



## Guidance for Recognizing Artificial Intelligence in Case Intakes

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### PURPOSE

Artificial Intelligence (AI) is increasingly a factor in cases of discrimination statewide in Michigan but can be difficult to discern, due to its novelty and many forms. *Michigan Department of Civil Rights (MDCR) officers need tools and knowledge around where and how to identify AI as a relevant factor in a case, across jurisdiction areas.* AI discrimination may occur through data bias, sampling bias, or algorithmic bias. Whereas data or selection biases occur when the data on which the AI tool is drawing (the “training data”) is not representative of the population, sampling bias occurs when the tool’s sampling methods are skewed toward a certain group. With algorithmic bias, an algorithm may systematically create “unfair” outcomes and can be more difficult or impossible to trace.

One point of intervention is the MDCR intake process: *During intake, MDCR officers should know which questions to ask in order to help identify AI as a potential factor in a case.* This document provides guidance for doing so in the form of example cases and potential questions to ask during the intake process.

### AI Basics and Relevance

The following is reproduced from STPP’s 2024 [Artificial Intelligence Handbook for Local Government](#) by Trevor Odelberg et al.:



#### What is artificial intelligence?

Artificial intelligence (AI) refers to using technologies to create machines that imitate human cognitive functions including interpreting language, seeing, hearing, and responding to human actions adaptively. AI can be as simple as a spam filter or as complex as an autonomous robot. However, the exact line between a traditional algorithm and an AI algorithm is blurry.

#### What programs use artificial intelligence?

Spell check, autocomplete, and personalized recommendations from an online retailer or service are a few examples. However, today, when people talk about AI tools, they often refer to general-purpose generative AI programs such as ChatGPT, Gemini, and Copilot. These programs are also often integrated as ‘widgets’ within websites or software. AI can be integrated in visible and non-visible ways in many different modern software applications. Software companies increasingly use AI as a marketing term, making it difficult to understand the actual extent of AI use in a given piece of software.

#### What is generative artificial intelligence? (ChatGPT, Gemini, Copilot)

Generative AI is a class of new technologies that produce content like text or images based on inputs from the user. Some examples of generative AI tools are ChatGPT (OpenAI), Gemini (Google), and Copilot (Microsoft). These programs are trained on very large quantities of text or images, and function similarly to advanced chatbots, quickly generating realistic text and images from user input.<sup>1</sup>



### How does AI work?

AI tools are “trained” to find patterns in textual or visual data. This is also called “machine learning”; AI tools learn from existing data and make predictions based on that data. For instance, an AI tool may learn that a certain class of job applicants is historically most successful in securing interviews or most often hired. Because of existing disparities in hiring (e.g., racial and gendered disparities in executive-level positions), an AI tool would predict the most suitable candidate based on their alignment with previously successful applicants, reproducing those existing disparities. Essentially, the AI algorithm was trained to digest a dataset, identify patterns, and use those patterns to predict relationships between demographic criteria and hiring outcomes.<sup>2</sup>

Many datasets are scraped from the internet; in addition to reproducing human biases and historical patterns of discrimination, they also learn only from what is available to them—but do not necessarily discern or interpret information based on its source. For example, an AI algorithm may learn only or mostly from English-language sources, leading to a sampling bias.

### Why is AI a concern for civil rights cases and enforcement?

AI tools are attractive to government agencies, employers, lenders, landlords, and others who need to process or sort large pools of applicants or claimants as they enhance efficiency and, it is often perceived, increase “objectivity” in decision-making processes. *However, AI tools often produce discriminatory results, reflecting the human biases on which they were trained.*

The Civil Rights Act of 1964 provides a basis for defining algorithmic accountability and its meaning under US anti-discrimination laws.<sup>3</sup> Individuals are therefore entitled to protection from algorithmic discrimination under civil rights principles and legislation; however, because of AI’s novelty and opacity, enforcers (like MDCR) do not yet have the means to identify when AI influenced a case. Algorithms are often black-boxed, meaning that it is unclear exactly which variables they consider and how, rendering it difficult to prove intent and sometimes to prove discrimination altogether.

Civil rights enforcement officers at all levels of government have a sizable role to play in exposing how patterns of discrimination show up across sectors and are well-positioned to do so as they are generally in direct contact with complainants.

Current federal legislation insufficiently addresses these concerns. While disparate impact liability applies, the United States is lagging in terms of enforcement, in particular, and clear mandates for litigating these cases.<sup>4</sup> While comprehensive federal legislation addressing AI discrimination is necessary, it is important for enforcement agencies such as MDCR to be familiar with AI and its potential impacts in the meantime.

### Types of AI & Example Uses of AI in MDCR-Relevant Sectors

#### Predictive tools (e.g., lender risk algorithms)

Examples:

- Discriminatory outcomes in home loan applications: Credit access has been linked to race and gender, despite fair-lending laws.<sup>5</sup> This is a clear example of reproduced historical biases, as minority borrowers have had lower mortgage approval rates and higher interest rates for decades. AI tools do not eliminate discriminatory outcomes.<sup>6</sup>
- AI use in employment recruitment screening: AI-enabled hiring software has the ability to both recruit candidates and screen applicants. An AI-enabled hiring software may, for example, analyze self-recorded asynchronous interview videos for the applicant’s race, tone of voice, facial expressions, gender, and age. It may also task applicants with “game-based” assessments, such as logic or word puzzles, and applicants likely do not receive information on how the gamified assessment informs a given outcome.
- Racial discrimination in healthcare: AI tools are generally not subject to FDA regulation—as other medical devices often are—or ongoing oversight within the healthcare sector.<sup>7</sup> This has led to known discriminatory outcomes; for example, inconsistent risk assessments that lead to under-diagnosis or under-treatment of Black patients specifically.<sup>8</sup>



Photo credit: DC Studio, stock.adobe.com

## Potential Intake Questions (for MDCR complaint process)

### Employment

- Did you engage with a chatbot at any stage during the application process?<sup>14</sup>
- Were you asked to submit recorded video responses to interview questions? ([Hirevue](#), [Interviewer.AI](#))
- Were you asked to play computer games or take a personality test as part of the screening process? ([Hirevue](#), [Harver](#), [Crystal](#))
- Did you receive communication from a potential employer that contained some indication that it was produced by AI? Examples may include: grammatical errors, unusual word choice or sentence structure, disconnect from context, leftover prompt text (e.g., “Write an email about...”).
- Do you have a common name or one that may be (or has been) associated with racial stereotypes?

### Housing

- What tenant screening system did the prospective landlord use?
- Did you request a copy of the tenant screening reports from the prospective landlord? If so, is the information correct?
- Did you receive communication from a potential lender that contained some indication that it was produced by AI? Examples may include: grammatical errors, unusual word choice or sentence structure, disconnect from context, leftover prompt text (e.g., “Write an email about...”).
- Do you have a common name or one that may be (or has been) associated with racial stereotypes?
- Were you told the basis of the decision (e.g., why you were denied a loan)?

### Law enforcement

- What was the evidence used to identify you for your arrest or citation (e.g., facial recognition, license plate reader, ShotSpotter), if known?
- Was the police report written by AI?
- Do you have a name that may be (or has been) associated with racial stereotypes?

### Pattern matching (e.g., facial recognition)

Examples:

- Facial recognition technology is linked to racial disparities in arrests across the US.<sup>9</sup> These tools have variable accuracy across different demographic categories and are substantially less accurate with non-white faces. The first known case of a wrongful arrest using facial recognition technology occurred in Detroit in 2020 when an innocent Black man was arrested in front of his family and held overnight solely because of a faulty face match.<sup>10</sup>
- Other police activities such as social media analysis and extraction of cell phone data may rely on pattern matching tools to identify potentially illicit behavior.<sup>11</sup>

### Generative AI (e.g., ChatGPT, Copilot)

Examples:

- Price discrimination in the housing market: Use of generative AI to set selling prices for houses (e.g., “Zestimates” on Zillow) may reflect bias from training data based on neighborhood demographics or ZIP code.<sup>12</sup>

### Combinations of the above (e.g., virtual assistants or “chatbots”)

Examples:

- Automatic diagnoses in the healthcare sector: Doctors may use pattern recognition software to analyze medical imaging (e.g., X-rays), which may have been trained on biased data.<sup>13</sup>

## ENDNOTES

1. Trevor Odelberg et al., *Artificial Intelligence Handbook for Local Government*, University of Michigan Science, Technology, & Public Policy Program and Michigan Municipal League (September 2024), <https://stpp.fordschool.umich.edu/sites/stpp/files/2024-09/michigan-municipal-league-AI.pdf>
2. Odelberg et al., *AI Handbook*.
3. Robert Bartlett et al., "Algorithmic Discrimination and Input Accountability under the Civil Rights Acts," *Berkeley Technology Law Journal* 36 (2021): 675–736, <https://doi.org/10.15779/Z381N7XN5B>.
4. Chiraag Bains, "The legal doctrine that will be key to preventing AI discrimination," Brookings, 2024, <https://www.brookings.edu/articles/the-legal-doctrine-that-will-be-key-to-preventing-ai-discrimination/>.
5. Pablo De Andrés, Ricardo Gimeno, and Ruth Mateos de Cabo, "The gender gap in bank credit access," *Journal of Corporate Finance* 71 (2021): 101782, <https://doi.org/10.1016/j.jcorpfin.2020.101782>.
6. Shivam Agarwal, Cal B. Muckley, and Parvati Neelakantan, "Countering racial discrimination in algorithmic lending: A case for model-agnostic interpretation methods," *Economics Letters*, 226 (2023): 111117, <https://doi.org/10.1016/j.econlet.2023.111117>.
7. Crystal Grant, "Algorithms Are Making Decisions About Health Care, Which May Only Worsen Medical Racism," ACLU News & Commentary, October 3, 2022, <https://www.aclu.org/news/privacy-technology/algorithms-in-health-care-may-worsen-medical-racism>.
8. Ziad Obermeyer et al., "Dissecting racial bias in an algorithm used to manage the health of populations," *Science* 366, no. 6464 (2019): 447–453, <https://doi.org/10.1126/science.aax2342>.
9. Thaddeus L. Johnson et al., "Facial recognition systems in policing and racial disparities in arrests," *Government Information Quarterly* 39, no. 4, (2022), 101753: <https://doi.org/10.1016/j.giq.2022.101753>.
10. Kashmir Hill, "Wrongfully Accused by an Algorithm," *The New York Times*, June 24, 2020, <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html?smid=url-share>.
11. "Governing with Artificial Intelligence: The State of Play and Way Forward in Core Government Functions," Organisation for Economic Co-operation and Development, accessed January 9, 2026, [https://www.oecd.org/en/publications/2025/06/governing-with-artificial-intelligence\\_398fa287/full-report/ai-in-law-enforcement-and-disaster-risk-management\\_99fc1804.html](https://www.oecd.org/en/publications/2025/06/governing-with-artificial-intelligence_398fa287/full-report/ai-in-law-enforcement-and-disaster-risk-management_99fc1804.html).
12. Jitsama Tanlamai, Warut Khern-am-nuai, and Maxime C. Cohen, "Generative AI and price discrimination in the housing market.," *SSRN Electronic Journal*, April 8, 2025: <http://doi.org/10.2139/ssrn.4764418>.
13. Burak Koçak et al., "Bias in artificial intelligence for medical imaging: fundamentals, detection, avoidance, mitigation, challenges, ethics, and prospects," *Diagnostic and Interventional Radiology* 31, no 2, (2025), 75–88: <http://doi.org/10.4274/dir.2024.242854>.
14. Anunshree Sharma, "How AI reinvented hiring practice at L'Oréal," *People Matters*, August 16, 2018, <https://www.peplematters.in/article/ai-and-emerging-tech/how-the-worlds-largest-cosmetic-company-transformed-its-hiring-practice-with-ai-19006>.