ACLU Illinois

ASK A QUESTION:

WHAT IS GENERATIVE AI?

The past few years have been marked by an explosion in public discussion about the emergence of generative AI., But AI already is an integral part of our everyday lives. AI is the underlying technology that autofills our emails and completes our text messages. AI sorts, filters, and makes recommendations for the content we see on Netflix or YouTube.

It is easy to feel overcome by the undeniable "hype" about AI. But it is important to emphasize that there is nothing about AI that is inevitable. Like any technology, AI does what we, as a society, ask and allow it to do.

WHAT IS AI?

Generally, artificial intelligence (AI) refers to technologies that can simulate human decision-making, learning, and problem solving using vast amounts of data. AI is a computerized set of instructions or "algorithms" that can be "trained" to make choices, recognize patterns, and even predict human behaviors – all with minimal or zero human oversight. Trained algorithms run on data inputs like personal information, prompts, and visual images to generate an output like predictions, decisions, or content. With generative AI, those outputs take the form of new content such as videos, text, and audio.

AI already is transforming many aspects of our world. Some of these changes can be beneficial, like advances in language translation and voice to text note taking. But new technologies present old challenges including issues with privacy, output accuracy, and a lack of transparency. Generative AI outputs can also be powerful forms of expression and speech. That means that regulations on AI must be crafted carefully, precisely, and practically to minimize negative impacts on our civil rights and liberties from bias and discrimination while maintaining the benefits of new tools for speech and expression.

WHAT IS GENERATIVE AI?

Generative AI is grabbing headlines right now because of new and sophisticated technologies that can create content, summarize research, and simulate images, videos, and voices of people.. This process is based on probabilistic inference, like when your phone auto-fills with the most likely next word. Generative AI uses "prompts" (specific requests) trained on models that associate labels with certain outputs to produce new content in the form of text, images, audio, or video.

Generative AI is just another AI system but can be used in new ways because of its interface and ease of use. Chatbots and text-based apps can be used to provide guidance for benefit applicants 24/7 or offer support in whatever language applicants are most comfortable in writing or speaking. Generative AI can simplify the task of digesting lengthy complicated eligibility rules and paperwork requirements providing them in summarized explanations. Generative AI can be used to steer people through the application process, schedule interviews, or ask basic questions such as available days, hours, or work history.

ISSUES

A commonly repeated refrain about AI is that it would be more "objective" and a more "fair" alternative to human decision-making, but as data scientist Cathy O'Neil has written, AI "models are opinions embedded in mathematics." For example, generative AI often does not have information about how to seek reasonable accommodations creating barriers for persons with disabilities who want them. Some tools are designed to encourage or discourage applications

based on the answers given and people often will not know the impact their answers will have on their ability to apply or advance in whatever process they find themselves in.

AI is already being used to make decisions about housing, employment, healthcare, and policing. Without transparency into how these models work, it is very difficult to investigate these systems, root out bias, and challenge the decision-making process and errors.

TRANSPARENCY, PRIVACY, AND ACCURACY PROBLEMS

Often people will not even know they are interacting with generative artificial intelligence like chatbots. This lack of transparency threatens privacy because AI systems store entire chat histories including our personal information and any other sensitive information we might unwittingly share. Given prolonged conversations, people may lower their guard and be more forthcoming or manipulated into sharing private information in a digital ecosystem with insufficient safeguards and legal requirements to protect that information.

While generative AI is trained to imitate human conversations, this technology suffers from accuracy problems including simply making things up. If a generative AI chatbot is used to populate a public benefits application, inaccurate answers could result in denied access to opportunities and public assistance. Some police departments have begun experimenting with generative AI to draft police reports transcribing the audio from body cameras where inaccuracies could result in unjust investigations and detentions.

THE BIAS PROBLEM

AI systems suffer from design and data set bias. AI systems are designed by people reflecting the priorities and preoccupations of their creators whether they are well-intentioned or not. Humans create the AI models, choose the training data, build the "decision trees" used in algorithms, assign weights to different inputs and factors, generate training materials (if any) for end users, and so on.

"Data set bias," concerns the underlying data on which AI models are trained, which can reflect historic bias and discrimination in unnoticeable ways. An AI system designed by a publicly accountable entity to deliver healthcare, like Medicaid, will encourage and aid patients and applicants yielding outcomes that are quite different from an AI system designed and deployed by a for-profit health insurance company seeking to reduce its approval of claims.

DEEPFAKES

Generative AI can also be used to create deceptive media with voices that imitate everyone from politicians to loved ones. While dis- and misinformation have been around for a long time, generative AI allows anyone to quickly and easily create fake content at scale. But generative AI is also a tool that facilitates expression and speech protected under the First Amendment highlighting the complex interplay of emergent technology and constitutional rights. The preoccupation with the concern for preventing harmful deepfakes must avoid being overbroad and vague, in some cases imposing criminal penalties that risk chilling legitimate expression.

POLICY RECOMMENDATIONS

For guardrails and policy recommendations, existing civil rights law is a strong foundation for protecting the public, but we believe additional legal protections are necessary and, at minimum:

- Require transparency on the use of generative AI including what information, including personal information, is collected, how personal information is used, and how long personal information is retained;
- Provide individuals with a right to access and correct personal information and appeal AI-influenced decisions;
- Implement meaningful human review of artificial intelligence outputs;
- Conduct pre- and post-deployment audits and assessments of AI systems for discrimination, bias, and accuracy;
- Preserve space for speech and expression generated by AI.