

PUT THE PUBLIC IN THE DRIVER'S SEAT:

SHADOW REPORT TO THE US SENATE AI
POLICY ROADMAP

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ACKNOWLEDGEMENTS



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EXECUTIVE SUMMARY

In April 2023, Senate Leader Schumer announced his intent to “[spearhead] the congressional effort to craft legislation regulating AI” and “[circulate] a broad [legislative] framework among experts.” Over the next year, rather than hold public hearings and mark up legislation, Leader Schumer instead curated an opaque “Insight Forums” process alongside three other senators, Sens. Heinrich (D-NM), Rounds (R-ND), and Young (R-IN). During these forums, some of the loudest and most self-serving voices from industry, including Elon Musk, Sam Altman, Marc Andreessen, and Hoan Ton-That, were invited to share their views with lawmakers and their staff behind closed doors - while academics, labor organizations and other members of civil society were included, their interests were marginalized in the conversation.

This bespoke, industry-driven process unsurprisingly led the Senate to an industry-friendly destination — as their universal praise for the report demonstrates. The legislative roadmap released by Senate Leader Schumer pledges \$32 billion of public money toward AI research and development, while failing to commit to any regulatory guardrails urgently needed to protect our civil and human rights against AI’s harmful effects on the public.

While regulators around the world spurred into action, Congress remains stalled. We don’t have time to waste: AI is already deeply embedded in institutions and communities across the country; its harms are already felt in schools, the workplace, the housing market, the banking sector, and the criminal legal system. There are already mountains of evidence that illustrate the danger of public use of these AI systems. In all cases, these harms are multiplied upon historically oppressed communities who suffer disproportionately and with less political power to demand government attention and correction.

The report that follows organizes the evidence supporting legislative action to regulate AI into eleven categories and provides links to 206 resources which form part of a much larger mountain of evidence to draw from and shape public policy around. Of these categories, only a handful were included in the Senate Roadmap as issues for Senate Committees to “consider”, and a large number — including the impacts of AI on the environment, the threats AI poses to further consolidate concentrated power in Big Tech, harmful uses of AI on already systematically marginalized communities like the poor, disabled, and immigrant communities, were entirely left out of the conversation (for example, the forum on “high impact” use of AI failed to include critics of law enforcement technology and the forum on “national security” failed to include any critics of how technology is used to police migrant communities).

On the table: a massive commitment of taxpayer money to “innovation” without a vision for how this innovation will serve the public. This is a glaring failure. In contrast, this report highlights the ways in which innovation must be shaped by regulation and broader democratic accountability to serve the public, as well as highlights the need for an affirmative industrial policy agenda that centers public interest and prevents the further consolidation of power in the tech industry.

This mountain of evidence, which includes resources dating back years before the public release of ChatGPT, or when Leader Schumer began his process last year, in addition to the civil society voices that authored them, should serve as the starting place for any serious effort to protect and advance the public interest as AI becomes more widespread.

We intend for this to serve as a reminder to lawmakers that any legislative process that begins with industry in the driver's seat is fated not only to fail the public interest, but even to exacerbate AI's ongoing harms. Government must instead start by referencing a robust body of work that universally points to the need for enforceable regulatory proposals. This list of issues forms the floor, not the ceiling, of the concerns at hand. As Senate Committees are asked to, yet again, consider the issues, we urge them to move swiftly to pass enforceable law regulating this sector.

The role of civil society, workers, independent researchers, and those who represent communities most impacted by AI, must be centered when designing policy. Whereas industry representatives will always prioritize their bottom line, civil society representatives center the needs of the public interest and bring a grounded perspective to the conversation, informed by lived experience of the communities already carrying the material burdens introduced by AI. This is crucial expertise to center in any policy discussion.

Any future efforts to develop a legislative roadmap to regulate AI must begin with consulting civil society voices and designate meaningful power to those representing impacted communities. **As the mountains of evidence below suggest, we are so far past civil society's role being merely a "seat at the table." Instead, the public interest must be in the driver's seat.**

The report that follows does not aim to offer in-depth analysis on the legislative roadmap released by Leader Schumer and his colleagues in the senate. It is futile to engage with the product of a process that consistently catered to corporate interest in delaying meaningful action on AI, and merely surfaced but did not engage with issues that advocates, organizers, and researchers have consistently brought to the fore.


Instead, this report aspires to contribute to the ongoing AI policy debate by offering an alternative vision for how lawmakers can create an AI policy agenda that prioritizes the public's interest over that of industry. It is also meant to serve as a warning for how badly a legislative process that centers the needs of industry can go. Civil society, worker, and researchers' voices do not have the lobbying budgets, campaign contributions, or other resources that industry regularly weaponizes to capture legislative processes, but that does not mean they deserve to be relegated to an afterthought, or reduced to a box checking validator.

The contrast between this report, jointly authored by a dozen civil society groups and endorsed by a wide network of researchers and advocates, and the legislative roadmap released by Leader Schumer last week, demonstrate the pitfalls associated with allowing industry to dictate policy and process and should reverberate as a lesson to lawmakers who adopt the latter.

THE ROAD TO THE ROADMAP:

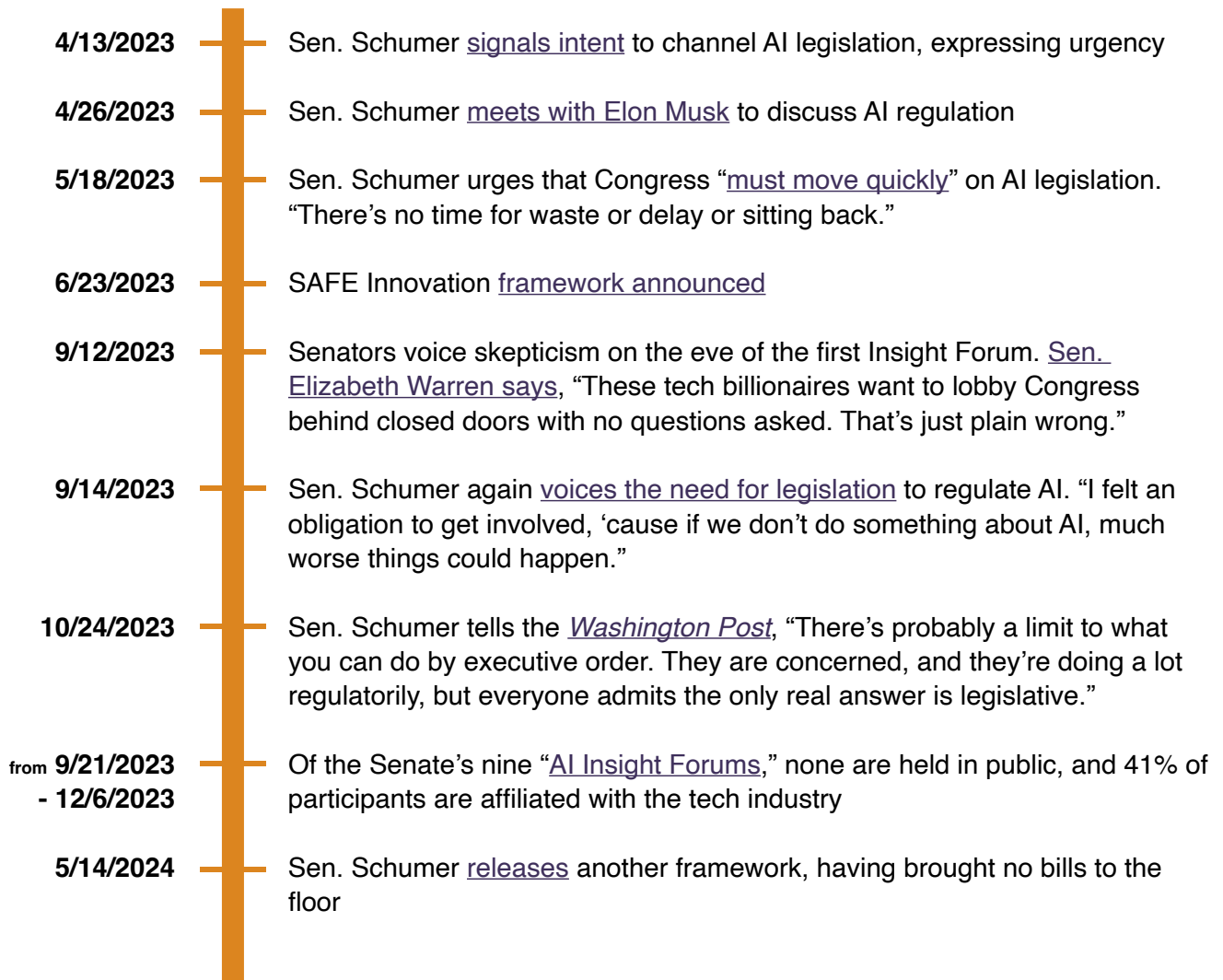
A YEAR OF INDUSTRY INFLUENCE & LOBBYING

While regulators sprung into action...



3/31/2023	Italy's DPA bans ChatGPT
4/3/2023	Court of Appeals finds that Uber and Ola's use of AI violated GDPR
4/25/2023	FTC, DOJ, CFPB, and EEOC issue a joint pledge to uphold existing law as it applies to AI
7/13/2023	FTC investigation into OpenAI made public
9/18/2023	UK CMA issues its initial AI Foundation Models Report
11/1/2023	UK hosts the inaugural AI Safety Summit
10/5/2023	CMA opens an investigation into concentration in cloud services
10/26/2023	UN forms AI Advisory Body
10/30/2023	White House issues EO on the Safe, Secure and Trustworthy Development and Use of AI
12/8/2023	CMA opens an investigation into the Microsoft/OpenAI partnership
12/21/2023	UN AIAB releases initial report, Governing AI for Humanity
1/25/2024	FTC opens 6B market study into nontraditional mergers in the AI market
3/13/2024	EU passes AI Act
3/27/2024	NTIA publishes AI Accountability Report
3/28/2024	OMB publishes procurement guidance for federal agencies implementing AI
4/29/2024	White House announces completion of all 180-day tasks outlined under the EO

The Senate went from one roadmap to another...



What does this timeline show us?

The proliferation of AI technologies demands democratic leadership to protect the public. Senator Schumer has a strong public mandate to take action: [56 percent](#) of polled Americans across party lines favor regulation, and Pew Research Center [surveys](#) consistently show that Americans are increasingly concerned about the impact of AI in their lives. A majority of the U.S. adults oppose the use of AI for hiring, surveilling workers, and eroding their privacy at large. Yet, Sen. Schumer and Congress have failed to center the public’s concerns, and are catering instead to a handful of companies.

Over the past year, Senator Schumer has stalled action on AI regulation. Senator Schumer determines how and when bills arrive to the floor, when they are voted on, and which issue areas take priority in the Congressional calendar. Despite repeated calls for regulatory intervention, Schumer’s nine “insight forums” further stalled action. Rather than building on numerous prior proposals, or drawing from existing expertise and evidence, these forums used a crucial window for action to center corporate priorities.

The public has a right to know who is shaping AI policy, and should be at the forefront of this conversation. Yet the process that led to the Senate’s white paper was opaque, happening entirely behind closed doors. The insight we do have into the forums came thanks to Tech Policy Press and its [AI Insight Forum Tracker](#), as well as [report-backs from civil society attendees](#). Other civil society groups also outlined objections:

“If the Senators have identified risks in the deployment of AI systems, this information should be recorded and made public. The fact that AI has become a priority for the Senate is even more reason that the public should be informed about the work of Congress.” — **CAIDP**

“The report today inadequately deals with the elephant in the room: bias in AI... The 30-page report today uses the word ‘innovation’ 28 times; it used the word bias three times, and two of those were in the appendix.” — **Spencer Overton, Professor of Law at George Washington University**

“I think there’s a lot of talk in the US about legislation. I’m going to call this out. There’s nothing that’s been passed, and the US is almost unique in that... There has been movement in other environments in ways we haven’t seen in the US.” — **Deborah Raji, Fellow with Mozilla**

What is clear is that tech firms have poured resources into the process through federal lobbying. A 2021 [report](#) by Public Citizen found that Big Tech companies outspend Big Oil and Big Tobacco. Last year, Alphabet, Amazon, Meta, and Microsoft spent a whopping \$64,154,433 to implore the federal government to do its bidding.

A significant proportion of these funds have gone to Senator Schumer himself: according to a report by Fight for the Future and the Revolving Door Project, Senator Schumer has taken more than \$780,000 in campaign contributions from the sector, more than almost any member of Congress. An investigation by the [New York Post](#) reported that “more than 80 former paid staffers of the longtime New York lawmaker have leveraged their time with Schumer to secure prestigious jobs, working directly with companies including Amazon, Facebook, Google and Apple.” Civil society organizations have asked the Senator to [recuse](#) himself from tech-related issues—to no avail.

All of these lobbying dollars, campaign contributions, and revolving door relationships have had a material impact on federal policy related to big tech and artificial intelligence. Indeed, these corporate interventions have repeatedly bought critical windows of time in which Congressional action could have happened. The introduction of antitrust legislation in 2022 is [instructive](#): despite support from the public, the White House, and a supermajority of lawmakers, Senator Schumer again obstructed the process by refusing to bring the bills to the floor.

A year of consultation through a non-transparent and industry-dominated process has similarly failed to produce meaningful legislative movement, despite widespread acknowledgment of the need for regulatory intervention, including from the Senator himself. Lawmakers haven’t been inactive in the interim: There are numerous legislative proposals addressing AI and mountains of evidence to draw from.

THE CASE FOR LEGISLATIVE ACTION

DECADES OF EVIDENCE, MINIMAL MOVEMENT

We compile the evidence here as a glimpse of what could have been. This is our case for legislative action, as evidenced by years of careful evidence-gathering and analysis by community organizations, workers, investigative journalists, and civil society groups. The road ahead was already clear in September 2023, when the first forum began. What was missing then—and remains missing now—is meaningful legislative movement by our elected officials.

Congress must do more than namecheck the issues and offer token participation to those affected by AI. It must engage substantively, put public interest—not industry—in the driver's seat, and, most importantly, see regulatory proposals into enforceable law. Companies certainly know the difference.

The list of issues below forms the floor, not the ceiling, of AI-driven concerns. While the roadmap released last week asks committees to, yet again, consider the issues, we urge them to move forward swiftly to pass enforceable laws addressing the following:

1. **Racial justice and equity:** Counter systemic bias and discrimination in AI, and empower impacted communities with decision making power on how/whether AI is used
2. **Immigration:** Protect immigrant communities from abusive and invasive AI-driven surveillance.
3. **AI accountability:** Keep industry's AI claims in check by ensuring systems are adequately validated and tested
4. **Labor:** Protect and improve job quality by putting workers in a decision-making position on AI
5. **Privacy and Surveillance:** Legislate and enforce data minimization to end incentives for unchecked mass surveillance
6. **Competition:** Enforce the full suite of competition law and policy to prevent existing tech monopolies from exploiting their market power to dominate AI
7. **Consumers:** Protect consumers from the unchecked release and commercialization of AI products that are biased, deceptive, and a risk to privacy and public safety
8. **Democracy:** Safeguard the democratic processes, participation, and the provisioning of public goods
9. **Industrial policy:** Appropriate taxpayer dollars to serve the public, not deepen the pockets of industry players
10. **Poverty:** Prevent AI from reducing opportunities for low-income people, including those with disabilities or who primarily speak non-English languages
11. **Climate change:** Ensure advances in AI do not undermine efforts to combat climate change by increasing energy use and spreading climate disinformation

1. Racial Justice

As we continue to integrate AI into our societal frameworks, government oversight of this technology must be stringent and informed. Industry has demonstrated that its designs replicate and sometimes exacerbate societal inequities. Its track record shows a disregard for the racial injustice that AI can perpetuate. Trusting these same individuals and entities to self-regulate or to lead AI innovation without accountability has proven inadequate and dangerous.

Despite a volume of evidence demonstrating discriminatory behavior, technology companies have been slow to account for harms against marginalized communities, and particularly Black communities. Their oversight manifests in the rapid [transformation](#) of public systems into automated frameworks where technology, rather than people, govern everyday life. This transformation often obscures the human accountability essential for equitable governance.

In innumerable domains, from criminal justice to housing, the integration of AI has been hasty and unchecked. Despite these tools' potential to address racial inequality, they also carry high risk of exacerbating racial biases. For example, algorithmic decisions in [policing](#), loan evaluations, and [employment](#) screening have not only failed to eliminate disparities, but have also entrenched, and in some cases amplified, them. Industry has placed accountability in “black box” systems that, by the very nature of how AI makes decisions, makes it more difficult to detect and prove disparate impact and intent, let alone hold industry accountable for the consequences. Predictive policing tools and AI-driven hiring technologies frequently embed racist and sexist narratives all while being marketed as “race-neutral” products. The deployment of AI in mortgage lending has been shown to deny [Black and Hispanic borrowers](#) fair rates, affecting their chances of homeownership and, subsequently, their ability to build generational wealth. From justice issues, to employment, housing, and more, discriminatory practices that have long been scrutinized under civil rights laws and protections in brick-and-mortar contexts are finding ample room to move largely unchecked. In response to criticism, industry offers vague promises that the scalable benefits of the technology will outweigh any disparate harms.

Moreover, the unchecked proliferation of biased AI applications threatens to further cement existing inequalities. AI-based systems in rental markets have contributed to escalating [housing crises](#) by inflating prices, which disproportionately affects low-income individuals and people of color. In the job market, the rapid replacement of entry-level positions by generative AI technologies [threatens to sideline](#) a significant portion of the workforce, particularly Black workers who may not have a college degree due to historic and ongoing exclusion of Black people from higher education. This negative reinforcement cycle only serves to widen wealth and income inequality.

For example, a 25-year-old man from Detroit was [arrested](#) for felony theft after being misidentified by a city-deployed facial recognition tool. In the criminal justice system, [a study revealed](#) that when participants in an online experiment were given AI-generated recommendations, their decision-making showed AI actually introduces racial and religious biases to previously unbiased decisions. [Generative AI](#) tools have been shown to perpetuate racial bias in professional settings, as well as embed racist and sexist narratives of criminal behavior and poverty.

It is evident that we cannot reform AI. The challenges highlighted by the racial reckoning of 2020, which spotlighted systemic injustices in policing and the broader treatment of Black communities, cannot be addressed by technology built by CEOs and investors with no interest steering their technology to account for justice and equity. What’s more, AI systems fundamentally lack the ability to differentiate between who to protect or prosecute, who is part of the problem or the solution, and who should be targeted or liberated. These limitations make AI a poor substitute for the necessary policy changes and leadership transformations that are crucial for real progress.

We cannot accept corporate assurances at face value. Instead, we must dismantle monopolistic tech conglomerates, and create regulatory mechanisms backed by robust enforcement bodies. Without such changes, these corporations are likely to repeat past mistakes, crafting technologies that mirror and amplify their creators’ biases rather than the public interest. Only through a comprehensive reevaluation of corporate power can we ensure that AI serves the public good and promotes equity and justice.

Mountains of Evidence:

Publication	Authors	Year
Reflections on Civil Rights and Our AI Future	Leadership Conference Center for Civil Rights and Technology	2023
Advancing Racial Equity Through Technology Policy	Julia Rhodes Davis, Eliza McCullough, Sarah Treuhaft, and Rachel Gichinga	2023
White House’s Blueprint for an AI Bill of Rights: Algorithmic Discrimination Protections	White House Office of Science and Technology Policy	2022
Understanding AI: Political Education Series	MediaJustice	2022
Automated Video Interviewing as the New Phrenology	Ifeoma Ajunwa	2022
Equitable Technology Policy	Kapor Center	2022
Garbage In Gospel Out: How Data Driven Policing Technologies Entrench Historic Racism and “Tech-wash” Bias in the Criminal Legal System	NACDL	2021
Centering Racial Equity	Actionable Intelligence for Social Policy (AISP)	2020
Design Justice: Community-Led Practices to Build the Worlds We Need	Sasha Costanza-Chock	2020
Discriminating Systems: Gender, Race, and Power in AI	Sarah Myers West, Meredith Whittaker and Kate Crawford	2019
Facial Recognition Technologies in the Wild	Algorithmic Justice League	2020
Digitize and Punish	Brian Jefferson	2020
How the Algorithms Running Your Life are Biased	Ali Ingersoll (Washington Post)	2019
AI is sending people to jail—and getting it wrong	Karen Hao (MIT Technology Review)	2019
Addressing the Biases Plaguing Algorithms	Michael Li (Harvard Business Review)	2019
Dirty Data, Bad Predictions Berkman Klein Center	Rashida Richardson	2019
Injustice Ex Machina: Predictive Algorithms in Criminal Sentencing	Andrew Lee Park (UCLA Law Review)	2019
Garbage In, Garbage Out: Face Recognition on Flawed Data	Georgetown Center on Technology Policy	2019
Measures of Fairness for New York City’s Supervised Release Risk Assessment Tool	Kristian Lum and Tarak Shah	2019

Publication	Authors	Year
Centering Civil Rights in the Privacy Debate	Open Technology Institute and Color of Change	2019
Gender Shades: Intersectional Accuracy Disparities in Commercial Facial Recognition	Joy Buolamwini and Timnit Gebru	2018
Algorithms of Oppression: How Search Engines Reinforce Racism	Dr. Safiya Noble	2018
Amazon scraps secret AI recruiting tool that showed bias against women	Jeffrey Dastin (Reuters)	2018
Life, Liberty, and Trade Secrets Stanford Law Review	Rebecca Wexler	2018
AI risks replicating tech's ethnic minority bias across business	Aliya Ram (Financial Times)	2018
Race after Technology	Ruha Benjamin	2018
Layers of Bias: A Unified Approach for Understanding Problems With Risk Assessment	Laurel Eckhouse, Kristian Lum, Cynthia Conti-Cook, and Julie Ciccolini (Criminal Justice and Behavior)	2018
Artificial Intelligence is racist yet computer algorithms are deciding who goes to prison	Hannah Sassaman	2018
With AI and Criminal Justice, The Devil is in the Data	Vincent Southerland	2018
Discriminatory Designs on User Data	Olivier Sylvain	2018
Weapons of Math Destruction: How Big Data Increases Inequality and Threatens Democracy	Cathy O'Neil	2016
The Perpetual Line-Up: Unregulated Police Face Recognition in America	Georgetown Center on Technology Policy	2016
Dark Matters	Simone Browne	2016
Machine Bias: There's software used across the country to predict future criminals. And it's biased against blacks	Julia Angwin, Jeff Larson, Surya Mattu, and Lauren Kirchner	2016
The Uncertainties of Risk Assessment: Partiality, Transparency, and Just Decisions	Kelly Hannah-Moffat (University of Toronto)	2015
Certifying and removing disparate impact	Michael Feldman, Sorelle Friedler, John Moeller, Carlos Scheidegger, Suresh Venkatasubramanian (Cornell University)	2015
Civil Rights Principles for the Era of Big Data	Leadership Conference Center for Civil Rights and Technology	2014
Risk as a Proxy for Race	Bernard E Harcourt	2010

2. AI & Immigration

There is perhaps no other sector racing to adopt AI more quickly than U.S. migration agencies. The Department of Homeland Security (DHS) has been an early adopter of powerful and invasive surveillance technologies—usually technologies outsourced from corporations that raise serious questions about their compliance with privacy, data protection, and Fourth Amendment rights. DHS, in conjunction with corporations, has aggressively pushed the idea that AI will make immigration processing more efficient, more objective, less biased, and somehow more intelligent. Many of the same companies pushing AI hype have won lucrative AI contracts with DHS, leaving oversight of the technology in their hands.

AI will potentially automate or, at least, heavily influence millions of decisions: whether to deport, detain, and separate families; whether to naturalize someone; whether someone is a national security threat; whether to protect someone from persecution or torture. DHS has impacted 46 million foreign-born persons in the United States. In short, family members, workers, students, DACA recipients, tourists, people fleeing persecution, and many more have their lives hanging on the decisions of USCIS, Immigration and Customs Enforcement, and Customs and Border Enforcement. Forthcoming research on AI shows that DHS has aggressively deployed AI products including [facial recognition technology](#) and [electronic monitoring/risk-classification technologies](#). This accelerated deployment of AI by DHS threatens to amplify and hide the existing biases of the immigration enforcement and adjudicatory system while potentially violating the civil and privacy rights of millions of immigrants, families, and Americans.

It is alarming how the Senate report ignores the fact that DHS provides millions of dollars for policing technologies. This is especially problematic when local law enforcement agencies use federal funding to procure technologies for which the harms of police use on the civil and human rights of the most marginalized has been well-documented.

Privacy protections alone are not sufficient to ensure that immigrants and their families are protected from abusive technologies. We must suspend the use of AI technologies for policing and enforcement until they can meet essential safeguards for impacted communities.

Mountains of Evidence

Publication	Authors	Year
DHS preparing new policy, test and evaluation practices for AI acquisition	Inside AI Policy	2024
Intrusive new digital tools in the criminal legal system transfer “one concern for another”	Prism Reports	2024
CBP leaning into biometrics on controversial app, raising concerns from immigrant rights advocates	FedScoop	2024
35+ Civil and Immigrant Rights’ Groups Raise Concerns to OMB on DHS Use of AI	Just Futures Law, Center on Race and Digital Justice, Surveillance Resistance Lab, Mijente, Media Justice	2023
DHS Open for Business: How Tech Corporations Bring the War on Terror to Our Neighborhoods	ACRE, LittleSis, Media Justice, and the Surveillance, Tech, and Immigration Policing Project at the Immigrant Defense Project.	2023
US Border Agency’s Data Broker Deal Masks Spy Tools, Critics Say	Bloomberg	2023

Publication	Authors	Year
Comments to the Consumer Financial Protection Bureau Re: Request for Information Regarding Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information	“Just Futures Law, Mijente, MediaJustice,	2023
Lexis Nexis is selling your personal data to ICE so it can predict crimes	The Intercept	2023
New Records Provide Details on ICE’s Mass Use of LexisNexis Accurant to Surveil Immigrants	Just Futures Law	2023
Lawsuit against facial recognition company Clearview AI and ICE, includes pleading and amicus briefs	Just Futures Law et al.	2022
Police seize on COVID-19 tech to expand global surveillance	Associated Press	2022
Cook County Investigates ICE Purchasing of Data Software to Target Undocumented Immigrants	Southside Weekly	2022
HART Attack: How DHS’ Massive Biometrics Database will supercharge surveillance and threaten rights	“Just Futures Law, Surveillance Resistance Lab/ Immigrant Defense Project, Mijente	2022
Sabotaging Sanctuary: How Data Brokers Give ICE Backdoor Access to Colorado’s Data and Jails	Mijente, Colorado Immigrants Rights Coalition, Just Futures Law, The Meyer Law Office, ACLU CO, Denver Justice Project, etc.	2022
Face scanner Clearview AI aims to branch out beyond police	Associated Press	2022
The Deadly Digital Border Wall	“Mijente, Just Futures Law, No Border Wall Coalition	2022
Tracked and Trapped: Experiences from ICE Digital Prisons	“African Bureau for Immigration and Social Affairs	2022
ICE Digital Prisons	Aly Panjwani, Julie Mao	2021
Austin’s Big Secret: How Big Tech and Surveillance are Increasing Policing	Grassroots Leadership, Just Futures Law and Mijente	2020
Eyes on Atlanta	Aly Panjwani, Hannah Lucal, Sara Osman for Mijente Just Futures Law, Georgia Latino Alliance for Human Rights	2021
FactSheet: Clearview AI	Just Futures Law, Mijente, ACLU NoCal, Immigrant Defense Project	2020
COVID-19 FOIA Project Reveals That DHS & HHS Used the Pandemic to Expand Tech Surveillance	“Just Futures Law, Mijente, Immigrant Defense Project,	2020
The War Against Immigrants	Mijente	2019
Who’s Behind ICE: The Tech and Data Companies Fueling Deportations	“Mijente, National Immigration Project of the NLG, Immigrant Defense Project	2018
Tracked and Targeted: Early Findings on Chicago’s Gang Database	Erase the Database campaign	2018
FBI Wants to Remove Privacy Protections from its Massive Biometric Database	Electronic Frontier Foundation	2016
New Documents Show Secure Communities Fuels FBI’s Rapidly Expanding Surveillance System While Ignoring States’ Concerns	Center for Constitutional Rights, National Day Laborers’ Organizing Network, Cardozo Immigration Clinic	2011
Secure Communities and the Next Generation Identification Initiative	Center for Constitutional Rights, National Day Laborers’ Organizing Network, Cardozo Immigration Clinic	2011

3. AI Accountability

AI accountability mechanisms must ensure that AI is safe, effective, and legitimate. This must happen both prior to deployment and on an ongoing basis. Given the wide deployment of AI systems and their impacts on human rights, freedoms, and access to resources and opportunities, we need robust ex ante guardrails, placing the burden on vendors and public authorities to show why an AI system is beneficial; where communities have means of consultation and redress; and where AI’s impacts are defined and assessed from the ground up, not the top down.

Technology firms and many policymakers tend to narrowly think about accountability as a commitment by tech vendors to document their engineering practices and validate technical outputs. But accountability mechanisms which are enforced merely to manage technical risks and vulnerabilities of algorithmic systems risk [rubber stamping systems](#) that continue to present grave harms to the public and marginalized communities, reducing accountability to mere checklist compliance. Accountability measures should include [socio-technical evaluations](#) that investigate the social impacts of AI systems. The public, too, must have the ability to contest the harms they identify and contend with on a daily basis.

Finally, because assessing AI systems is challenging, industry capture of nascent evaluation practices is likely without a concerted effort to advance accountability in the public interest. Even formally independent assessors and auditors can become dependent on a favorable reputation with industry, softening their overall evaluations. Congress and regulators should be advancing accountability mechanisms that create the conditions for members of the public, including workers and marginalized communities, to improve, reject, or demand changes to AI systems.

Mountains of Evidence

Publication	Authors	Year
AI auditing: The Broken Bus on the Road to AI Accountability	Abeba Birhane, Ryan Steed, Victor Ojewale, Briana Vecchione, and Inioluwa Deborah Raji	2024
Towards AI Accountability Infrastructure: Gaps and Opportunities in AI Audit Tooling	Victor Ojewale, Ryan Steed, Briana Vecchione, Abeba Birhane, and Inioluwa Deborah Raji	2024
Navigating Demographic Measurement for Fairness and Equity	Miranda Bogen	2024
AI Red-Teaming Is Not a One-Stop Shop to AI Harms	Sorelle Friedler, Ranjit Singh, Borhane Blili-Hamelin, Jacob Metcalf, and Brian J. Chen (Data & Society)	2023
Taking Algorithms to Courts: A Relational Approach to Algorithmic Accountability	Jacob Metcalf, Emanuel Moss, Ranjit Singh, Emnet Tafese, and Elizabeth Anne Watkins	2023
Understanding accountability in algorithmic supply chains	Jennifer Cobbe, Michael Veale, and Jatinder Singh	2023
Making AI Fair and How to Use It	Marc Rotenberg and Jeremy Roschelle	2023
AI Audit-Washing and Accountability	Ellen Goodman and Julia Trehu	2022
Towards a standard for identifying and managing bias in artificial intelligence	NIST	2022
Outsider Oversight: Designing a Third Party Audit Ecosystem for AI Governance	Inioluwa Deborah Raji, Peggy Xu, Colleen Honigsberg, and Daniel E. Ho	2022
The Right to Contest AI	Margot E. Kaminski and Jennifer M. Urban	2021
Algorithmic Accountability for the Public Sector	AI Now Institute, Ada Lovelace Institute and Open Government Partnership	2021

Publication	Authors	Year
Assembling Accountability: Algorithmic Impact Assessment for the Public Interest	Emanuel Moss, Elizabeth Anne Watkins, Ranjit Singh, Madeleine Clare Elish, and Jacob Metcalf (Data & Society)	2021
Problematic Machine Behavior: A Systematic Literature Review of Algorithm Audits	Jack Bandy	2021
Algorithmic Impact Assessments and Accountability: The Co-construction of Impacts	Jacob Metcalf, Emanuel Moss, Elizabeth Anne Watkins, Ranjit Singh, and Madeleine Clare Elish	2021
An Institutional View of Algorithmic Impact Assessments	Andrew D. Selbst	2021
Closing the AI Accountability Gap: Defining an End-to-End Framework for Internal Algorithmic Auditing	Inioluwa Deborah Raji, Andrew Smart, Rebecca N. White, Margaret Mitchell, Timnit Gebru, Ben Hutchinson, Jamila Smith-Loud, Daniel Theron, and Parker Barnes	2020
Examining the Black Box: Tools for assessing algorithmic systems	Ada Lovelace Institute and DataKind UK	2020
What to account for when accounting for algorithms: a systematic literature review on algorithmic accountability	Maranke Wieringa	2020
Confronting Black Boxes: A Shadow Report of the New York City Automated Decision System Task Force	Ed. Rashida Richardson (AI Now Institute)	2019
Model Cards for Model Reporting	Margaret Mitchell, Simone Wu, Andrew Zaldivar, Parker Barnes, Lucy Vasserman, Ben Hutchinson, Elena Spitzer, Inioluwa Deborah Raji, and Timnit Gebru	2019
Datasheets for Datasets	Timnit Gebru, Jamie Morgenstern, Briana Vecchione, Jennifer Wortman Vaughan, Hanna Wallach, Hal Daumé III, and Kate Crawford	2018
Algorithmic Impact Assessments Report: A Practical Framework for Public Agency Accountability	Dillon Reisman, Jason Schultz, Kate Crawford, and Meredith Whittaker (AI Now Institute)	2018
An FDA for Algorithms	Andrew Tutt	2017
The Black Box Society: The Secret Algorithms That Control Money and Information	Frank Pasquale	2016

4. Labor

AI is already shaping the nature of work and degrading the quality of life for working families. Like digital technologies before it, AI enables unprecedented expansion in the volume and kinds of information collected about workers. This only serves to reinforce and exacerbate information asymmetries between workers and employers. As tech companies push for the wide adoption of AI, even more employers will have access to systems that surveil workers, exercise exacting degrees of control, and mask supervision. For this reason, a narrow consideration of the impacts of AI automation on workers, and resulting policy proposals like worker education and upskilling, misunderstand the specificities of how AI is changing people's experience of the workplace. As workers themselves have made clear, they don't just deserve a seat at the table: They should have a determining role in how AI systems are implemented.

Employers weaponize near-constant surveillance to [impede on the right to organize](#) and restructure jobs to make workers redundant. For years, algorithmic management systems have been harming workers through opaque, arbitrary, and biased decision-making deployed in every stage of employment—from recruitment and hiring to evaluation, monitoring, and even termination. As a result, job quality is seriously eroded, and the ability of certain workers to get a job in the first place is significantly impacted.

These tools – like other unjust algorithmic systems – can have an outsized impact on marginalized individuals, particularly [those with disabilities](#). Algorithmic hiring tools, for example (often referred to as automated employment decision tools) may be used throughout the hiring process to determine a candidate's supposed fitness for a job by monitoring things like eye movement or vocal cadence. Individuals with disabilities – including (but not limited to) those who are blind or low vision, or those who are neurodivergent (respectively) may be screened out from jobs solely on the basis of their interactions with these tools – which often have little to do with performance of essential job functions. Similarly, worker surveillance tools also have a disparate impact on employees with disabilities. These workers may require extra breaks throughout the workday, as an example, to monitor blood sugar or use the restroom – but, surveillance tools could flag these disability-related behaviors and lead to unwarranted disciplinary measures being taken against disabled workers. Furthermore, worker surveillance tools can cause injuries and disabilities – research shows that workers pushed to the brink have [higher injury rates](#). Finally, workers forced to take orders from automated systems lose autonomy and dignity.

For many workers, opaque algorithmic systems increasingly define the conditions of their employment. Content creators depend on the ranking algorithms and content moderation systems of platforms like Instagram that change without notice, [creating significant precarity](#). Algorithms that determine contract worker wages shift with no explanation, [resulting in unannounced pay cuts](#). The vast majority of creative workers seeking protection from automation or limits to how their work is used in AI training currently have no recourse. Unions provide some protections, but with union density at historic lows in the private sector, the US cannot depend on unions alone to protect worker interests.

For example, the data workers who make AI possible are mostly not protected by a union. Beyond coders, there are legions of gig workers who aggregate datasets, conduct quality enhancement, label data, test and moderate the product, and moderate content. Many of these workers are underpaid and exploited, conducting essential but unglamorous and invisible work. By allowing exploitative data and labor practices, we are exacerbating the power imbalance between employers and workers, and reducing the quality of work at large.

Currently, a patchwork of state laws offers consumers increasing control over their data. But consumer privacy bills do not address the main problems that surveillance and AI pose for workers. As opaque AI systems become increasingly central to modern business practices, workers need protections and rights enshrined in federal law that can offer transparency into AI use, allow access to data collected by employers, and award the right to collectively use that data to [organize and negotiate with employers](#).

Mountains of Evidence

Publication	Authors	Year
Nurses and Patients’ Bill of Rights: Guiding Principles for A.I. Justice in Nursing and Health Care	National Nurses United	2024
Unbalanced labor market power is what makes technology—including AI—threatening to workers	Josh Bivens and Ben Zipperer (Economic Policy Institute)	2024
Worker Power and Voice in the AI Response	Center for Labor and a Just Economy	2024
On Algorithmic Wage Discrimination	Veena Dubal	2023
Center for American Progress: “Will AI Benefit or Harm Workers?”	Rose Khattar	2023
Challenging Worker Datafication	Alexandra Mateescu (Data & Society)	2023
A policy primer and roadmap on AI worker surveillance and productivity scoring tools	Merve Hickok, Nestor Maslej (AI & Society)	2023
Report to the CWA Executive Board on AI Principles and Recommendations	Communication Workers of America (CWA)	2023
Origin Stories: Plantations, Computers, and Industrial Control	Meredith Whittaker	2023
On Algorithmic Wage Discrimination	Veena Dubal	2023
Collective Data Governance for Workers	Dan Calacci, Jake Stein (MIT, Princeton; Oxford)	2023
Organizing in the End of Employment	Dan Calacci (MIT, Princeton)	2022
The Constant Boss: Labor Under Digital Surveillance	Aiha Nguyen (Data & Society)	2021
Warning: Bossware may be hazardous to your health	Lydia Brown and Matt Scherer (Center for Democracy & Technology)	2021
Data and algorithms at work: The case for worker technology rights	Annette Bernhardt, Lisa Kresge, Reem Suleiman (Center for Labor Research and Education, University of California, Berkeley)	2021
Bossware and Employment Tech	Coworker.org	2021
The Punitive Potential of AI	Andrea Dehlendorf and Ryan Gerety	2021
The Law and Political Economy of Workplace Technological Change	Brishen Rogers	2019
Explainer: Algorithmic Management in the Workplace	Alexandra Mateescu, Aiha Nguyen (Data & Society)	2019
Explainer: Workplace Monitoring & Surveillance	Alexandra Mateescu, Aiha Nguyen (Data & Society)	2019
Algorithms at Work: Productivity Monitoring Applications and Wearable Technology as the New Data-Centric Research Agenda for Employment and Labor Law	Ifeoma Ajunwa	2019

5. Privacy and Surveillance

Soon after the public release of chatGPT, questions from the public about what data these AI models had been trained on began to circulate, followed by panic when people began to realize that chatGPT was sometimes leaking personal and sensitive data “accidentally” in response to prompts. This is not surprising – these most recent AI tools only replicate and supercharge a range of often invasive and harmful data practices that endanger people and deepen the already vast power asymmetries between those being surveilled and those that surveil. Moreover, today’s AI boom is primarily driven by commercial data surveillance of a small handful of firms across our digital lives. The AI arms race toward larger and larger scale is incentivizing tech companies to scrape up increasing quantities of our personal data in a rush to develop and train their AI models. This makes baseline privacy principles, ranging from data minimization and accuracy to norms around data security such as retention limits, ever more urgent.

Comprehensive privacy protections are foundational to regulating AI, given that unchecked and invasive data surveillance is the basis for many of its harmful impacts. Those impacts include facial recognition tools that subvert meaningful consent and opaque screening practices that sort people into punitive social categories. AI systems depend on massive troves of training data, and the proliferation of AI tools will kick off a flywheel effect that incentivizes more aggressive surveillance and collection of personal data. Moreover, AI applications like facial surveillance and other biometric technologies are not only invasive, they often don’t work as intended, and perpetuate systemic discrimination. Some applications, such as biometric categorization, emotion analysis, or predictive policing, simply [lack scientific validity](#), and may have disproportionately negative impacts on individuals with disabilities, whose biometric measurements and presentations of emotions may exist outside of what an algorithm determines is the “norm.”

Limits on data surveillance are also a potent vector for competition. The push to build AI at larger and larger scale increases the demand for the very same resources that Big Tech firms have steadily accumulated and are best positioned to further consolidate. For a vibrant, innovative and competitive AI ecosystem, legislators and regulators must advance privacy and competition goals in concert. In particular, legally binding data minimization rules, that tackle unfettered first-party data surveillance, as well as limit secondary uses of data for training AI, are a key way forward.

Mountains of Evidence

Publication	Authors	Year
Artificial Intelligence and Privacy	Daniel J. Solove	2024
Zero Trust AI Governance	Accountable Tech, AI Now Institute, and EPIC	2023
Italian privacy regulator bans ChatGPT	Politico	2023
Privacy First: A Better Way to Address Online Harms	Electronic Frontier Foundation	2023
How the FTC Can Mandate Data Minimization through a Section 5 Unfairness Rulemaking	Electronic Privacy Information Center (EPIC) and Consumer Reports	2022
Ban Surveillance Advertising: Coalition Letter	Accountable Tech	2022
Amazon and the Rise of Luxury Surveillance	Chris Gilliard	2022
Ban Biometric Surveillance	Access Now	2022
Accountable Tech Petitions FTC to Ban Surveillance Advertising as an “Unfair Method of Competition”	Accountable Tech	2021
Physiognomic Artificial Intelligence	Luke Stark and Jevan Hutson	2022
Surveilling the Digital Abortion Diary	Cynthia Conti Cook	2022
Regulating Biometrics: Global Approaches and Open Questions	AI Now Institute	2020
Ban Facial Recognition Technologies for Children—and for Everyone Else	Lindsey Barrett	2020
Global Data Privacy Laws 2019: 132 National Laws & Many Bills	Graham Greenleaf	2019
Between Truth and Power	Julie Cohen	2019
Artificial Intelligence Policy: A Primer and Roadmap	Ryan Calo	2017
Critical Questions for Big Data	Danah Boyd	2012

6. Competition

AI is the product of existing concentration of power and control in the digital economy. That means monopolization down the AI stack is a feature, not a bug. This is particularly clear when we look at the control of essential online platforms, data, computing power, cloud capacity, capital, and expertise. What we see is that all these basic technologies and inputs are already dominated by two or three of the most powerful corporations the world has ever seen.

We must not confuse the appearance of market diversity with real competition. There may be a growing number of AI firms in the market. But the great majority of these are active in the downstream application layer of the AI stack, where they pose little threat to the concentrated power the tech giants enjoy upstream in foundation models, cloud computing, semiconductors and more. Those firms that do appear capable of challenging the giants, such as OpenAI and Anthropic, are being absorbed or neutralized through “partnerships” with dominant tech firms.

Unwinding partnerships and preventing the tech monopolies from further entrenching their dominant positions in the marketplace is critical—but it is only a first step. Given the already extreme levels of concentration in the tech sector, policymakers must take bold action to neutralize, and where possible break open, the concentrated power and resources currently controlled by the tech giants.

Among other measures, this involves ensuring that these platforms provide fair and non-discriminatory treatment to every individual and business that depends on their services. It is vital to recognize that some of the most dangerous threats now being amplified by AI derive from the ability of the corporations that control essential monopoly platforms to manipulate users on both sides of their platforms.

Our broad failure thus far to apply these lessons to the digital gatekeepers that dominate our online and offline lives has already resulted in a wide array of extreme harms to our democracy, individual liberty, and prosperity. In recent years, this has begun to change, thanks to a revolution in antimonopoly lawmaking in Europe and in law enforcement in the United States. But this work remains far from done, and the advent of AI makes it all that much more urgent to complete the job.

There are already clear policy pathways that are ripe for action, ranging from prohibiting discrimination by powerful gatekeeper platforms and mandating interoperability and data portability, to recognizing cloud computing as an essential infrastructure and applying regulatory mandates that separate ownership of such infrastructure and control of related AI technologies. The last decade has also reaffirmed the case for stricter control of mergers, combating collusive behavior both by companies and through algorithms, as well as continued strategic collaboration between competition law enforcers and data protection and privacy regulators.

Mountains of Evidence

Publication	Authors	Year
AI in the Public Interest: Confronting the Monopoly Threat	Barry Lynn, Max von Thun, Karina Montoya (Open Markets Institute)	2023
Computational Power & AI	Jai Vipra and Sarah Myers West (AI Now Institute)	2023
Market concentration implications of foundation models: The Invisible Hand of ChatGPT	Jai Vipra and Anton Korinek (Brookings)	2023
AI Foundation Models review	Competition and Markets Authority (UK)	2023
How Nvidia created the chip powering the generative AI boom	Tim Bradshaw and Richard Waters (Financial Times)	2023
AI Now 2023 Landscape: Confronting Tech Power	Amba Kak and Sarah Myers West (AI Now Institute)	2023
How Microsoft's \$13 Billion Bet Made It a Force in AI	Danielle Balbi (Bloomberg)	2023
An Antimonopoly Approach to Governing Artificial Intelligence	Tejas Narechania and Ganesh Sitaraman (Vanderbilt Policy Accelerator For Political Economy & Regulation)	2023
Inside the secret list of websites that make AI like ChatGPT sound smart	Kevin Schaul, Szu Yu Chen and Nitasha Tiku (The Washington Post)	2023
IAC warns regulators generative AI could wreck the web	Sara Fischer (Axios)	2023
Open Markets Submits Public Comment on Artificial Intelligence & Copyright	Open Markets Institute	2023
Microsoft threatens to restrict data from rival AI search tools	Nilutpal Timsina and Juby Babu (Reuters)	2023
On Algorithmic Wage Discrimination	Veena Dubal (UC San Francisco)	2023
Open (For Business): Big Tech, Concentrated Power, and the Political Economy of Open AI	David Gray Widder, Sarah West, and Meredith Whittaker	2023
Monopoly Power Is the Elephant in the Room in the AI Debate	Max von Thun (Tech Policy Press)	2023
Tasks, Automation, and The Rise In U.S. Wage Inequality	Daron Acemoglu and Pascual Restrepo (Econometrica)	2022
Algorithms and Collusion	Maurice Stucke and Ariel Ezrachi	2017

7. Consumer Protection and Unfair Business Practices

While all AI systems are subject to consumer protection laws, generative AI systems introduce [particular concerns](#) around bias, deception, and harms to privacy and public safety. Despite these concerns, Big Tech firms are rushing ahead with commercial releases of novel products absent adequate frameworks for benchmarking and validation, let alone independent oversight or measures to prevent these consumer protection harms.

Consumers are, rightly, suspicious of this technology: [Pew Research Surveys](#) have shown that 70% say they have little to no trust in companies to make responsible decisions about how they use AI in their products. The Federal Trade Commission likewise [reported](#) an uptick in the number of concerns it is receiving from consumers about harms related to AI, spanning the life cycle from how AI systems are being developed to how they are deployed in the real world. Consumers are concerned that biometric data like voice recordings collected during customer support calls are being used to train AI systems.

From text to image generators, there have been numerous reports of [false and disparaging information generation](#), [personal data leaks](#), deceptive advertising and recommendation by GPT-powered bots, and sexually explicit [deepfakes targeting celebrities](#) and young women on college campuses. There are concerns about LLM-powered chatbots being [integrated with search engines](#) that can pollute the entire online information ecosystem and cause severe risks to consumers; for example, dispensing [inaccurate medical advice](#) or pushing [illegal products](#). Consumers face real risks from generative AI products, ranging from deceptive commercial statements and advertising to bad investment or debt management advice, to addictive and aggressive commercial practices towards children and teenagers.

Big Tech companies simply disclaim liability for malicious use and for the consequences of the commercial release of AI products/systems. OpenAI has stated that it is [not possible to correct or erase false or incorrect data](#) in ChatGPT, and appears to only [selectively enforce](#) its permissible use policy. The information page on Snapchat states that its AI feature “may include biased, incorrect, harmful or misleading content” and suggests that [users should independently verify](#) any advice it gives before acting on it. This is not enough.

Mountains of Evidence

Publication	Authors	Year
Governments vs. ChatGPT: Investigations around the world	Stephanie Borg Psaila	2023
Toxicity in ChatGPT – Analyzing Persona-Assigned Language Models	Ameet Deshpande, Vishvak Murahari, Tanmay Rajpurohit, Ashwin Kalyan, and Karthik Narashiman	2023
Three ways AI chatbots are a security disaster	Melissa Heikkilä	2023
We Must Regulate A.I. Here’s How	Lina Khan	2023
ChatGPT Is Ingesting Corporate Secrets	Bruce Schneier	2023
Managing AI Risks in an Era of Rapid Progress	Yoshua Bengio, Geoffrey Hinton, Andrew Yao et al.	2023
Ghost in the Machine: Addressing the Consumer Harms of Generative AI	Norwegian Consumer Council	2023
Pandora’s Box: Generative AI Companies, ChatGPT, and Human Rights	Human Rights Watch	2023
Policy makers: Please don’t fall for the distractions of #AIhype	Emily M. Bender	2023
OpenAI’s policies hinder reproducible research on language models	Arvind Narayanan and Sayash Kapoor	2023
People Are Using AI for Therapy, Even Though ChatGPT Wasn’t Built for It	Bloomberg Technology	2023
Your Personal Information Is Probably Being Used to Train Generative AI Models, Scientific American	Lauren Leffer	2023
Social media platforms generate billions of dollars in revenue from U.S. youth: Findings from a simulated revenue model	Harvard T.H. Chan School of Public Health	2023
How to Recognize AI Snake Oil	Arvind Narayanan	2021
On the Dangers of Stochastic Parrots	Emily Bender, Timnit Gebru, Angelina McMillan-Major and Schmargaret Schmitz	2021

8. Democracy

The AI industry poses a substantial risk to our democracy. This may happen, yes, through the manipulation of election results or the influencing of voters with deepfakes, but the more significant threat is corporate capture of public infrastructure, procurement, and subverting public accountability processes through, for example, private vendor claims of intellectual property. Senator Schumer’s AI Insight Forums themselves demonstrate how tech corporations seek to [capture the public debate about AI](#), lobby the government behind closed doors, and write their own rules. In these forums, there was no meaningful engagement with the public; the public did not even have a chance to watch. Senators were told they could not ask questions to the participants. The transcripts, which are supposed to be public record, are still not available. Insight Forums failed on these two key metrics that measure [alignment with democratic values](#).

A major threat to democracy is [AI-generated deepfakes](#). Deepfakes, typically spread through virality on social media, are difficult to debunk. [India’s elections offer a preview](#) of how easily malicious actors can develop fake media around campaigns. Beyond deepfakes, AI-generated risks include propaganda spread by mass “[influence campaigns](#)” in text, audio, and visual formats.

AI also threatens to circumvent democratic processes and close off public participation, including: administrative agency public notice and comment requirements, reliance on [trade secret](#) exemptions to [demands for information](#) and algorithmic reporting requirements, and blocking access to courts through forced arbitration and government contractor defenses. Digital public goods, like [government chatbots](#) and [centralized databases](#), also fail to serve the public’s interest when designed and developed by the private sector. Companies which should be held to account for their business models and risky AI systems are now sitting in critical infrastructure “[AI safety and security](#)” boards at the highest levels, capturing the regulatory approaches, and shaping the narrative of what is safe and secure, and for whom. These companies have already entrenched and calcified themselves within the public sector infrastructure. They are now in a gatekeeping position to further their hold and power on the most [critical sectors](#).

Mountains of Evidence

Publication	Authors	Year
AI and Democratic Values Index	Center for AI and Digital Policy (CAIDP)	2024
Don't Let Governments Buy AI Systems That Ignore Human Rights	Merve Hickok, Evanna Hu	2024
Administering a Democratic Industrial Policy	Amy Kapczynski and Joel Michaels	2024
Harnessing Power of Procurement	Local Progress & In the Public Interest	2023
Outsourced and Automated	EPIC	2023
The Hidden Governance in AI	Abigail Jacobs & Deirdre Mulligan	2022
AI and Procurement Essays	UPenn	2022
Public procurement of artificial intelligence systems: new risks and future proofing	Merve Hickok	2022
Government by Algorithm: Artificial Intelligence in Federal Administrative Agencies	Stanford & NYU Law	2022
Screened & Scored in the District of Columbia	EPIC	2022
Transparency's AI Problem	Hannah Bloch-Wehba	2021
Smart-City Digital ID Projects: Reinforcing Inequality and Increasing Surveillance	Mizue Aizeki and Rashida Richardson	2021
The Automated Administrative State: A Crisis of Legitimacy	Ryan Calo and Danielle Citron	2020
Procurement as Policy: Administrative Process for Machine Learning	Deirdre Mulligan & Kenneth Bamberger	2019
Algorithmic Transparency for the Smart City	Ellen Goodman & Robert Brauneis	2017

9. Industrial Policy: Public Investments in AI

Beyond regulation, public spending on AI should work to actively shape the direction of innovation beyond the narrow profit-driven incentives of the largest tech companies. Two tentpole policy initiatives currently form the core of AI-related industrial policy at the federal level: the CHIPS Act, federal legislation that subsidizes US-based semiconductor manufacturing; and NAIRR, a proposal for the creation of cloud-based resources for research and development into artificial intelligence. At the state level, we’ve seen initiatives like EmpireNY in NY and CalCompute in CA.

What we are missing is a clear mandate for how such public funds are oriented towards innovation that creates public benefit, rather than further concentrating power in companies that control AI infrastructure (via licensing contracts) or fueling more resources into tech directions that have harmful environmental and social impacts. We need to scrutinize claims of benefits and disentangle AI innovation from the incentive structures of Big Tech. This means public funds should be used beyond large scale generative AI. Lawmakers should prioritize funding AI accountability tools and capacity building in order to better evaluate claims made by AI companies, as well as to evaluate research proposals based on their broader social and climate impacts rather than by narrow metrics of performance.

Mountains of Evidence

Publication	Authors	Year
Dynamics of Corporate Governance Beyond Ownership in AI	Cecilia Rikap (Common-Wealth)	2024
The role of public compute	Eleanor Shearer, Matt Davies, Mathew Lawrence (Ada Lovelace Institute)	2024
The Right Way to Regulate AI	Alondra Nelson (Foreign Affairs)	2024
A Modern Industrial Strategy for AI?: Interrogating the US Approach	Amba Kak and Sarah Myers West	2024
MyCity: A Case Against “CompStat Urbanism”	Surveillance Resistance Lab	2024
The Problem With Public-Private Partnerships in AI	Amba Kak and Sarah Myers West	2024
Building Public Capacity on Artificial Intelligence	Vanderbilt Policy Accelerator	2023
Semi-Politics: Intel and the future of US chipmaking	Susannah Glickman	2023
The Need for Corporate Guardrails in US Industrial Policy	Lenore Palladino, Isabel Estevez (Roosevelt Institute)	2022
Democratize AI? How the Proposed National AI Research Resource Falls Short	AI Now Institute and Data & Society Research Institute	2021

10. Climate Change

As climate catastrophe causes extreme devastation to communities around the world and the threat of even further warming plagues us, Silicon Valley execs are selling AI as the solution. Google, along with Boston Consulting Group, claims that AI has the potential to mitigate global greenhouse gas emissions over the next decade. But such techno-solutionist approaches aren't backed by evidence: There's [little to suggest](#) that AI provides the fix to our climate challenges. Rather, these carbon and water-guzzling AI technologies may exacerbate the problem.

The current reality is that the high energy demand accompanying the AI boom is causing the first major spike in American energy use in fifteen years, [delaying](#) coal plant closures across the US while straining power grids and slowing our transition to clean energy. As a stopgap, AI companies are making investments in [nuclear fusion](#) and energy startups.

These minor measures don't distract from what is now abundantly clear: The boom in large-scale AI substantially increases carbon emissions, worsening the existential fight for our planet—not to mention fueling a staggering rise in climate disinformation that is undermining calls for urgent environmental action. The current trajectory points to a future battle for [energy access](#) and [water supplies](#) between people and AI companies. In the next two years, the International Energy Agency [estimates](#) the energy use from data centers that power AI will double, consuming as much energy as Japan. It is worth mentioning that, like the technologies themselves, the effects of climate change will have a disproportionately negative impact on already marginalized individuals, including [indigenous communities](#), those who are [low income](#), as well as [people with disabilities](#).

Rather than attempt to use AI to fix problems introduced by AI, we must limit the proliferation of large-scale AI, including through bright line measures like data minimization. At a minimum, before advertising their AI tools as allies in the fight against climate change, tech companies should be required to produce annual transparency reports that make clear the environmental costs associated with AI models and hardware's lifecycle, including energy consumption, e-waste, and pollution. Instead of relying on industry's self-serving claims about AI's benefits to society, we must interrogate whether the technology has material benefit to the public interest and weigh actual data.

Mountains of Evidence

Publication	Authors	Year
Climate Action Against Disinformation: Artificial Intelligence Threats to Climate Change	Friends of the Earth, Greenpeace, Global Action Plan, Check My Ads, Kairos	2024
Brookings: The US Must Balance Climate Justice in the Era of Artificial Intelligence	Joseph B. Keller, Manann Donoghoe, and Andre M. Perry	2024
Counting carbon: A survey of factors influencing the emissions of machine learning	Sasha Luccioni and Alex Hernandez-Garcia	2023
Climate Justice and Labor Rights	Tamara Kneese	2023
AI Now Institute: The Climate Costs of Big Tech	AI Now Institute	2023
Hugging Face: Estimating the Carbon Footprint of BLOOM, a 176B Parameter Language Model	Alexandra Sasha Luccioni (Hugging Face), Sylvain Viguier (Graphcore), Anne-Laure Ligozat (LISN & ENSIEE)	2022
AI Now Institute: AI and Climate Change: How They're Connected, and What We Can do About It	Roel Dobbe, Meredith Whittaker	2019
Global Partnership on AI: Climate Change and AI	Peter Clutton-Brock (Radiance International), David Rolnick (McGill University and Mila), Priya L. Donti (Carnegie Mellon University), Lynn H. Kaack	2021
Energy and Policy Considerations for Deep Learning in NLP	Emma Strubell, Ananya Ganesh, Andrew McCallum	2019

11. Poverty

AI is increasingly involved in every aspect of the lives of people living in or near poverty: public benefits, housing, employment, family stability, and K-12 education. The results are universally devastating. People with disabilities face cuts to in-home care, as millions of Medicaid beneficiaries lose coverage for “procedural reasons” tied to states’ use of automated eligibility determination systems. SNAP recipients face erroneous fraud accusations. Tenants lose out on housing due to false information in algorithmically constructed screening reports, or screening systems that include factors which [disproportionately affect disabled people and people of color](#). Low-wage workers face destabilizing scheduling and pay changes and constant surveillance that impedes their right to advocate for better job conditions. Children are taken away from their parents and placed in foster care due to algorithms that determine the parents to be abusive or neglectful. School-age children are labeled “at risk,” with districts then either writing them off or engaging law enforcement in targeted harassment campaigns. The ultimate effect is widespread loss of income and narrowing of opportunities.

These harms are intensified for particularly vulnerable communities, including disabled people and people who primarily speak languages other than English. These groups already face poverty rates approximately double those of their counterparts (non-disabled people and people with full English proficiency, respectively), increasing their exposure to the problematic dynamics noted above. For example, benefits supporting disabled people, including Social Security Disability Insurance and Supplemental Security Income, feature AI-related systems that routinely cause benefit denials just like other public benefit systems.

In addition, certain problems posed by AI-related technologies endemic to vulnerable communities are linked to, but distinct from, those posed by poverty. First, AI-related technologies rarely meet the legal requirements to provide reasonable access to programs or services for disabled people or people who primarily speak non-English languages. For instance, websites that are automatically translated into non-English languages often do not make sense, and contain inaccurate or misleading information. Second, systemic biases against disabled people and people with limited English proficiency are often baked into AI-related technologies such that any use reproduces and perpetuates existing inequities.

To date, accountability mechanisms have fallen far short of the risks. Robust accountability requires certain high-risk AI uses to be altogether impermissible. For permitted uses, AI systems must be developed, purchased, and used in ways that maximize transparency, create meaningful participation possibilities for affected communities with power to slow or stop uses, thorough and enforceable testing, validation, and monitoring practices, robust government oversight, effective redress mechanisms that account for the realities of poverty and related vulnerabilities, and the requirement that users maintain non-AI ways to perform the same function.

Mountains of Evidence

Publication	Authors	Year
United Against Algorithms: A Primer on Disability-led Struggles Against Algorithmic Injustice	Data Justice Lab	2024
Case Study Library	Benefits Tech Advocacy Hub	2022
An Algorithm That Screens for Child Neglect Raises Concerns	Sally Ho and Garance Burke, The Associated Press	2022
Essential Work: Analyzing the Hiring Technologies of Large Hourly Employers	Upturn	2021
Targeted	Kathleen McGrory and Neil Bedi, Tampa Bay Times	2020
The Automated Administrative State: A Crisis of Legitimacy	Danielle Citron and Ryan Calo	2020
Challenging the Use of Algorithm-driven Decisionmaking in Benefits Determinations Affecting People with Disabilities	Center for Democracy and Technology	2020
Disability, Bias, and AI	AI Now Institute	2019
Automated Background Checks Are Deciding Who's Fit for a Home	Colin Lecher, The Verge	2019
Workplace Monitoring and Surveillance	Data & Society	2019
Automating Inequality	Virginia Eubanks	2018
What Happens When an Algorithm Cuts Your Health Care	Colin Lecher, The Verge	2018