

[By email - [melissa.banner@nist.gov](mailto:melissa.banner@nist.gov)]

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To the Members of the National Artificial Intelligence Advisory Committee

The Center for AI and Digital Policy (CAIDP) welcomes the opportunity to express our views for the upcoming meeting of the National Artificial Intelligence Advisory Committee (NAIAC).<sup>1</sup>

CAIDP is an independent non-profit organization that advises national governments and international organizations, including the OECD, the Global Partnership on AI, the Council of Europe, the European Union, and the G7/G20, on artificial intelligence (AI) and digital policy. CAIDP aims to ensure that artificial intelligence and digital policies promote a better society, fairer, more just, and more accountable – a world where technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law. One of CAIDP’s core goals is to promote public participation in the AI policy process.

We work with more than 300 AI policy experts in almost 60 countries and recently published the report *Artificial Intelligence and Democratic Values* which assesses the AI policies and practices of 50 countries around the world.<sup>2</sup> In our report, we set out several recommendations, calling on countries to:

- 1) Establish national policies for AI that implement democratic values;
- 2) Ensure public participation in AI policymaking and create robust mechanisms for independent oversight of AI systems;
- 3) Guarantee fairness, accountability, and transparency in all AI systems
- 4) Commit to these principles in the development, procurement, and implementation of AI systems for public services; and
- 5) Halt the use of facial recognition for mass surveillance.

Following our review of the AI policies and practices of the United States, we concluded:

The US lacks a unified national policy on AI but President Biden, and his top advisors, has expressed support for AI aligned with democratic values. The United States has endorsed the OECD/G20 AI Principles. The White House has issued two Executive Orders on AI that reflect democratic values, a federal directive encourages agencies to adopt safeguards for AI. The most recent Executive Order also establishes a process for public participation in the

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<sup>1</sup> National Artificial Intelligence Advisory Committee, 87 FR 58312 (Sept. 26, 2022)

<sup>2</sup> CAIDP, *Artificial Intelligence and Democratic Values 2021* (2022)

<https://www.caidp.org/app/download/8376927963/AIDV-Index-2021.pdf>

development of federal regulations on AI though the rulemaking has yet to occur. The overall US policy-making process remains opaque and the Federal Trade Commission has failed to act on several pending complaints concerning the deployment of AI techniques in the commercial sector. But the administration has launched new initiatives and encouraged the OSTP, NIST, and other agencies to gather public input. There is widespread objection to the use of facial recognition, and both Facebook and the IRS have cancelled facial recognition systems, following widespread protests. But concerns remain about the use of facial surveillance technology across the federal agencies by such US companies as Clearview AI. The absence of a legal framework to implement AI safeguards and a federal agency to safeguard privacy also raises concerns about the ability of the US to monitor AI practices.<sup>3</sup>

### Next Steps for the AI Bill of Rights

We write first to express support for the *Blueprint for an AI Bill of Rights*, announced at the White House this week.<sup>4</sup> Implementation of the AI Bill of Rights will help counter bias and protect fundamental rights in the design and deployment of AI-based systems in in the United States. We have worked for almost a year in support of the AI Bill of Rights.<sup>5</sup>

The question now is how to implement the recommendations in the *Blueprint*. We believe the NAIAC has a key role in this process as your mandate includes “addressing societal issues” and “accountability and legal rights.”<sup>6</sup> Following the original recommendations of Dr. Lander and Dr. Nelson,<sup>7</sup> we recommend that the NAAIC propose to implement the AI Bill of Rights in the following ways:

- New laws and regulations should be adopted to enforce the AI Bill of Rights;
- The federal government should not acquire or purchase software or technology products that are not compliant with the AI Bill of Rights; and
- Federal contractors should be required to use technologies that adhere to the AI Bill of Rights.

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<sup>3</sup> Id. at 481.

<sup>4</sup> Office of Science and Technology Policy, *Blueprint for an AI Bill of Rights (the “Blueprint”)*, <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>

<sup>5</sup> See, e.g., Lorraine Kisselburgh and Marc Rotenberg, [Next Steps on the AI Bill of Rights](#), *The Washington Spectator* (Nov 2, 2021); Marc Rotenberg and Merve Hickok, [Artificial Intelligence and Democratic Values: Next Steps for the United States](#), *Council on Foreign Relations* (August 22, 2022); See generally, CAIDP, *Support the OSTP AI Bill of Rights*, <https://www.caidp.org/statements/ostp/>

<sup>6</sup> National AI Advisory Committee, About the Advisory Committee, <https://www.ai.gov/naiac/>

<sup>7</sup> Eric Lander & Alondra Nelson, *Americans Need a Bill of Rights for an AI-Powered World*, *Wired* (Oct. 8, 2021), <https://www.wired.com/story/opinion-bill-of-rights-artificial-intelligence/>.

Consistent with the *Blueprint for an AI Bill of Rights*, we further recommend:

- Entities responsible for the development or use of automated systems should provide reporting of an appropriately designed algorithmic impact assessment, with clear specification of who performs the assessment, who evaluates the system, and how corrective actions are taken (if necessary) in response to the assessment.<sup>8</sup>
- Automated systems should be designed to allow for independent evaluation.<sup>9</sup> Entities should allow independent evaluation of potential algorithmic discrimination caused by automated systems they use or oversee. In the case of public sector uses, these independent evaluations should be made public.<sup>10</sup>

### **Implementation of the OECD AI Principles and the G7 Commitment to “Robust Transparency”**

The mandate of the NAIAC includes also “opportunities for international cooperation.”<sup>11</sup> Therefore, we call your attention to the support of the United States for the OECD AI Principles, the first global framework for AI policy.<sup>12</sup> The OECD AI Principles state explicitly, “AI systems should be designed in a way that respects the rule of law, human rights, democratic values and diversity, and they should include appropriate safeguards – for example, enabling human intervention where necessary – to ensure a fair and just society.” We believe the White House should commit to a plan to implement the OECD AI Principles and we recommend that you propose this in your report.

We also call your attention to the 2021 G-7 Communique, setting out a common agenda for the world’s leading democratic nations.<sup>13</sup> The G7 Leaders committed to work together for a “values-driven digital ecosystem for the common good that enhances prosperity in a way that is sustainable, inclusive, transparent and human-centric.” They called for a “human centric approach to artificial intelligence.” The leaders also called out bias in AI systems, noting that “new forms of decision-making have surfaced examples where algorithms have entrenched or amplified historic biases, or even created new forms of bias or unfairness.” The G7 leaders said they would “to take bold action to build more transparency in our technologies.”

We believe “bold action” in support of transparency is still needed and we urge the NAIAC to incorporate this proposal in your recommendations to the President.

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<sup>8</sup> *Blueprint* at 28.

<sup>9</sup> *Blueprint* at 20.

<sup>10</sup> *Blueprint* at 28.

<sup>11</sup> National AI Advisory Committee, About the Advisory Committee, <https://www.ai.gov/naiac/>

<sup>12</sup> NTIA, U.S. Joins with OECD in Adopting Global AI Principles (May 22, 2019), <https://www.ntia.doc.gov/blog/2019/us-joins-oecd-adopting-global-ai-principles>

<sup>13</sup> *G7 Leaders Endorse Human-Centric AI, Call Out Bias*, CAIDP Update 2.23 (June 14, 2021).

We believe that these efforts will also help align US and the EU AI policies. We call your attention to the 2021 Joint Statement by the EU-US Trade and Technology Council. Trade negotiators committed “to foster responsible stewardship of trustworthy AI” and “to ensure that AI serves our societies and economies and that it is used in ways consistent with our common democratic values and human rights.” The EU-US Joint Statement also emphasized the need to adopt “policy and regulatory measures.”<sup>14</sup>

### Public Participation in the work of the NAIAC

Finally, while we appreciate the opportunity to provide these brief comments, we strongly urge the Committee to improve its procedures to maximize opportunities for public comment. First, you should provide more time when you announce a comment process. One week is simply not enough to publicize the comment opportunity and put together meaningful comments, although we have tried.<sup>15</sup> Secondly, you should make public the agenda of your upcoming meeting and the topics under consideration. It is difficult to provide comments without a clearer description of the topics you plan to discuss. Third, we encourage you to review our comments to Congress, following the release of the final report of the National Security Committee on AI.<sup>16</sup> We believe those recommendations are also relevant to the work of the NAIAC. Finally, we hope you will provide a meaningful opportunity for public comment on the draft report you propose to send to the President and Congress.

Our report *AI and Democratic Values* emphasizes the importance of “meaningful public participation” in the evaluation of national AI policies and practices.<sup>17</sup>

Thank you for your consideration of our views.

Sincerely,



Marc Rotenberg  
CAIDP President



Merve Hickok  
CAIDP Chair



Lorraine Kisselburgh, PhD  
CAIDP Board Member

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<sup>14</sup> *U.S.-EU Trade and Technology Council Inaugural Joint Statement*, The White House (Sep. 29, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/29/u-s-eu-trade-and-technology-council-inaugural-joint-statement/>. See also *EU-US Trade Council Advances AI Policy*, CAIDP Update 2.36 (Sept. 30, 2021), <https://www.caidp.org/app/download/8346485163/CAIDP-Update-2.36.pdf>.

<sup>15</sup> CAIDP, *The Public Voice*, US AI Committee Seeks Comments on "Actionable Recommendations" (posted September 30, 2022), <https://www.caidp.org/public-voice/>

<sup>16</sup> CAIDP, *Statement to House Armed Services Committee regarding US AI Policy* (Mar. 25, 2021), <https://www.caidp.org/app/download/8305652763/CAIDP-HASC-03252021.pdf>

<sup>17</sup> CAIDP, *AI and Democratic Values* 498 (2022) (“Q5. Has the country established a process for meaningful public participation in the development of a national AI Policy? Q6. Are materials about the country’s AI policies and practices readily available to the public?”)



Maison Bergeron  
CAIDP Research Assistant

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Somaieh Nikpoor  
CAIDP Research Assistant