was not released on his own recognizance; he paid a \$1,000 bail.

The deontological view of this case argues in support of understaffed police departments using machine learning tools. The consequentialist view considers the result of an improper arrest as a freedom removing error. The negative consequences outweigh the good intentions. Furthermore, the use of Big Data (big populations, multiple columns / features to run statistical analysis), implies an elevated level of complexity that is difficult to explain. Williams should be able to legally obtain information related to his arrest through the process of discovery. Williams is harmed regardless of a case dismissal as an arrest produces a traumatic event.

To mitigate these harms the United States Congress should pass laws requiring trained and experienced officers to be the final decision makers on all warrant services. Congress should require a second opinion for all facial recognition-based warrants. This review should be conducted in a single blind fashion, such that the officer is not privy to know which potential suspect(s) the machine identified. If the machine and the officer have a consensus, then and only then should an arrest warrant be produced.