



VANCOUVER POLICE DEPARTMENT

REPORT TO THE VANCOUVER POLICE BOARD

REPORT DATE: April 7, 2021
COMMITTEE MEETING DATE: April 15, 2021
BOARD REPORT # 2104C03

Regular

TO: **Vancouver Police Board Service and Policy Complaint Review Committee**
FROM: Ivis Lee, Sergeant 2190, Forensic Video Unit, Forensic Services Section
SUBJECT: Service or Policy Complaint #2021-001 Response to Facial Recognition

RECOMMENDATION:

That the Vancouver Police Board (VPB) Service and Policy Complaint Review Committee (Committee) conclude its investigation of the complaint based on the information outlined in the report.

SUMMARY:

On February 5, 2021, the complainant submitted a complaint to the Office of the Police Complaint Commissioner (OPCC) over the VPD's "past and potential future use of facial recognition" which he characterized as "an invasive and biased new form of mass surveillance".

The complainant echoed the concerns identified by the Office of the Privacy Commissioner of Canada and its findings of an investigation into a US company called Clearview AI. From its own website, Clearview AI's investigative software is described as "the largest known database of 3+ billion facial images sourced from public-only web sources, including news media, mugshot websites, public social media, and many other open sources."

The complainant asked the VPD "to introduce a formal moratorium on its use until a written policy has been created that can offer privacy protections and help to mitigate the significant broad-based harms that come with its use."

The VPD acknowledges the concerns related to unrestricted and unfettered use of facial recognition technology by police organizations. The VPD takes the issue of privacy protection seriously and accepts that there should be an approved policy prior to its use that addresses the concerns associated to facial recognition technology. The VPD has begun the process of researching current best practices governing the lawful use of facial recognition. The development of the policy will involve completing a privacy impact assessment and submitting it to the Office of the Privacy Commissioner and will adhere to privacy legislation before coming to the VPB for its consideration and approval.

The VPD recommends that the Committee conclude its investigation of the complaint based on the information outlined in the report.

BACKGROUND:

On February 3, 2021, the Office of the Privacy Commissioner of Canada issued a news release entitled “Clearview AI’s unlawful practices represented mass surveillance of Canadians, commissioners say”.

The following passages are quoted from the news release:

“Technology company Clearview AI’s scraping of billions of images of people from across the Internet represented mass surveillance and was a clear violation of the privacy rights of Canadians, an investigation has found.”

“The investigation found that Clearview had collected highly sensitive biometric information without the knowledge or consent of individuals. Furthermore, Clearview collected, used and disclosed Canadians’ personal information for inappropriate purposes, which cannot be rendered appropriate via consent.”

“Shortly after the investigation began, Clearview agreed to stop providing its services in the Canadian market. It stopped offering trial accounts to Canadian organizations and discontinued services to its only remaining Canadian subscriber, the RCMP in July 2020.”

The complainant writes:

“In March of 2020, the VPD made a public statement saying that they were no longer using facial recognition technology and have no future plans to use it. While this is a positive step, it is difficult for citizens to have confidence in this position without a change in written policy to back it up.”

“When asked previously, the VPD denied using facial recognition products like Clearview AI. It wasn’t until the client list of Clearview AI was leaked, that the VPD finally admitted to using this form of facial recognition technology. Therefore, public trust has been broken. To make matters worse, it has been broken through the use of a product that’s known to be biased and discriminatory against already marginalized populations.”

The VPD has never approved of the use of Clearview AI (or any other AI software) for facial recognition. In early 2020, the VPD became aware of one investigator from the Internet Child Exploitation Unit who downloaded a trial version of the service after attending a conference on child exploitation. The investigator uploaded one photograph into the Clearview database in an effort to identify an individual to support an investigation concerning the production and distribution of child pornography. These efforts did not assist with the investigation. Once it was learned that the member had attempted to use Clearview, the VPD provided direction to cease using the service.

DISCUSSION:

The VPD recognizes that the use of facial recognition by police is contentious for the reasons highlighted by the complainant and by the Office of the Privacy Commissioner of Canada. Police must explore new technology for legitimate investigative purposes. This continued innovation

supports VPD’s mission statement: “Partnering with our community for excellence and innovation in public safety.”

However, given the well-documented criticisms associated with facial recognition, an established policy governing its use and best practices will demonstrate VPD’s commitment to conducting investigations in a lawful and ethical manner, with specific attention to observing privacy rights.

After the single use of Clearview AI in the above-mentioned child exploitation investigation, it was permanently discontinued. The VPD will not utilize the Clearview AI service in the future. The VPD may test other forms of facial recognition software to evaluate service efficacy, as well as to assess privacy, identification, and security risks and safeguards. This technology will not be implemented operationally or for investigative purposes in the absence of approved policy in place on the use of facial recognition technology.

The VPD has begun the process of researching current best practices governing the lawful use of facial recognition. The development of the policy will adhere to privacy legislation and will be brought forward to the VPB for its consideration and approval. The Planning, Research, and Audit Section anticipates that such a policy will be provided to the VPB before the end of the year.

CONCLUSION:

The use of facial recognition technology by police is controversial and its criticisms are well-documented. If used properly and lawfully it can be an innovative investigative tool which will assist VPD to fight and solve serious crime. Most importantly however, the public and the courts demand lawful, ethical, and professional investigations by police. This can be achieved by developing and approving a policy prior to the use of facial recognition technology.

The VPD recommends that the Committee conclude its investigation of the complaint based on the information outlined in the report.

Author: Sergeant Ivis Lee Telephone 604-717-9139 Date: April 7, 2021

Submitting Executive Member:

Superintendent Fiona Wilson Date: April 7, 2021