March 30th, 2021

NYC Council Speaker Corey Johnson
City Hall Office
New York, NY 10007
via U.S. Mail and Email

Re: Introduction Of New York City Facial Recognition Ban

Dear Speaker Johnson,

We, the undersigned civil rights and community-based organizations, write to urge you to introduce a comprehensive ban on government use of facial recognition in New York City.

For years, the New York City Police Department ("NYPD") has been a leading user of facial recognition, systematically subjecting New Yorkers to this biased, broken, and invasive technology. While we believe that no police department should use facial recognition, the NYPD's history of misconduct urgently requires nothing less than a categorical ban.

Facial recognition is a clear and immediate threat to New Yorkers' safety. When facial recognition makes mistakes, New Yorkers pay the price. The technology not only puts BIPOC New Yorkers at risk of false arrest and wrongful conviction, but it puts them at risk of the violence that so often comes with any police encounter, particularly for Black New Yorkers.[1]

The NYPD ignores facial recognition's proven bias, even as cities around the country move to outlaw the tool.[2] Instead, the NYPD double-downed on the tracking technology, running more than 22,000 facial recognition scans over the past 3 years.[3] But that figure represents only the NYPD's official facial recognition scans. Alarmingly, the department also ran more than 11,000 unofficial facial recognition searches using the controversial platform Clearview AI, which exploited billions of photos from the public to build a facial recognition database with millions of New Yorkers.[4]

The NYPD's facial recognition misconduct does not end there. Researchers at Georgetown University found that the NYPD frequently uses facial recognition in alarming, unscientific ways, further-compounding the risk of error.[5] This included running facial recognition searches of so-called "celebrity lookalikes." In one case, when a suspect was observed removing a beer from a New York City pharmacy without payment, the camera footage was too grainy for

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[1] PATRICK GROTHER, ET AL., FACE RECOGNITION VENDOR TEST (FRVT) PART 3: DEMOGRAPHIC EFFECTS (2019).

[2] *Bans, bills and moratoria*, ELECTRONIC FRONTIER FOUNDATION, https://www.eff.org/aboutface/bans-bills-and-moratoria (last visited Mar. 23, 2021).

[3] *NYPD Facial Recognition Lawsuit*, SURVEILLANCE TECHNOLOGY OVERSIGHT PROJECT, https://www.stopspying.org/nypd-facial-rec (last updated July 7, 2020).

[4] Ryan Mac, et al., *Clearview's Facial Recognition App Has Been Used By The Justice Department, ICE, Macy's, Walmart, And The NBA*, BUZZFEED (Feb. 27, 2020), https://www.buzzfeednews.com/article/ryanmac/clearview-ai-fbi-ice-global-law-enforcement.

[5] CLARE GARVIE, GARBAGE IN, GARBAGE OUT (2019).

officers to use facial recognition. Thinking that the suspect resembled the actor Woody Harrelson, officers then ran a facial recognition search using the actor's photo.[6] This absurd process led to the arrest of a New Yorker in that case. Mr. Harrelson was far from the only celebrity whose photo was used in this pseudoscientific manner. While the NYPD claims to have ended the celebrity lookalike practice, reports suggest that officers are still encouraged to photoshop (edit) images prior to facial recognition analysis, potentially increasing the risk of a false "match."

Even worse, when this technology does work, the NYPD has weaponized it to target over-surveilled communities and suppress dissent. The Department uses this invasive, Orwellian technology to track shoplifting and other minor violations in Black and Brown neighborhoods. And the Department has used the technology to target an alarming number of New Yorkers simply for being vocal against the NYPD itself. In at least one case, facial recognition was apparently used to target an organizer of a Black Lives Matter protest from the summer of 2020.[7] Because of this search, a SWAT team was sent to his door, his entire block was shut down, and his life was put in harm's way.

If we don't ban facial recognition soon, it may be too late. The NYPD is using facial recognition more and more each year. But facial recognition left in any other city agency's hands will be just as dangerous. Whether used by the Department of Transportation, the Department of Sanitation, or even the Department of Education, any city-run facial recognition program will be just one phone call or email away from becoming an NYPD facial recognition system. That's because other agencies will remain free to share their surveillance data with the NYPD. And if those agencies don't willingly offer-up their tracking tools, the NYPD can commandeer them with nothing more than a subpoena.

It's clear that New Yorkers must be protected from facial recognition. We call on you to immediately introduce legislation banning government use of facial recognition in New York City. Activists and lawmakers have been asking for this legislation to be introduced for years, and there's no justification for delay.

Cc: Chair Adrienne Adams

      Sincerely,

1. ACLU-MN
2. Advocacy for Principled Action in Government
3. Amnesty International
4. Amnesty International USA
5. Cedar Rapids For Digital Civility
6. Center on Race, Inequality, and the Law at New York University School of Law
7. Chicago Committee to Defend the Bill of Rights

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[6] *Id.*

[7] *Ban Dangerous Facial Recognition Technology That Amplifies Racist Policing*, AMNESTY INTERNATIONAL (Jan. 25, 2021), https://www.amnestyusa.org/press-releases/ban-dangerous-facial-recognition-technology-that-amplifies-racist-policing/.

8. Communities United Against Police Brutality
9. Council on American-Islamic Relations, New York (CAIR-NY)
10. Cryptoharlem
11. Cryptoparty Ann Arbor
12. Defcon201
13. Defending Rights & Dissent
14. Electronic Frontier Foundation
15. Electronic Privacy Information Center (EPIC)
16. Empire State Indivisible
17. Ethics In Technology
18. Fight for the Future
19. Immigrant Defense Project
20. Institute For Digital Humanity
21. Jewish Voice for Peace - New York City
22. Manhattan Young Democrats (MYD)
23. Mother's Against Wrongful Convictions
24. National Action Network
25. New York Civil Liberties Union
26. Oakland Privacy
27. PDX Privacy
28. Restore the Fourth Minnesota
29. Restore The fourth NYC
30. S.T.O.P. – The Surveillance Technology Oversight Project
31. Seward Police Abolition
32. TechActivist.Org
33. Tenth Amendment Center
34. The Legal Aid Society of NYC
35. X-Lab