

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS JOINTLY WITH THE  
COMMITTEE ON TECHNOLOGY AND THE COMMITTEE ON  
CONSUMER AFFAIRS AND BUSINESS LICENSING

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October 7, 2019  
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HELD AT: Council Chambers - City Hall

B E F O R E: ROBERT E. CORNEGY, JR.  
Chairperson

ROBERT F. HOLDEN  
Chairperson

RAFAEL L. ESPINAL, JR.  
Chairperson

COUNCIL MEMBERS: Fernando Cabrera  
Margaret S. Chin  
Mark Gjonaj  
Barry S. Grodenchik  
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Eric A. Ulrich  
Kalman Yeger  
Justin L. Brannan  
Karen Koslowitz  
Keith Powers

## A P P E A R A N C E S (CONTINUED)

Steven Ettannani, Executive Director for External Affairs, New York City Department of Consumer Affairsrel, recently renamed Department of Consumer and Worker Protection, DCWP, Appearing on behalf of Commissioner Lorelei Salas

Robin Levine, Assistant Commissioner for External Affairs and Communication, Department of Information Technology and Telecommunications, DOITT

Sarah Mallory, Executive Director of Government Affairs, New York City Department of Housing, Preservation and Development

Christina Zhang, Co-Chair, Knickerbocker Village Tenant Association

Albert Cahn, Executive Director, Surveillance Technology Oversight Project or STOP, Urban Justice Center

Vanessa Berganzoli. Member, Tenants' Association, 240 Broadway in Brooklyn, New York

Josh Steinbauer, New York City Loft Tenant

Fabian Rogers

Icy May Garner-Downs, (sic) Resident Representing Atlantic Plaza Towers Tenants Association

Anita Booker, Atlantic Plaza Towers Resident

Kathryn Francis, Third Generation Tenant of Atlantic Plaza Towers. Brooklyn

Summer Catignani Deputy Director, Tenants Rights Coalition, Legal Services NYC

Sky Devine, Rethink Link NYC

Vincent Southerland, Executive Director, Center on Race Inequality and the Law, NYU School of Law

Laura Heck-Falella, Legal Fellow, Liberty and National Security Program, Brennan Center for Justice

Daniel Schwartz, New Yorker Civil Liberties Union



COMMITTEE ON HOUSING AND BUILDINGS JOINTLY WITH  
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AFFAIRS AND BUSINESS LICENSING

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[sound check] [background comments]  
pause] [gavel]

CHAIRPERSON HOLDEN: Good morning. I am  
council Member Holden, Chair of the Committee on  
Technology. I want to welcome you to our hearing  
this morning. We are pleased to be joined today by  
the Committee on Housing and Buildings chaired by  
Council Member Cornegy. He should be here in a few  
minutes, and the Committee on Consumer Affairs and  
Business Licensing chaired by Council Member Espinal.  
Today we will focus on the use of facial recognition  
technology and biometric data collection in business  
and residences in New York City. The hearing will  
also focus on the following three bills: Intro 1170  
sponsored by Council Member Torres would required  
businesses to notify customers of the use of  
biometric identifying technology. Intro 1672  
sponsored Council Member Richards would require real  
property owners to submit registration statements  
regarding biometric recognition technology utilized  
on the premises. Preconsidered Intro the number is  
pending sponsored by Council Member Lander would  
define the term 'key' in the New York City Building  
Code and require building owners to provide keys to

1 residential tenants. New York City has seen an  
2 increased use of Facial Recognition Technology in  
3 residential buildings and businesses. This game  
4 changing technology has the ability to improve  
5 security, yet affects privacy. Unlike other  
6 biometric identifiers like fingerprints, facial  
7 recognition technology can operate at a distance and  
8 without anyone's knowledge or consent. In New York  
9 City cameras are everywhere as we know in retail  
10 stores, restaurants, on street corners, attached to  
11 buildings of vehicle and more. In the private  
12 section facial recognition technology can identify  
13 customers, prevent shoplifting and strengthen  
14 security among others. However, there is a little to  
15 no knowledge—there is little to no—little or no  
16 knowledge of how data generated from facial  
17 recognition technology is collected, stored and  
18 shared. With this technology there is a potential  
19 for data breaches that could result in grave  
20 consequences for those affected. After all, if a  
21 password gets hacked it can easily be changed.  
22 However, one's face is unique and irreplaceable.  
23 Today we will focus on the implementation of facial  
24 recognition technology in the private sector, and how  
25

1  
2 to balance the benefits of this technology. Even with  
3 strengthened security and improved consumer  
4 experiences the risk of data breaches and invasions  
5 of privacy pose serious concerns. We look forward to  
6 gain a better understanding of facial recognition  
7 technology and its uses in our city. We hope to work  
8 together with the Administration in mitigating any  
9 negative impacts on our communities and finding  
10 solutions. Today we will hear testimony from the  
11 Administration, industry experts and community  
12 advocates. I'd like to recognize my colleagues  
13 Councilman Lander, Council Member Koo, Council Member  
14 Ayala-Ayala is here? Yes. Council Member Yeger.  
15 I'm looking at you. Okay. Alright Council Member  
16 Powers, Council Member Cabrera. Did I say Council  
17 Member Richards and Grodenchik, Council Member  
18 Grodenchik and okay. [background comments] Oh,  
19 Council Member Louis. Sorry. I would like to  
20 acknowledge the staff of the Committee on Technology  
21 Counsel Irene Byhovsky, Policy Analyst Charles Kim  
22 and Finance Analyst Sebastian Bacchi. I'd also like  
23 to thank my own staff Daniel Kurzyna, and  
24 Communications Director Ryan Kelly for their value-  
25 valuable assistance in preparation for today's



1 hearing. I'd like to turn over the— my Co-Chair for  
2 today is Councilman Espinal.

3  
4 CHAIRPERSON ESPINAL: Thank you, Mr.  
5 Chairman.

6 CHAIRPERSON HOLDEN: Yes. sir.

7 CHAIRPERSON ESPINAL: Good morning. My  
8 name is Rafael Espinal and I am the Chair on the  
9 Committee of Consumer Affairs and Business  
10 Licensing. I want to thank the Chair of the  
11 Technology Committee, Councilman Bob Holden and the  
12 Chair of the Housing and Buildings Committee Council  
13 Member Cornegy for convening this important hearing  
14 today. In today's joint hearing we'll hear testimony  
15 on the issue of facial recognition technology, and  
16 how it is used in commercial establishments and  
17 residential housing. As the Chair of the Consumer  
18 Affairs Committee, I am deeply invested in ensuring  
19 that New York City's customers have honest,  
20 transparent and fair transactions with retailers and  
21 establishments. Developments in facial recognition  
22 and other biometric technology pose new consumer  
23 protection challenges in an atmosphere where there is  
24 already growing concerns, privacy—of privacy and  
25 personal data. While this technology has the

2 potential to be utilized in a number of positive  
3 ways, there are several valid concerns that need to  
4 be addressed. For example, at the moment businesses  
5 are not required to inform customers that their  
6 biometric information such as a face or fingerprint  
7 scan is being collected by the store or establishment  
8 they are in. Customers are also left in the dark  
9 about what happens to this information once the  
10 customer finalizes the transaction. As is  
11 highlighted in the Committee Report, facial  
12 recognition technology is highly imperfect and tends  
13 to misidentify people of color at very high rates.  
14 We have also heard that companies developing this  
15 type of software sometimes resort to shady or  
16 deceitful tactics to expand their databases or  
17 improve their product. Just last week we heard that  
18 in Atlanta, Google was hiring contractors to  
19 deliberately target people of color encouraging them  
20 to scan their faces in exchange for a \$5.00 gift card  
21 so that they could improve its new pixel device.  
22 According to a New York Daily New reporting of this  
23 practice, the contractors were told to go after  
24 people of color, conceal the fact that people's faces  
25 were being recorded and even lie to maximize their

1 data collections. It was even suggested that the  
2 contractors describe their face scam as a kind of  
3 selfie game similar to Snapchat. These kinds of  
4 deceptive practices are simply not acceptable.  
5 That's why I have co-sponsored Council Member Torres'  
6 bill Intro 1170 that would require businesses to  
7 notify customers if they are collecting biometric  
8 information of customers in their stores, and let  
9 them know how long the data will be retained, and  
10 whether it will be shared with a third party. We  
11 certainly do not want to stand in the way of  
12 technological advancements, but we do not want to  
13 ensure that—but we do want to ensure that consumers  
14 are fully aware of how their information is being  
15 gathered and used. As a forward thinking city, we're  
16 generally eager to embrace new technological  
17 developments. However, given the current lack of  
18 regulations and oversight of biometric identifiers,  
19 it is reasonable to take this moment to examine the  
20 issues more deeply. We look forward to hearing a  
21 wide range of views today on these and other bills.  
22 I now hand it over to Chair—I'll personally look.  
23 I'll now hand it over to Chairperson Holden who would  
24  
25

2 like to make a statement—who would like to proceed  
3 with the meeting today.

4 CHAIRPERSON HOLDEN: I'd like to  
5 introduce Councilman Richards who is going to speak  
6 on Intro 1672, his bill.

7 COUNCIL MEMBER RICHARDS: Thank you Chair  
8 Holden, Cornegy and Espinal for—and hearing Intro  
9 1672 today, and beginning the conversation around  
10 facial recognition technology and biometric data  
11 collection. My office worked on drafting this  
12 legislation out of caution for the increasing  
13 concerns around eroding privacy and the sharing of  
14 data without permission. Intro 1672 would require  
15 property owners to submit registration statements  
16 regarding the—regarding the use of biometric  
17 recognition technology. The bill would also require  
18 DOITT to establish a public database, and provide an  
19 annual report to the Mayor and the City Council. As  
20 technology rapidly advances we must put safeguards in  
21 place that ensures transparency for tenants and  
22 workers who live or work in an environment where  
23 their information is being tracked and stored. I am  
24 not sold on the idea that this technology should  
25 become an everyday reality for all New Yorkers, but I

1 think the first step is to gain a better  
2 understanding of how widespread the use of facial  
3 recognition technology is so we are better prepared  
4 if and when stronger protections need to be put in  
5 place. I look forward to hearing feedback from the  
6 Administration as well as the public so we can make  
7 the best decision possible in regards to how this  
8 legislation should move forward. I'd like to thank  
9 my Legislative Director Jordan Gibbons, and  
10 Legislative Counsel Irene Byhovsky for their work on  
11 drafting this bill, and thank you to the Chairs.

13 CHAIRPERSON HOLDEN: Thank you, Council  
14 Member. I want to recognize Council Member Lander to  
15 speak on his legislation.

16 COUNCIL MEMBER LANDER: Thank you Mr.  
17 Chairman. We appreciate the opportunity to have this  
18 hearing today. I appreciate everyone who's here. No  
19 one should be required to have their movements  
20 tracked just to enter their own home, but that is the  
21 reality that we are starting to face. Landlords  
22 increasing use of facial recognition, biometric  
23 tracking, Smart Key Technology and other technology  
24 that tracks your movements just to come into and out  
25 of your own home is growing, and it poses a serious

1 threat to the rights and privacy of tenants. This  
2 burden fall especially on rent stabilized tenants who  
3 face surveillance and intimidation from their  
4 landlords and it falls disproportionately on low-  
5 income communities and communities of color who are  
6 already subject disproportionately to greater  
7 surveillance in their daily lives. Increasingly  
8 tenants including some who are here are pushing back  
9 against the use of surveillance technology in their  
10 housing. We're joined today by some tenants from  
11 Atlanta Plaza Towers in Brownsville who together with  
12 Brooklyn Legal Services have filed a formal legal  
13 complaint of New York State Homes and Community  
14 Renewal seeking to block the use of facial  
15 recognition technology in their apartment building  
16 clearly designed for purposes of surveillance of  
17 tracking of intimidation of denying people their  
18 rights in a building that is overwhelmingly, if not  
19 entirely tenants of color. We've also heard some  
20 really horrible stories about what the impacts can be  
21 on individuals as well. One other tenant in Hells  
22 Kitchen, a 93-year-old was locked out of his  
23 apartment because he was unable to use Smart Phone to  
24 unlock his door using the latch lock, and app that  
25

1 had been installed by his landlord. He literally  
2 could not get into his home. This tenant along with  
3 his neighbors actually won a court settlement in  
4 which the judge required that landlord to give keys  
5 to all the tenants in the building, and in many ways  
6 it's the advocacy both of the Atlantic Plaza tenants  
7 and that courageous tenant that is behind the bill  
8 we're calling the Keys Act, Keep Entry to Your Homes  
9 Surveillance Free. While I support legislation that  
10 would even go further and ban the use of intrusive  
11 facial recognition and other surveillance  
12 technologies, the Keys Act is in part an elegant  
13 solution for making sure that everyone has a way of  
14 getting into their home that does not require them to  
15 subject themselves to surveillance. So, the bill  
16 would require that landlords give their tenants a  
17 physical key, a traditional key to the entry door to  
18 the apartment building, and also to your apartment  
19 itself, and would prohibit landlords and building  
20 owners from requiring that tenants subject themselves  
21 to facial recognition, biometric tracking or other  
22 keyless technologies that have the potential for  
23 tracking. We think this act would go a long way to  
24 putting New York at the forefront of protecting  
25

2 tenants, protecting people of color, protecting all  
3 of us from the harms that intrusive surveillance pose  
4 to our rights and our privacy. I look forward to  
5 hearing the testimony from the Administration, from  
6 tenants, from advocates today. We've got a lot to  
7 learn about this issue as well. I want to thank  
8 Genan Zilkha for her helping drafting the bill, and  
9 Steph Zokowski and Naomi Dann Formathis (sp?) Thank  
10 you.

11 CHAIRPERSON HOLDEN: Thank you Council  
12 Member Lander, and Counsel will read the affirmation  
13 to the Administration's first panel.

14 LEGAL COUNSEL: Do you affirm to tell the  
15 truth, the whole truth and nothing but the truth in  
16 your testimony, and respond honestly to Council  
17 Member questions?

18 MALE: I do.

19 FEMALE: I do.

20 FEMALE: I do.

21 LEGAL COUNSEL: Thank you.

22 CHAIRPERSON HOLDEN: I just want to  
23 remind you that Council Member Cornegy will be here  
24 in a few minutes and he will actually also read a  
25 statement. Okay, we could start.



2 STEVEN ETTANNANI: Good morning Chairs  
3 Holden, Espinal and members of the joint committee.  
4 My name is Steven Ettannani, and I am the Executive  
5 Director for External Affairs at the New York City  
6 Department of Consumer Affairs, recently renamed the  
7 Department of Consumer and Worker Protection or DCWP.  
8 I'd like to thank the joint committee for the  
9 opportunity to testify today on behalf of DCWP  
10 Commissioner Lorelei Salas regarding Intro 1170  
11 related to requiring commercial establishments to  
12 notify customers of their use of biometric identifier  
13 technology. DCWP appreciates and shares the  
14 Council's concern regarding the collection of  
15 biometric information and consumer privacy. DCWP  
16 protects and enhances the daily economic lives of  
17 New Yorkers to create thriving communities. DCWP  
18 licenses more than 75,000 businesses and more than 50  
19 industries and enforces key consumer protection,  
20 licensing and workplace laws that apply to countless  
21 more. By supporting businesses through equitable  
22 enforcement and access to resources and by helping  
23 resolve complaints, DCWP protects the marketplace  
24 from predatory practices and strives to create a  
25 culture of compliance. Through our community

1 outreach and work of our Offices of Financial  
2 Empowerment and Labor Policy and Standards, DCWP  
3 empowers consumers and working families by providing  
4 tools and resources they need to be educated  
5 consumers and to achieve financial health and  
6 work/life balance. In today's marketplace the use of  
7 technology to connect to the services and products we  
8 utilize is ubiquitous. Advances in technology now  
9 make it possible for consumers to use their biometric  
10 information for purposes of identification or  
11 authentication on networking platforms, devices and  
12 more. Increasingly, biometric information is  
13 replacing traditional forms of access control such as  
14 passwords and pins. At the same time, we are becoming  
15 aware of the unique challenges presented by the  
16 embedding of this technology into our everyday  
17 devices and how it facilitates the collection of  
18 biometric information by businesses and third  
19 parties. For example, multi-national companies have  
20 long applied their the access to consumer photos and  
21 videos to develop facial recognition technology.  
22 What once innocuous and convenient has now raised  
23 legitimate questions of the need of consumer consent  
24 and control over the collection, use and sharing of  
25

1 biometric information. This is even more salient  
2 with the potential for large scale breaches of  
3 databases containing consumer biometric information.  
4 Due to these concerns we have seen states across the  
5 country such as Montana, Florida, and even New York  
6 State develop legislation to prohibit the collection  
7 of biometric data without consumer consent. Consumer  
8 protection is at the heart of DCWP's mission and a  
9 myriad of laws guide our work toward the fundamental  
10 principle that an educated consumer is best  
11 positioned to make informed decisions in the  
12 marketplace. Naturally, a part of consumer education  
13 includes requiring businesses to post conspicuous  
14 notices and disclosures. DCWP requires signage  
15 related to price posting, refund policies and  
16 consumer rights pursuant to various city and state  
17 laws depending on the business. To promote  
18 compliance DCWP regularly educates individual  
19 businesses and trade associations about their legal  
20 obligations. Intro 1170 requires commercial  
21 establishments defined as "Any premises exercising  
22 trade, business, profession, vocation, commercial or  
23 charitable activity" across the city to conspicuously  
24 post signage alerting consumers that the  
25

1 establishment is collecting their biometric  
2 information. This information could include right  
3 now a iris scan, fingerprints, voice prints, hand  
4 scan or face geometry. Additionally, these  
5 establishments would have to make available online a  
6 description of the type of information they are  
7 collecting, how long it's been collected for, who  
8 they share the information with and the  
9 establishment's overall privacy policy governing the  
10 collection of this information. DCWP supports the  
11 intent of this legislation, but has concerns with  
12 enforcement of its provisions as currently drafted.  
13 First, the scope of biometric identifier information  
14 is unclear. For example, does a security camera  
15 capture an individual's face geometry? If so, does  
16 it matter whether the footage was "collected" to  
17 identify an individual? Absent guidance, the scope  
18 of conduct covered by this bill is ambiguous.  
19 Second, DCWP's typical enforcement practice with  
20 respect to signage requirements is for inspectors to  
21 conduct on-site inspections to verify that the  
22 signage has been posted, but before issuing the  
23 violation, DCWP would need reason to believe that an  
24 establishment is collecting, retaining, converting,  
25

2 sorting or sharing this information. Inspectors in  
3 the field will be unable in most circumstances to  
4 determine whether a business is capturing biometric  
5 information especially if a business is doing so  
6 surreptitiously, and DCWP does not have the  
7 investigative expertise to assess whether a business  
8 is for example collecting retina or iris scans.  
9 Third, Intro 1170's definition a commercial  
10 establishment appears to implicate nearly every brick  
11 and mortar business or premise conducting charitable  
12 activity in New York City. Determining how those  
13 establishments are collection biometric information,  
14 and then conducting it on-site inspection and online  
15 audit for each establishment poses extraordinary  
16 operational challenges. For the above reasons I've  
17 outlined, DCWP supports the intent of this  
18 legislation and would like to work with the Council  
19 and hear from today's panelist about how best to  
20 address these enforcement concerns. As I said  
21 earlier, DCWP believes that businesses and consumers  
22 alike reap the benefits of a fair and transparent  
23 workplace-marketplace. The agency welcomes a frank  
24 and thorough discussion about the scope of biometric  
25 information collection, its prevalence citywide and

2 how we can empower consumers through disclosures to  
3 make informed decisions. Thank you for the  
4 opportunity to testify today, and I'm now happy to  
5 answer any questions you may have.

6 ASSISTANT COMMISSIONER LEVINE: Good  
7 morning Chairs Espinal and Holden and members of the  
8 New York City Council Committee on Housing and  
9 Buildings, Consumer Affairs and Business Licensing  
10 and Technology. My name is Robin Levine and I'm the  
11 Assistant Commissioner for External Affairs and  
12 Communication for the Department of Information  
13 Technology and Telecommunications also known at  
14 DOITT. I'm here today to discuss Intro 1672 by  
15 Council Member Richards a local law to amend the  
16 Administrative Code of the City of New York in  
17 relation to requiring real property owners to submit  
18 registration statements regarding biometric  
19 recognition technology utilized on the premises. As  
20 many of you are aware, DOITT delivers a wide range of  
21 technology services to over 100 city agencies and  
22 governmental entities. Much of our public facing  
23 work that you are most familiar with is our franchise  
24 portfolio wherein we execute franchise agreements  
25 with telecommunication companies for use of public

1  
2 rights-of-way. While that is important work, our  
3 core mission as an agency is to help our sister  
4 agencies to fill their duty to serve New York City's  
5 8.5 million residents through technology. Among our  
6 functions for other agencies our hosting email  
7 managing the city-led Service Desk, negotiating  
8 master services agreements, hosting NYC.gov and  
9 maintaining data centers. To best serve city  
10 agencies with the resources they need, we regularly  
11 touch base with each agency's Chief Information  
12 Officer, an agency's CIO or make policy decisions on  
13 the kind of technology support an agency needs and  
14 confers with DOITT accordingly. We do not and should  
15 not unilaterally make decisions about what technology  
16 solutions agencies need to fulfill their policy  
17 goals, but we do work closely with each agency to  
18 figure out how to best support them. Thus, DOITT  
19 service model is designed to serve other government  
20 agencies as opposed to real property owners. Intro  
21 1672 would task DOITT with collecting registration  
22 statements from real property owners about the  
23 biometric technology we employ, enforced penalties  
24 against real property owners for failing to register  
25 and maintain a publicly searchable database of

1 registered properties. While we appreciate the  
2 confidence that the Council has in DOITT to fulfill  
3 the proposed requirements in this legislation, we are  
4 not the appropriate entity to do so. As written,  
5 Intro 1672 is not about the deployment of technology.  
6 It creates a new reporting requirement for real  
7 property owners. As such, we do not have existing  
8 tracking and enforcement process that would make this  
9 a good fit for DOITT. Nonetheless, we look forward  
10 to working with our sister agencies and the Council  
11 on an approach that would make best use of our areas  
12 of expertise. For example, the section of  
13 legislation relating to a public facing database is  
14 something we could assist the enforcement agency with  
15 building and deploying according to their  
16 specifications based on current data collecting and  
17 storing practices. We applaud the City Council's  
18 foresight in tackling this emergent area of policy.  
19 DOITT has been examining the broader issue of privacy  
20 as it related to our franchisees, and today's  
21 discussion is a welcomed complement to this work.  
22 I'm happy to answer Council Member questions.

23  
24 SARAH MALLORY: Good morning to the  
25 chairs and members of the committees that are here



1 today. My name is Sarah Mallory and I am the  
2 Executive Director of Government Affairs with the New  
3 York City Department of Housing, Preservation and  
4 Development. Thank you for the opportunity to  
5 testify on the Keys Act sponsored by Council Member  
6 Lander. This bill proposes the modification in the  
7 Housing Maintenance and Buildings Codes to clarify  
8 that building owners must provide mechanical key to  
9 residents and cannot require the use only electronic  
10 keyless entry methods. The de Blasio Administration  
11 has made protecting tenants a core part of its  
12 strategy to confront the affordable housing crisis.  
13 The Administration has worked in partnership with the  
14 City Council and various branches of government to  
15 tackle the issue with a comprehensive, multi-pronged  
16 approach. As a city we are focused on keeping people  
17 in their homes and neighborhoods as successfully  
18 advocating with many members of the Council to close  
19 loopholes in rent regulation laws at the state level  
20 creating and preserving historic numbers of  
21 affordable homes, empowering tenants with more  
22 resources, aggressively enforcing city codes and  
23 utilizing all of our partnerships to create data  
24 driven innovative tools targeted at stopping  
25

1 harassment before it starts. Physical security is an  
2 important part of ensuring that residents still face  
3 in their homes. Currently, HPD can and does issue  
4 violations for building entrance doors, and  
5 individual unit doors without lock sets in rental  
6 buildings or those with only electronic entry  
7 mechanisms. Electronic keyless entry methods without  
8 the option for mechanical keys are concerning for two  
9 reasons. One, dangers posed by the being locked out  
10 or locked in or not being able to lock the door at  
11 all as the energy source for the building becomes  
12 unavailable, and two, the potential for  
13 electronically tracking the movement of residents. We  
14 support maintaining the requirements for manual  
15 locking key sets until electronic methods of entry  
16 can be proven to not pose safety or privacy concerns,  
17 and thank Council Member Lander for his leadership on  
18 this issue. Thank you again for the invitation to  
19 testify and for this hearing on this bill today. I  
20 look forward to answering any questions.

22 CHAIRPERSON HOLDEN: Thank you all for  
23 your testimony. We've been joined by Council Member  
24 Rivera, Koslowitz, and Perkins. Okay, we're still  
25 waiting for Robert Cornegy.

1

2

FEMALE SPEAKER: He'll be here.

3

4

CHAIRPERSON HOLDEN: He'll be here in a  
few minutes. Okay. Let's talk. I'd like to ask a

5

question—some questions of the Department of

6

Buildings. How many buildings have keyless entry

7

technologies? Do you know? Are you keeping track of

8

that in the city?

9

SARAH MALLORY: Sure. So I am with HPD.

10

The Department of Buildings isn't here today, but on

11

my behalf, you know, we don't currently track this.

12

All are required to have a key lock set. So, we make

13

sure that we give violations in any instance where we

14

see that somebody does not have a mechanical key in

15

place.

16

CHAIRPERSON HOLDEN: Okay, do you know

17

what it costs to install the keyless entry

18

technology?

19

SARAH MALLORY: Uh, so we don't actually

20

track the private market kind of rates on this, but

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along the way we have heard that they can be

22

expensive to replace.

23

CHAIRPERSON HOLDEN: And what about in a

24

power outage, does a keyless entry work?

25

1  
2 SARAH MALLORY: So, that's a great  
3 question, and one of the concerns that we have. One  
4 of the things I talked about in testimony is the  
5 concern if during the power outage somebody could be  
6 locked in their apartment or out of their apartment  
7 or that it could not be locked at all. So, we have  
8 strong security concerns with that in mind.

9 CHAIRPERSON HOLDEN: Should the—I guess  
10 should the city embrace keyless entry technology? I  
11 don't know not sure by your testimony? I mean should  
12 it?

13 SARAH MALLORY: A great question, and I  
14 think it's something that everybody is looking into  
15 for security and privacy reasons, and that's one of  
16 the reasons why we make sure and support this bill  
17 today that having a mechanical key option is  
18 necessary until any bugs or details can be worked out  
19 of the keyless entry systems.

20 CHAIRPERSON HOLDEN: Alright, has the  
21 city received any complaints for either the lock-outs  
22 due to errors with keyless entry technologies?

23 SARAH MALLORY: Again, so the code does  
24 require that key options and a lock exist, but I  
25

1 don't have that granular level of detail with me  
2 today.

3  
4 CHAIRPERSON HOLDEN: Alright. Let's—let  
5 me turn to DOITT. Do you envision—well, how do you  
6 envision enforcement of Intro 1672?

7 ASSISTANT COMMISSIONER LEVINE: That's a  
8 good question. As I said in my testimony, DOITT's  
9 primary function is to serve other agencies, and to  
10 administer our franchise agreements. I think that  
11 there's a number of existing agencies that handle  
12 enforcement, and one of those agencies would be  
13 better served by handling the enforcement on that  
14 legislation.

15 CHAIRPERSON HOLDEN: Right. Alright,  
16 with regard to the database that DOITT shall maintain  
17 as outlined in this bill, do you anticipate that such  
18 a database can be created and maintained with  
19 existing departmental resources?

20 ASSISTANT COMMISSIONER LEVINE: That's a  
21 very good question as far as existing resources. So,  
22 DOITT supports other agencies so we certainly can  
23 work with existing agencies to support—to support the  
24 development of databases. That is something that we  
25 currently do, yes.

2 CHAIRPERSON HOLDEN: What steps should be  
3 taken to protect privacy? I mean do you—do you have  
4 any ideas on that?

5 ASSISTANT COMMISSIONER LEVINE: I think  
6 that's a really great question, and I know protecting  
7 the privacy of New Yorkers is something both the  
8 Council and the Administration care a lot about.  
9 There is—there's a bunch of people at City Hall who  
10 have been thinking about this. This is an emerging  
11 area of technology We have—oh we have a Chief Privacy  
12 Officer, which I'm sure you know could not account  
13 for legislation. We have Chief Technology Officer.  
14 So, there's a lot of people who are thinking a lot  
15 about this. Specifically at DOITT we've thought more  
16 broadly about—about privacy and again, just how to  
17 safeguard the privacy of New Yorkers. When we  
18 developed—when we—when we worked to bring the LinkNYC  
19 franchise to New York City we made sure to—we made  
20 sure to ensure that the privacy policy was written as  
21 such to make sure that it didn't collect or store any  
22 personal identifying information about New Yorkers.

23 CHAIRPERSON HOLDEN: Do you what city  
24 agencies used facial technology today?

2 ASSISTANT COMMISSIONER LEVINE: You know,  
3 I can only really speak for DOITT so, no, I do not.

4 CHAIRPERSON HOLDEN: So, we--we don't  
5 know how many agencies are using it and what type and  
6 so forth.

7 ASSISTANT COMMISSIONER LEVINE: I don't  
8 know any--

9 CHAIRPERSON HOLDEN: [interposing] Should  
10 that--shouldn't that be in your area I mean to find  
11 that out?

12 ASSISTANT COMMISSIONER LEVINE: As I  
13 said, DOITT primarily works with other city agencies.  
14 We don't--we don't set that kind of policy for the  
15 whole city, but I'm happy to look into that.

16 CHAIRPERSON HOLDEN: Yeah, I think--I  
17 think we should look into that definitely. Does the  
18 NYPD use facial recognition technology?

19 ASSISTANT COMMISSIONER LEVINE: I don't  
20 know. Do you want to take that?

21 STEVEN ETTANNANI: So thank you for the  
22 question, Council Member. So, right now obviously  
23 we're here to speak to the these three specific bills  
24 that either name our agencies explicitly or where the  
25 enforcement agencies for it. So, we can only speak

2 to our specific agencies about what our uses are of  
3 that technology. Actually, Council Member just to  
4 respond to a question that you had addressed to my  
5 colleague Robin earlier in terms of what agencies may  
6 be collecting biometric information for example I can  
7 speak for DCWP in that we collect fingerprinting as  
8 well as photographs for a handful of our license  
9 categories. That's pursuant to city and state law.  
10 Of course, those individuals that are subject to that  
11 consent to it, but I did want to just jump in and  
12 also answer your question just on behalf of my  
13 agency.

14 CHAIRPERSON HOLDEN: I just think that,  
15 you know, certainly DOITT should have an idea of what  
16 city agencies are using facial recognition  
17 technology. We have to get—we have to get a database  
18 and just to really oversee this. We have to get a  
19 handle on it and know who's doing what. I mean  
20 that's basic. So, I think we need to do that and  
21 quickly. I just want to—I have a—I have a few more  
22 questions, but I want to turn it over to Councilman  
23 Powers for a few questions.

24 COUNCIL MEMBER POWERS: Thank you.  
25 Thanks for this testimony. I just want to go back to



1 the-Council Member Lander's bill related to physical  
2 key. This has been an issue that has come up  
3 probably for about 15 years in Stuyvesant Town after  
4 they installed the keycard entry and a lot of  
5 concerns around tracking tenant movement and the  
6 previous owner they had to use that to look at things  
7 like primary residence issues to track movement and,  
8 you know, essentially it as a way to deregulate and  
9 two of their tenants. So, I just want to go back to  
10 the-the requirements. So, those are-am I correct in  
11 saying there is I think it's noted in your text the  
12 requirement that every building has to have a manual  
13 lock even if they have an electronic system to allow  
14 entrance?  
15

16 ASSISTANT COMMISSIONER LEVINE: I guess  
17 that's correct, and I just want to take a step back  
18 and say thank you for your support and advocating for  
19 those residents. We obviously as you know care a lot  
20 about securing folks so that they're safe in their  
21 homes, and we agree on that, but yes, in those  
22 instances we believe the Building Code say that a  
23 mechanical key is required.  
24  
25

1  
2 COUNCIL MEMBER POWERS: Okay, and what's  
3 the purpose of requiring or continuing to require  
4 that they have a manual lock?

5 ASSISTANT COMMISSIONER LEVINE: I believe  
6 the intent is so that it is—so that there is not only  
7 a kind of FOB system on its own.

8 COUNCIL MEMBER POWERS: So, and then it—  
9 so if, if the owner is not required I think where I  
10 live for instance we have a key card. The owner is  
11 not required to give you a key. So, in that case  
12 well, what's the purpose of having a requirement to  
13 have a lock if you're not receiving a key?

14 ASSISTANT COMMISSIONER LEVINE: So, a  
15 great question, and I would like to look into the  
16 details of that further so that we can look at it  
17 because we want to make sure that we're enforcing  
18 when necessary and ensuring that you have the right  
19 access in those buildings.

20 COUNCIL MEMBER POWERS: Okay, because I  
21 think probably one of the reasons I suspect is that  
22 in case there is an emergency with the power outage  
23 or something like that that you have the manual lock  
24 to be able to get into—the manual with it.  
25 Unfortunately what happened—what's required then is

1 that if there's another Hurricane Sandy or something  
2 like that, the owner either has to already have the  
3 key on hand to distribute or has to rapidly be able  
4 to go and make a bunch of keys to let people in. I  
5 think when Hurricane Sandy hit my neighborhood I  
6 think we just literally just opened the front doors  
7 and had security posted at the doors, but it—if it is  
8 for emergency access there's also an obstacle there,  
9 which is then you have to have a number of keys  
10 available suddenly to let people into the building  
11 anyway. I'll just not I think that this issue is a  
12 good one because it does talk—it's about safety and  
13 security, but also about protecting tenants against  
14 eviction and deregulation although the new rent  
15 regulation laws I think cover some of that territory,  
16 but on the other hand I also see the ease of access  
17 with a—I live in a building where you just swipe in  
18 and swipe out, and I understand the ease of it, and  
19 also my building was—a tenant in my building was  
20 recently attacked. It was really an awful incident,  
21 and I think having some ability to know who's coming  
22 in and out of the building helps with safety and  
23 security. So, I—I see both—I actually see both sides  
24 to it, but I due—you know, I think if it is for  
25

1 emergencies, if that's the purpose and the intent,  
2 then we have another obstacle related to that, and I  
3 certainly sympathize with the tenants who are going  
4 through I think are here who are going through what  
5 many of my neighbors went through which is a fear of—  
6 of their status, safety and safety as a tenant in  
7 addition to just sort of some—some of those who—who  
8 don't have access to that technology. Just—just  
9 changing subjects for a second. Sorry, and I'll ask  
10 my last question. On the retail component of this,  
11 which is about biometrics using the retail industry,  
12 there's a similarly picture (sic) here which is  
13 around, you know, potentially malicious use or but  
14 also benefit—potentially a benefit to the consumer  
15 for marketing of things that they care about. Would—  
16 in addition to these ones, would there be support  
17 from the Administration on—I'm not proposing this,  
18 but I'm asking the question of—or maybe separate of  
19 this of creating I think if it's—because there are  
20 concerns about your privacy and how long your  
21 information is stored. Are there current  
22 restrictions or would the Administration support  
23 restrictions on how long information is kept?  
24 Because I think that one of the fears is your private  
25

1 information goes into some database and years later  
2 somebody hacks into it and all your personal  
3 information is available.  
4

5 STEVEN ETTANNANI: Yeah, thank you for  
6 the question. It's, um, I can, I can tell you right  
7 now, you know, we obviously—as I mentioned in my  
8 testimony our agency is not blind to the concerns  
9 around—around the collection of—of this type of data.  
10 That's why we support the idea of a consumer knowing  
11 whether it's being collected first and foremost. In  
12 terms of the duration of collection and the  
13 Administration—the Administration's support of that,  
14 that's something that we would, you know, I'm happy  
15 to take back obviously and it's something that really  
16 would involve multiple different components of the  
17 Administration beyond DCWP, but specifically to 1170,  
18 we do believe that consumers are best informed in the  
19 marketplace when they know everything that's  
20 happening there and that includes whether or not  
21 their information is being collected.

22 COUNCIL MEMBER POWERS: I just want to  
23 add though that I think that in some of these retail  
24 settings and where I think that there is benefit to  
25 putting another sign up in the store that's a large

1  
2 retail environment. It probably does little to  
3 actually inform the consumer. They're probably  
4 walking in to go, you know, and I'm probably not  
5 picking my target but there's a Target right across  
6 the street from house. It's widely very popular.  
7 People walk in. I think they could post that signage  
8 wherever they want in the store. It wouldn't do much  
9 to help the consumer know that they're not getting  
10 access information. So, only if it was posted in a,  
11 you know, in a certain site, in a certain place in a  
12 certain part perhaps that may be relevant, but I  
13 think that that's—I know people are, you know, I'm  
14 skeptical that it's going to go that long to really  
15 help inform the consumer.

16 STEVEN ETTANNANI: Right and I think to  
17 that point just operationally for us we also don't  
18 want to create a panic or a stir if someone walks  
19 into their local bodega for example and they see a  
20 security camera that they think that their biometric  
21 data is being collected. So there's certainly  
22 conversations that I think we need to have subsequent  
23 to this hearing to really like tailor this and make  
24 sure it's operational for us that we can enforce the  
25 intent of the law.

1  
2 COUNCIL MEMBER POWERS: Okay. Thank you,  
3 thanks to the Chair. Thanks.

4 CHAIRPERSON HOLDEN: Thank you, thank  
5 you, Council Member Powers. We've been joined by  
6 Council Member Brannan, and I'd like to recognize  
7 Council Member Rivera for questions.

8 COUNCIL MEMBER RIVERA: Good morning.  
9 Thank you for your testimony. I appreciate your  
10 brief-the brevity in your testimony. I just-I want  
11 to get a couple of things straight and forgive me if  
12 I wasn't paying close enough attention. Does DOITT  
13 have any existing database of government properties  
14 that utilizes biometric recognition technology?

15 ASSISTANT COMMISSIONER LEVINE: Thank you  
16 for that question. As far as I know, no we do not.

17 COUNCIL MEMBER RIVERA: Can you give a  
18 general overview of the current use of-the kind of  
19 info that you do collect? So, it's not biometric  
20 recognition technology, but can you give it a general  
21 overview of how you currently use the information  
22 that you-you do gather? So, I know that the chair  
23 asked should the city embrace facial technology, and  
24 you said that's not your role, right to decide.

25 ASSISTANT COMMISSIONER LEVINE: Right.

2 COUNCIL MEMBER RIVERA: But I also feel  
3 like, you know, there—there are some metrics, there  
4 are some laws put in place at the state level where  
5 any modifications and services specifically to  
6 residential properties has to go through some sort of  
7 approval process. So, I imagine you all are working  
8 with the—with the state agency to make sure that  
9 everything is done in the right way, and I'm surer  
10 this was mentioned earlier, the first application  
11 that came in for this kind of technology was at a  
12 700-unit rent regulated building in Brooklyn  
13 However, this kind of technology has been in use for  
14 over six years that Knickerbocker Village in Council  
15 Member Chin's district [siren] so considering that  
16 the people of Knickerbocker Village feel like guinea  
17 pigs, and they have already been going through this  
18 and that this kind of technology is becoming more and  
19 more and frequent and popular, what kind of  
20 technology is the city using? What are—what kind of  
21 information are you gathering?

22 ASSISTANT COMMISSIONER LEVINE: I  
23 certainly can appreciate that question and certainly  
24 your concern about your constituents. I do want to  
25 take a step back and just reiterate that DOITT-



1  
2 DOITT's primary role is to serve other agencies, and  
3 it's been our trend also administer those franchise  
4 agreements. So, a lot of what we do is support  
5 individual agency CIAs and work with them on anything  
6 that they want to implement for their particular  
7 agency. I can't really—I can't really speak to—to  
8 the broader issue of what kind of information is  
9 DOITT currently collecting because from my vantage  
10 point we—that's not the kind of information we  
11 sought.

12 COUNCIL MEMBER RIVERA: That's okay. HPD  
13 is here, and HPD could also I guess answer the  
14 question do you think facial recognition should be  
15 used at affordable housing developments like  
16 Knickerbocker Village?

17 SARAH MALLORY: It's a great question and  
18 I appreciate it a lot. I think that there is a lot  
19 happening on this kind of—as my colleagues have said  
20 there is an emerging technology and as you give an  
21 example it is being used more widely in buildings.  
22 So, I think that there are a lot of conversations  
23 that we're currently have with our partners for  
24 example as the Department of Homes and Community  
25 Renewal at the state level, experts and privacy and

1  
2 technology in the city in order to look at this issue  
3 a lot further. We're happy to continue conversations  
4 about this to ensure that we are making the right  
5 policies to protect folks whenever possible.

6 COUNCIL MEMBER RIVERA: I appreciate you  
7 having the conversation. That's great. I just want  
8 to add, you know, this kind of information that we  
9 are I guess by law as a state giving property owners  
10 the right to, you know, if that's their data I  
11 understand that there are property laws around that,  
12 but I just want to make sure that—that we are—if we  
13 are going to have the conversation if we are going to  
14 have the discussion that we're doing this fairly, and  
15 that we're not targeting what seems like people who  
16 are less likely maybe to organizer or speak up or  
17 historically just our marginalized and  
18 disenfranchised. So, I just wanted to put that on  
19 the record and I just want to thank you for answering  
20 my question. Thank you, Chair.

21 CHAIRPERSON HOLDEN: Okay, alright.  
22 Okay, I want to recognize Council Member Richards  
23 with some questions.  
24  
25

2 COUNCIL MEMBER RICHARDS: Thank you. So,  
3 let me start off by just asking this straight up does  
4 the Administration support Intro 1672?

5 ASSISTANT COMMISSIONER LEVINE: As I said  
6 in my testimony, we are not an enforcement agency.  
7 So, we do think that this—that this legislation would  
8 be better served if it was another administer—if it  
9 was another agency administering that enforcement.

10 CHAIRPERSON RODRIGUEZ: And do you have  
11 recommendations on which agency should oversee that  
12 being that HPD is sitting next to you or—is the  
13 Department of Buildings here today?

14 ASSISTANT COMMISSIONER LEVINE: DOB isn't  
15 here today.

16 COUNCIL MEMBER RICHARDS: Oh, no, they're  
17 missing in action today. We missed them. Let them  
18 know we missed them today.

19 ASSISTANT COMMISSIONER LEVINE: We can  
20 certainly pass on that message. Because this is—  
21 because this is a new—new bill, I wouldn't want to  
22 speak out of turn. We'd have to talk with our  
23 colleagues here City Hall about which enforcement  
24 agency might be best, but as I said, there are a lot  
25 of agencies that do have the capacity to do

1 enforcement and enforcement is not something that  
2 DOITT really does.

3  
4 COUNCIL MEMBER RICHARDS: Right, but you—  
5 would you suggest of would have confidence. I love  
6 that word in your testimony in a Department of  
7 Buildings or HPD in facilitating a database such as  
8 this?

9 ASSISTANT COMMISSIONER LEVINE: I think  
10 as I said I think any one of those enforcement  
11 entities would be better served by the legislation.

12 COUNCIL MEMBER RICHARDS: Alright, we're  
13 getting somewhere. Alrighty. Does the city  
14 currently have data on how many residential buildings  
15 use biometric recognition technology or commercial  
16 buildings?

17 STEVEN ETTANNANI: So, on the—on the  
18 commercial front, I can speak to that piece. So,  
19 DCWP does not require our licensees to disclose that.  
20 The requirements of what we can or cannot ask for are  
21 stipulated by a particular license laws that are  
22 governed by city and state law. So, that's on the  
23 commercial side.

24

25

1  
2 COUNCIL MEMBER RICHARDS: But you  
3 currently, so you're saying currently you have no  
4 idea of--

5 STEVEN ETTANNANI: Right we were-

6 COUNCIL MEMBER RICHARDS: --who are?

7 STEVEN ETTANNANI: --we're not asking for  
8 it, and we will--we would, you know, as I said, the  
9 requirements of our categories over 75,000 businesses  
10 that were licensed, are--are stipulated by current  
11 city and state law.

12 COUNCIL MEMBER RICHARDS: Okay, and does  
13 the city have any measures in place to protect New  
14 Yorkers' data that could be stored and shared through  
15 this technology?

16 ASSISTANT COMMISSIONER LEVINE: So, thank  
17 you for that question. I certainly appreciate your  
18 concerns around protecting the privacy of New  
19 Yorkers. It's something the Administration also  
20 cares deeply about. I do want to take a step back  
21 and speak just more broadly about privacy as a whole,  
22 and not specifically facial recognition and biometric  
23 technology because as I said protecting--protecting  
24 the privacy of New Yorkers is something we have--we  
25 have thought a lot about. It is an emerging

1  
2 technology and, you know, even though I cant speak on  
3 behalf of, you know, my colleagues at the other city  
4 agencies, I'm at DOITT and we have thought about how  
5 to protect New Yorkers' privacies. I mentioned  
6 earlier that when we brought the LINC NYC franchise  
7 to New York we—we specifically prohibited the use of  
8 facial recognition, and also put in place some of the  
9 strongest safeguards probably in the country. I  
10 think even—even NYCLU came out in support of it to  
11 make sure that we weren't collecting to make sure  
12 rather that the franchisee was not collecting or  
13 storing any of this personal information, and we  
14 actually as Chair Holden is aware, we actually do  
15 have a couple of bills that are sitting in the—in the  
16 Technology Committee that has to do with restoring  
17 Internet privacy protections that have been stripped  
18 away by Congress through Intro 1101.

19 COUNCIL MEMBER RICHARDS: And let me ask  
20 you this question. Are you aware of any of this  
21 information? I guess have you heard from any  
22 individuals in residential, commercial buildings  
23 being concerned about this information being shared  
24 with ICE or—or the NYPD or has there been any  
25 conversations around that, and especially in light of

1  
2 us being a sanctuary city obviously this data not  
3 having any transparency or accountability leaves us  
4 open to-to NYPD and ICE certainly getting some of  
5 this-this data. So, can you just speak to what-what  
6 your agency is doing on that or have you heard of any  
7 concerns around that?

8 ASSISTANT COMMISSIONER LEVINE: Again,  
9 we, of course, value the privacy and livelihood of  
10 all New Yorkers, and we very much share the Council's  
11 concerns around ensuring that all New Yorkers are-are  
12 treated with respect, and that we're doing everything  
13 we can to maintain, you know, our standing as  
14 sanctuary city. That said, I can't really-I can't  
15 really speak from a citywide perspective about-about  
16 these things, and DOITT does not-DOITT does not  
17 specifically, as far as I know collect information or  
18 really-we don't-we don't really deal with real  
19 property owners or the public. We primarily do serve  
20 other agencies. So, we're not that external facing.  
21 So, we don't really deal with the public on this.

22 COUNCIL MEMBER RICHARDS: Okay, well this  
23 is why it's so important we pass these pieces of  
24 legislation evidently. If there is a resident in play  
25 who was concerned being forced to use this technology

1 and it worked closed to home, who should they contact  
2 for more information on the protections available to  
3 them?  
4

5 STEVEN ETTANNANI: So, you know, I think  
6 it really would depend on a circm—on each individual  
7 circumstance, but the city, you know, just speaking  
8 broadly for the city, you know, the city has a very  
9 extensive privacy personal identifying information  
10 policy, and I think if folks—I could speak for DCWP  
11 in saying that we don't—we have not received any  
12 complaints for example of consumers walking into  
13 businesses and feeling as if there's any kind of data  
14 being collected without their consent.

15 COUNCIL MEMBER RICHARDS: So, you haven't  
16 received one complaint--

17 STEVEN ETTANNANI: We have not.

18 COUNCIL MEMBER RICHARDS: --out of 8  
19 million New Yorkers?

20 STEVEN ETTANNANI: We have not.

21 COUNCIL MEMBER RICHARDS: So, you haven't  
22 gotten any emails like I get emails?

23 STEVEN ETTANNANI: I have not.

24 COUNCIL MEMBER RICHARDS: Okay, okay.  
25 Maybe they just don't know who to complain to. So,



1  
2 that means we need to do obviously a better job of  
3 making sure that information is out there, and then  
4 I'll just end on this: What are DOITT's main  
5 concerns around the potential widespread use of this  
6 type of technology and what kind of information can  
7 be gathered through biometric recognition technology?

8 ASSISTANT COMMISSIONER LEVINE: As—as I  
9 said earlier, I can't really speak—You know, if we  
10 can take a step back, I can talk more about privacy  
11 and—and the things that we've looked at and the  
12 things that we've done, but I can't really  
13 specifically to concerns around—around biometric  
14 technology in that way.

15 COUNCIL MEMBER RICHARDS: Alrighty.  
16 Well, you're going to become so well versed in this  
17 issue over the course of the next few years that the  
18 next time we come we're going to be able to speak  
19 about the concerns about this, but I want to thank  
20 the chairs for holding this hearing and—and obviously  
21 this legislation is long overdue. Thank you.

22 CHAIRPERSON HOLDEN: Thank you Council  
23 Member. We've been joined by Council Member Yeger,  
24 and I want to recognize Council Member Brad Lander  
25 for some questions.

1  
2 COUNCIL MEMBER LANDER: Thank you very  
3 much, Chair Holden and Chair Espinal. Ms. Mallory,  
4 thanks very much for your testimony and for HPD's  
5 support of the bill. This may be the most  
6 unqualified support for a piece of legislation that  
7 I've ever sponsored before. So, I'm—I'm—I'm happy to  
8 have that, and I appreciate it in a—in a way that it  
9 reflects the goal of making sure tenants' rights are  
10 protected. I want to ask some questions that build  
11 on Council Member Powers' and Council Member Rivera's  
12 question and do go beyond the bill to some extent,  
13 and this also an oversight hearing on biometrics  
14 scanning and facial recognition and surveillance  
15 tracking technologies in residents and—and businesses  
16 as well. So, beyond the sort of four corners of the—  
17 the bill, this is useful for us to start thinking  
18 forward in those ways. First of all, I guess I do  
19 just want to clarify just so everyone has a—I said  
20 some of this in my opening statement, but I realized  
21 after Council Member Powers' statement. Just so  
22 everyone is clear, what—what the bill would do the  
23 Keys Act would do is in addition to the building code  
24 already requiring that there be a lock. This would  
25 require that landlords give every tenant at least

1  
2 one key to those locks so that they would always have  
3 it. You wouldn't have to wait for a power outage.  
4 You would have it all the time and it would prohibit  
5 landlords from requiring that tenants use other kinds  
6 of keyless technologies. It would not prohibit them  
7 from existing, and that's where I want to come back  
8 in a minute. It would say you have to be able to get  
9 in your door with the mechanical key, and—and it may  
10 be I have to say I'm going to read this sentence  
11 because I really like this. The term key shall mean  
12 a piece of shaped metal with incisions cut to fit the  
13 wards of a particular lock. So, it is' a good old  
14 fashioned mechanical key that you get to open your  
15 door with. There might still be keyless fob  
16 technology, and there might still be facial  
17 recognition technology. You could not be required to  
18 use it, which has real benefits but, of course,  
19 escaping it might still be hard. You know there are  
20 facial recognition-blocking sunglasses, and other  
21 ways that could disguise yourself, but still going  
22 into and out of your door every time has those  
23 challenges. So the bill gives you a right to escape  
24 that technology, but it doesn't really start to take  
25 the next steps in figuring out how to restrict its

1 use in our lives and that's where I just want to ask  
2 a few more questions about how we're thinking about  
3 that. So, we use this hearing to push our thinking  
4 forward. It sounds like the agencies have started to  
5 do that, and I-I wonder if you could just give me a  
6 little more sense what are the principles you're  
7 thinking about. You know, Council Member Powers  
8 spoke to the benefit of convenience of being able to  
9 swipe in easily. So, there are some ways about  
10 thinking about what the benefits are. I think you  
11 spoke to what some of the harms are. There are  
12 models people are using in Europe that that's sort  
13 right to be forgotten. How are you thinking about  
14 it? I like the stopgap or the interim measure of  
15 requiring mechanical keys, but as we're thinking  
16 about going forward, and really protecting New  
17 Yorkers from intrusive surveillance, you know, are  
18 you starting to have some of the principles that will  
19 guide that policy? Do you think there is no value in  
20 the technology like facial recognition, and we might  
21 should just prohibit it? How are you starting to  
22 think about our longer-term policies should look  
23 like?  
24

1  
2 ASSISTANT COMMISSIONER LEVINE: A great  
3 question, and exactly why this conversation is so  
4 important because it is so complex and there are so  
5 many pieces, and partners working on it. So, all of  
6 the things that we've already talked about are really  
7 important to the conversation including the storage,  
8 maintenance, sharing this type of data. So, I think  
9 that beyond HPD and just the residential piece, we  
10 look forward, and to continuing conversations with  
11 tenants, and property owners and the many folks  
12 involved with expertise in technology, and privacy so  
13 that we can continue this conversation and see both  
14 sides making sure always that the tenants' protection  
15 and safety is key for us.

16 COUNCIL MEMBER LANDER: And do you know  
17 whether the—HPD or other agencies of the  
18 Administration has spoken to the Atlantic Plaza  
19 tenants or their lawyers of the Hells Kitchen tenant  
20 or the Knickerbocker Village tenants?

21 ASSISTANT COMMISSIONER LEVINE: I don't  
22 know specifically, but I'm here today. I'm happy to  
23 speak to folks that are here, and looking forward to  
24 hearing the panel testify as well.

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COUNCIL MEMBER LANDER: And I mean as we're--so that I think you're right that it's a complex conversation and--and moves in different directions. I wonder internally, you know, is there and Administration working group on these issues? It's great to have a hearing. We'll hear from the tenants. We can keep the conversations going, we could pass these bills, but, you know, how--how is that? Is there a, you know, what's the process for working through, you know, what are challenging issues, but that we really want to try to make some--make some quick policy on?

ASSISTANT COMMISSIONER LEVINE: Sure. I don't want to speak on behalf of all the city agencies but, you know, each of us do have a Chief Investment Officer, that Technology Officers who were working on this in concentration with other folks across each of the agencies, and again, those central folks in the Mayor's Office as well. So, it is--I wouldn't say if I know it's as formal as a working group, it might be, but I just don't know it today, but it's definitely ongoing and something that we're talking about every single day especially when it

1  
2 comes to tenant protection and privacy is really  
3 important for us.

4 COUNCIL MEMBER LANDER: And I just want  
5 to draw a little more out about the details and make  
6 sure we're on the same page, which I think we are,  
7 you know, but when you say tenant protection, you  
8 know the-the risks of tracking I think include both  
9 the specific risks that Council Member Powers spoke  
10 to of landlords seeking to find some way of trying to  
11 deny people their rent stabilization rights. So,  
12 that's one-one risk I assume?

13 ASSISTANT COMMISSIONER LEVINE: Yes,  
14 that's definitely something that we're concerned  
15 about.

16 COUNCIL MEMBER LANDER: The second risk  
17 of-of just the more basic. Like once your movements  
18 are being tracked and that data exits in a database,  
19 that can be shared if there are not rules with  
20 anyone, with commercial companies, with, you know,  
21 law enforcement, with private law enforcement, and  
22 that's a thing we want to be very careful about and  
23 make sure it does not happen?

24 ASSISTANT COMMISSIONER LEVINE: Yes,  
25 absolutely.

2 COUNCIL MEMBER LANDER: But we don't yet  
3 have any rules, right. So, if you do have--

4 ASSISTANT COMMISSIONER LEVINE:  
5 [interposing] We are really interested in looking at  
6 it further yes.

7 COUNCIL MEMBER LANDER: Right, and I'm  
8 just, you know, just trying to flesh this out.

9 ASSISTANT COMMISSIONER LEVINE: I hear  
10 you.

11 COUNCIL MEMBER LANDER: So, if a landlord  
12 does have today a keyless fob technology that could  
13 be a fob that's specific to the tenant, you know so  
14 the landlord knows who it was, and tracks every time  
15 you go in, an it could be that everyone of those  
16 things is being recorded in a database that your  
17 landlord has, and at least as far as I know today  
18 there's not rules that restrict your landlord from  
19 selling that database to anybody else, to like a  
20 commercial company that would want to sell you things  
21 to a private investigator that would want to  
22 investigate you. Just like that, that's--am I right  
23 that today all the--everything I just said is legal  
24 and--and could be happening?  
25



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ASSISTANT COMMISSIONER LEVINE:

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Definitely part of the conversation.

4

COUNCIL MEMBER LANDER: But that's

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different. I—I—do you agree that today that is—that's

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a—we don't have laws against those things in New

7

York.

8

ASSISTANT COMMISSIONER LEVINE: As far as

9

I know. I don't want to speak, you know, and know it

10

perfectly that federal and state laws here, but

11

definitely something that we're looking at further.

12

COUNCIL MEMBER LANDER: And I'm not—this

13

is not for the purpose of interrogating

14

ASSISTANT COMMISSIONER LEVINE: It sure

15

is.

16

COUNCIL MEMBER LANDER: It's for the

17

purpose of just making sure we understand the

18

problems we're trying to solve together as we—as we

19

move forward out of this oversight hearing. And then,

20

um, facial recognition just adds a whole additional

21

dimension to it. It does a lot of the same things,

22

tracks your movements. You know, as has been said a

23

couple of times, facial recognition has been shown to

24

be particularly faulty for people of color and makes

25

mismatches, you know, but then everyone who comes and

1 goes all your friends, all your relatives, anybody  
2 that comes to visit are all being tracked and again  
3 subject to that kind of facial recognition and  
4 matching technologies currently with no limitations  
5 on how that data could be deployed, and I appreciate  
6 Deputy Commissioner Levine that in the case of the  
7 LINC you guys put some—some restrictions in place on  
8 what LINC can and can't do with that data, but as of  
9 today, those restrictions aren't in place for any  
10 landlords whether it's subsidized or unsubsidized,  
11 public or private. We just don't yet have any  
12 regulations of that—of that type.

14 ASSISTANT COMMISSIONER LEVINE: Alright.  
15 So, as you—as you mentioned, because DOITT directly  
16 administers our franchise agreement, and LINC is  
17 under our purview that is something that we need to  
18 try to do. I can't speak more broadly about other  
19 technology.

20 COUNCIL MEMBER LANDER: That's right.  
21 I'm just drawing out the point we could—I'll—I'll—I'm  
22 delighted that HPD is supporting today's legislation,  
23 and we should pass it. I agree it's a simpler way of  
24 getting at some of these things, but I also want us  
25 to stop there and for the oversight purposes of this

1 hearing, we can restrict landlords in what they're  
2 allowed to do with their tenants' data, and we may  
3 decide that certain kinds of technologies are  
4 reasonable and appropriate so that Council Member  
5 Powers and his neighbors can continue to swipe into  
6 their buildings. You know, that would be a lot  
7 easier to feel comfortable. On the one hand the key  
8 will mean when the power goes out they can still get  
9 in and out. It would be a lot easier to feel  
10 comfortable if we knew there was a strong law  
11 prohibiting landlords from collecting and using the  
12 data that might come from those swipes in—in any way,  
13 that, you know, if you have forgotten every night.  
14 So, this is the conversation that I mean whether it's  
15 a task force, whether it's future dialogue with the  
16 Council, whether it's in response future legislation  
17 that we don't feel satisfied only with what we're  
18 doing here today, but that we take good steps forward  
19 to really address the—the privacy concerns that are  
20 being raised on the safety concerns as well. Thank  
21 you very much for being here. Thank you, Mr. Chair  
22 for convening this hearing.

24 CHAIRPERSON HOLDEN: Thank you, Council  
25 Member Lander. I have a question for DCA. What

1 kinds of disclosures do you think consumers should be  
2 provided if they are going to have their face or  
3 fingerprint scanned by biometric technology?  
4

5 STEVEN ETTANNANI: So, thank you for—for  
6 the question. I would say as I mentioned in my  
7 testimony, we think that consumers should be informed  
8 when they walk into a business whether or not that  
9 information is being collected or not. I think one  
10 of your colleagues brought up a valid point as to  
11 what is actually effective notice, and I think that's  
12 something that I and my colleagues and I think a  
13 conversation with the Council would benefit from  
14 really understanding what exactly would be  
15 beneficial. For us as an enforcement agency, the  
16 burden is on us in tribunal or in court to prove that  
17 this information is being collected, and there's a  
18 lot of different pieces to that, and the—as we  
19 mentioned the intent of the legislation is—is  
20 something we support, and it's really about  
21 operationalizing it for us.

22 CHAIRPERSON HOLDEN: So, by simply  
23 putting up a sign do you think that's sufficient or I  
24 mean it might be in a lease, but we'd have to know  
25 more information about what is being done with this

1 information that's being collected, and that's the  
2 important thing, but just simply putting up a sign  
3 doesn't tell us what--what the information is being  
4 used for. So, I'm just alerting us that yes your--  
5 your information is being taken, but again, we have  
6 to know the other step, too.

8 STEVEN ETTANNANI: Yes, absolutely and I  
9 think that those are some of the concerns we have  
10 operationally for us is also, you know, how--how do we  
11 know when it's being collected. Is it something that  
12 a business is engaging in 24 hours a day 7 days a  
13 week for example. Is it more tailored and how is it  
14 being collected. These are all things that really  
15 need to be discussed and deliberated over to  
16 providing notice that really strikes a balance  
17 between not invoking panic upon a customer that walks  
18 in, but also letting them know that if they're  
19 uncomfortable with a particular circumstance that  
20 they have the option of, you know, leaving that  
21 business for example. So, that's--these are great  
22 questions, and--and things I have to discuss with you  
23 and your colleagues.

24 CHAIRPERSON HOLDEN: So, it looks like we  
25 have a lot of work to do in this area, but we

2 certainly came to the conclusion today that there's a  
3 lot more that that can be done by all the agencies,  
4 but we really have to get to the bottom or what  
5 agencies are actually using it in the city of New  
6 York, and again, what are they doing with it, and if  
7 we don't know that, then we're-we're in 1984. We  
8 have a big problem. So, we have to get a handle on  
9 it quickly, but, and that's where I think DOITT we-I  
10 know you had oversight, but we-you have-you have the  
11 capability of collecting this information or at least  
12 polling the Administration or the agencies. So, that  
13 I think we could expect from DOITT.

14 ASSISTANT COMMISSIONER LEVINE: I'm  
15 certainly happy to-to take that back to the team, and  
16 look into this further

17 CHAIRPERSON HOLDEN: Yah, because this  
18 is-this is getting into such an area that we-we  
19 should all be concerned that it's not only consumers,  
20 as residents, but this-this is getting into a larger  
21 area of the unknown. So a lot more has to be done. I  
22 just want to recognize Council Member Gjonaj just  
23 joined us. Anybody else with questions? Oh,  
24 Councilman Chin-Council Member Chin. Any other?

1  
2 Anybody else with questions. Okay, okay. Alright,  
3 thank you panel. Thanks so much.

4 ASSISTANT COMMISSIONER LEVINE: Thank  
5 you.

6 SARAH MALLORY: Thank you.

7 STEVEN ETTANNANI: Thank you.

8 CHAIRPERSON HOLDEN: Our next panel  
9 Christina Zhang (sp?), Josh Steinbauer, Vanessa  
10 Berganzoli, and Albert Fox-Cahn. (sp?) [background  
11 comments/pause] Okay, whoever wants to go or want to  
12 start. Okay, on the--yes, to my right. Okay.

13 CHRISTINA ZHANG: Thank you. Hi, my name  
14 is Christina Zhang, and I a co-chair of the  
15 Knickerbocker Village Tenant Association, and we  
16 represent about 1,600 families in the Two Bridges  
17 Neighborhood, and it's an affordable housing complex.  
18 So, around 2013-2014, the owners installed a facial  
19 recognition system in our apartment complex, and we  
20 need, you know, to use the system to get into our  
21 building lobbies. So, the complex is comprised of  
22 like 12 buildings, and we also need to use that to  
23 get into like through the back gate and to each of  
24 the courtyards. So, many tenants have complained at  
25 KBTA meetings that the technology frequently does not

1 work. Like you're doing this dance. You look at the  
2 camera to recognize, and people-and then like also,  
3 you know, people just like follow other people in if  
4 they-if the cameras don't work, and then other  
5 tenants have complained that the cameras at the  
6 courtyards are especially problematic because, you  
7 know, the sunlight hitting the lenses doesn't cause-  
8 doesn't make them work properly, and the guards  
9 usually end up like buzzing people in. They don't  
10 verify like whether they're tenants or not. People  
11 go in and out. Other tenants have mentioned that  
12 these cameras don't work late at night so the-there  
13 is no security guard in there and they're just stuck  
14 waiting or they have to like, you know, walk around  
15 that block to get in through the front gates, and-and  
16 then at one point when we had meetings with the  
17 manager, they mentioned that, you know, they need  
18 the-the company to come in like on a weekly basis  
19 just to like fix the cameras or to, you know, update  
20 the system, and it's like, you know, what at what  
21 cause, like what cost? We're in an affordable  
22 housing complex. Like why do we need this expensive  
23 system, and-and then, you know, I've read many news  
24 articles about the facial recognition systems and  
25



1  
2 they mention how it's biased against people of color,  
3 against women. Knickerbocker Village is about 70%  
4 Asian. Actually, one of my cousins was able to get  
5 into my building and she is not a tenant. So, it  
6 matched her with like someone who lives there, and  
7 I'm also worried that, you know, like how is this  
8 data being used? Like, you know, there's been  
9 conversations about that. Like how is it being  
10 stored like is management selling the information  
11 like, you know, to private investigators? Are they  
12 working with NYPD? Are they working with ICE? And  
13 management insists that the cameras were installed  
14 for safety, but how is it making it safe when people  
15 can just follow other people in, and like, you know,  
16 I—we just don't understand like what this technology  
17 is like Orwellian. So, that's my testimony. Thank  
18 you.

19 ALBERT CAHN: Good morning. My name is  
20 Albert Cahn and I serve as the Executive Director for  
21 the Surveillance Technology Oversight Project or STOP  
22 at the Urban Justice Center, and we have submitted  
23 written testimony that explains in detail why we  
24 support the Keys Act and Intro 1170 as important  
25 first steps to address the threat that biometric

1 surveillance poses to New Yorkers. But I'm going to  
2 address the majority of my oral testimony to the  
3 claims we've heard this morning from the  
4 Administration officials because quite frankly, I  
5 feel like I have been hearing about a parallel  
6 universe, one which has privacy restrictions from the  
7 city that they are no resemblance to what we see in  
8 reality on the ground in New York City today. I  
9 heard that claim that we may become something that  
10 resembles 1984. Well, Council Member, let me be  
11 clear, we are far beyond anything George Orwell would  
12 have imagined. Today we know that biometric  
13 surveillance is already being used to arrest  
14 thousands of New Yorkers, programs like the NYPD's  
15 Facial Recognition Database, which uses untested and  
16 scientifically unfound methodologies to try to find  
17 so-called matches for existing photos. We heard  
18 about a privacy commitment from the City  
19 Administration that has not manifested on the ground.  
20 We were—I believe it was Council Member Lander who  
21 brought up the very important concerns for  
22 undocumented New Yorkers that come from this sort of  
23 data collection and sharing specifically how it  
24 compromises our promise to be a sanctuary city. But  
25

1 we know that this Administration has included  
2 loopholes in city privacy law, in Intros 1557 and  
3 1588 from 2017 to specifically exempt the NYPD from  
4 information sharing restrictions to allow them to  
5 share information with the federal government, and  
6 with the technology that we're talking about here in  
7 the residential setting with facial recognition in  
8 homes in our very hallways. They kept telling us why  
9 we can't do it, why it's too hard, why it's too much  
10 of a challenge. Well, I put to you that if other  
11 cities around this country can ban facial  
12 recognition, if they can take a stance against the  
13 biometric dragnet, if they can have bills that go  
14 far-further than what we are considering here today,  
15 then there is absolutely no reason why the City of  
16 New York cannot take these first steps, and have  
17 these modest requirements simply to let New Yorkers  
18 know when they're subject to biometric surveillance.  
19 I think perhaps most telling of all was the  
20 Administration claimed that there hasn't been a  
21 single complaint about the use of biometric  
22 surveillance in commercial settings. Well, I don't  
23 know who they've been talking to, but I get those  
24 complaints on a near-daily basis, and I am sure many  
25

1 of you do, too, and if they have not been getting  
2 many complaints, I can tell you part of the reason  
3 why is because we don't have the requirement to post  
4 the very sort of notice we are demanding here today  
5 because many New Yorkers have no idea that simply  
6 commuting to the office their face is constantly  
7 being recorded, fed into databases, analyzed,  
8 scrutinized, recorded indefinitely to be used by who  
9 knows who for whatever purpose they want and they  
10 have absolutely no right to stop it. We need to  
11 enact these reforms, but we also need to go further  
12 and that's why I want to close by once again calling  
13 on the City Council to move forward with the only  
14 bill that would comprehensively reform our own city's  
15 data collection, and use of facial recognition and  
16 other biometric surveillance, the Post Act. Twenty-  
17 eight council members have signed on already, and I  
18 urge the Public Safety Committee to give us a hearing  
19 and I urge this Council to vote and enact the Post  
20 Act into law. Thank you.

21  
22 VANESSA BERGANZOLI: Committee on Housing  
23 and Buildings, Committee on Technology, Committee on  
24 Consumer Affairs and Business Licensing and everyone  
25 in this room, good morning. Thank you. My name is

1 Vanessa Berganzoli. I am member of the Tenants'  
2 Association at 240 Broadway in Brooklyn, New York,  
3 the place, the building I call home. I have  
4 volunteered to attend this meeting and offer  
5 testimony out of great concern for potential  
6 violations that the electron key fob system poses to  
7 the right to privacy. The building where I have  
8 lived for almost a decade was sold earlier this year  
9 and a little over a month ago, my neighbors and I  
10 received a letter from Livingston Management, the  
11 management agent for the new owner and landlord of  
12 the building indicating their plan to switch over  
13 from a traditional key to a fob system. I am  
14 providing a copy of their letter as part of my  
15 testimony. The owner Via Management asked for  
16 invasive information including a photograph of myself  
17 as well as the names, permanent addresses and  
18 photographs of people in connection with my unit who  
19 would be receiving an addition fob to enter the  
20 building. I do not see why I should have to supply  
21 third-party private information to my landlord in  
22 order to gain access to the building for those who  
23 need to enter my home. That is a violation of their  
24 privacy and forcing me to provide it, I am made  
25

1  
2 complicit in that violation by the owner and  
3 management. The letter from management stated that  
4 their reasons for the change from key to fob was an  
5 effort to improve quote, excuse me "an effort to  
6 improve security in the building, and protect the  
7 building and its residents." Meanwhile the owner is  
8 currently engaged in proceedings to evict many and  
9 eventually possibly all of the residents at 240  
10 Broadway, making their claims about the improvements  
11 of security simply bogus. It's hard to believe they  
12 desire to make the building safe for the very  
13 residents they want to evict. A fob itself may seem  
14 harmless, but put the fob together with the  
15 surveillance cameras that have now been installed in  
16 the building, photographs of residents and their  
17 guests and with the right technology software, it all  
18 turn into a facial recognition system used to track  
19 the details of tenants' private-privates life-private  
20 life. Why should landlords have access to this level  
21 of data on tenants especially under the guise of  
22 collecting such information to improve security when  
23 in reality this same technology may also be used as a  
24 tool to monitor and potentially harass tenants. I  
25 was offered no choice. I was offered no information

1  
2 about the fob nor about the tech companies that run  
3 the system with access to my private information and  
4 whether they in turn will be providing that  
5 information to third, fourth, or fifth parties. In  
6 order to have a choice in this matter and not without  
7 incurring significant costs, our building's TA sought  
8 legal representation to challenge the use of fob  
9 keys. The outcome is still uncertain, and in sharing  
10 my experience with you here today, my hope is that it  
11 be carefully considered by those who can help protect  
12 the right to privacy for all New Yorkers, whether  
13 they be renters or landlords. Thank you.

14 JOSH STEINBAUER: Good morning. My name  
15 is Josh Steinbauer. I'm a New York City loft tenant.  
16 I just want to give a little bit of the actual  
17 experience of using—of coming into a building with  
18 the fob system. From 2004 to 2014 I lived in a loft  
19 building in South Williamsburg. It's a community of  
20 creative folks and numerous units of live/work  
21 spaces. In 2014, the building was served with a  
22 vacate order from the DOB. All of us were locked out  
23 of our homes without access to our possessions.  
24 Despite being protected tenants with provisional loft  
25 law coverage, numerous legal actions were required

1  
2 and the residents were sunk into over \$100,000 in  
3 legal costs. When after four years we finally won  
4 and regained entry, the landlord had broken and  
5 propped open out windows effectively turning our  
6 homes into a pigeon coupe, which destroyed all of our  
7 possessions. We also found that we could not access  
8 the building with our old keys. Instead, the doors  
9 were changed to a fob system, and there were cameras  
10 set up in the hallways and in the common areas on the  
11 rooftop. We were given only one fob key. The  
12 landlord refused to provide us with any fob keys for  
13 guests even though that's legally required. There's  
14 no back-up system, which is also a legal requirement.  
15 So, if the computer crashes, we're essentially all  
16 locked out. At one point when a fob key was lost the  
17 landlords demanded that we come to their office and  
18 pay \$35 for a replacement. What's more dreadful is  
19 the incessant tracking and surveillance that theses  
20 fob keys offer. The residents know from previous and  
21 ongoing lawsuits that our landlord is hostile and  
22 litigious. Personally, I know through the course of  
23 the legal battle for our loft law protection, that  
24 the landlord's lawyer tried to use my out-of-town  
25 work as a means to exclude me from coverage. While



1  
2 my out-of-town work turned out to be completely  
3 legal, it did force me to dig up a seemingly endless  
4 paper trail or receipts and check stubs and bank  
5 statements in order to prove it. Unfortunately the  
6 fob system just becomes simply a means for the  
7 landlord to eventually do this again, and bring me to  
8 court, and not because it's any more true, but simply  
9 to bury me in legal. To me it's an ongoing and daily  
10 harassment. There is something fundamentally  
11 unethical about residents being subjected to tracking  
12 and surveillance simply for winning our--exercising  
13 our tenants' rights. Thank you very much for your  
14 time.

15 CHAIRPERSON HOLDEN: We've been joined by  
16 Council Members Torres, Ulrich and Cornegy, and can  
17 you--do you want to wait and give your--? Okay, we'll  
18 just--alright. Council Member Lander has some  
19 questions.

20 COUNCIL MEMBER LANDER: Thanks very much  
21 to all of you for being here and especially to the--to  
22 the tenants for sharing your stories. I think this  
23 is, you know, clearly a much wider issue than--that,  
24 you know, any individual building knows or sees. It's  
25 been sort of fought between individual, you know,

1  
2 buildings land to some large complexes, but landlords  
3 and their tenants, and because they don't have anyway  
4 to knowing how widespread it is, it's really valuable  
5 to have your testimony, and just makes it even  
6 clearer why we've got to move forward both with the  
7 Keys Act, but then also with some broader  
8 prohibitions and guidelines on-on tracking  
9 technologies. So, I guess that's that question I  
10 want to ask, Mr. Cahn, you—you know, you spoke to  
11 what other cities are doing, and I know that San  
12 Francisco and Oakland have banned facial recognition  
13 technology by law enforcement. Do you know, are  
14 there municipalities or states or even other  
15 countries that are restricting uses of these  
16 technologies by landlords and businesses.

17 ALBERT CAHN: So, it's something that's  
18 emerging as a real point of contention around the  
19 world. I know off the top of my head that Oakland has  
20 a bill that's actively under consideration. Well not  
21 Oakland. Sorry, Portland that would ban private  
22 sector use of facial recognition, and so besides the  
23 Portland bill, I'm not immediately aware of other  
24 bands that would apply to private sector implications  
25 but we can certainly send follow-up information about

1 the municipalities that have done that, and I would  
2 also want to note that recently in London the senior  
3 law enforcement officials have come out against their  
4 own use of facial recognition high-highlighting the  
5 discriminatory impact and people of color as well as  
6 the overall privacy costs, but we'll certainly follow  
7 up with more examples.

9 COUNCIL MEMBER LANDER: And I'd just love  
10 to hear, I guess from—from the panel in general a  
11 little more as we're thinking, you know, downstream,  
12 and hopefully we'll get the—the Keys Act passed,  
13 which will at least mean everybody gets a key, and  
14 isn't—isn't required to use any of these other  
15 systems, but as we're thinking a little further  
16 forward, you know, do you have a gut on where we  
17 should just prohibit things like we should not have  
18 facial recognition technology, where we should  
19 restrict the data and tracking so, you know, for  
20 example it could be okay to have a—a swipe or a key  
21 card so long as that data was not being retained and  
22 made available. How do you think about what you  
23 would want to have as we develop a longer term  
24 policy. You know, anyone that's got a point of view  
25 on it I'm interested to hear.

1  
2           JOSH STEINBAUER: Well, it sounded to me  
3 like the city didn't want to be particularly  
4 responsible or the housing that it is—that it is  
5 responsible for. So, to me it seems like you get rid  
6 of all of the facial recognition technology or—or a  
7 landlord's ability to track and surveil their tenants  
8 like across, across the board.

9           ALBERT CAHN: So STOP believes that  
10 facial recognition is not compatible with a free and  
11 democratic society, and that we need to ban the  
12 technology comprehensively . One of our big concerns  
13 with key fobs and other forms of entry passes is  
14 currently federal law allows ICE to come in and  
15 subpoena that information with little, with very  
16 little protection, and no matter what move the City  
17 Council makes, federal law will preempt city law so  
18 long as that data exists. So, the strongest path  
19 forward to protect privacy is to simply prevent that  
20 data from being collected in the first place through  
21 bill like the Keys Act, but also bills that would go  
22 further and talk about the use of Smart-Smart  
23 thermostats and other appliance monitoring within  
24 apartments. If that data can be used by a landlord to  
25 monitor when someone is home or not. Similarly, we

1 have to look at the data that the city is  
2 aggregating, which itself can be used by ICE such as  
3 plans to expand tracking through congestion pricing  
4 as well as the city's work with the MTA to promote  
5 the OMNI Fare Payment System, which again collects a  
6 lot of individualized data on New Yorkers as they  
7 travel around creating a repository, which can  
8 potentially be excluded—can potentially be used by  
9 ICE, and this is the reason a lot of immigration  
10 advocates came out in opposition to the  
11 administration's plan to add a payment chip to the  
12 IDNYC Municipal ID fearing that just this sort of  
13 data aggregation by the city can inadvertently make  
14 us ICE's best friend.

16 COUNCIL MEMBER LANDER: Just to make sure  
17 I understand this. So, you know, let's say for  
18 example we wound up settling about a key fob or a  
19 cell phone type lock technology, which understandably  
20 some people find very convenient. You know, you  
21 don't have to find your key. You just walk by the  
22 door and it opens for you, but even if we took the  
23 step to say—to have a subsequent law that says you  
24 may not retain or, you know, sell or transfer the  
25 data that would come. Obviously, there's a digital

1  
2 trace on all those things, and if ICE came and sought  
3 to subpoena that information from a landlord, they  
4 could be obligated under federal law to provide it  
5 even if we had a local law in place that sought to  
6 prevent that.

7           ALBERT CAHN: Exactly. So federal laws  
8 that would be directly in conflict with the city laws  
9 would preempt any city law. So, you could potentially  
10 say you will not retain this data, and then when ICE  
11 comes in and subpoenas it, there will be less of that  
12 data available, but if ICE comes in with a warrant  
13 requiring real time transfer, there would be nothing  
14 that city law could do to protect that, and so, this  
15 is one of the reasons why minimizing data collection  
16 is one of the most important strategies we've seen  
17 not just here in New York, but in cities all across  
18 the country.

19           CHRISTINA ZHANG: I just want to mention  
20 like here in Knickerbocker like we don't know exactly  
21 what data is being collected, right. Like they  
22 haven't told us anything. So, it's very like, we  
23 just have no idea, and being a community of like, you  
24 know, 70% Asians and most of them are immigrants,

1 right, it's worse than if they like, you know,  
2 collude with ICE.  
3

4 COUNCIL MEMBER LANDER: Yeah, I mean your  
5 testimony and I think we're going we're going to hear  
6 the same from the Alliance Plaza Tower tenants as  
7 well. It really drives the point home that you're-  
8 you're getting all of the risks and harms, none of  
9 the information and none even of the-the reported  
10 benefits, right? So, it sounds like you may actually  
11 just from a narrow like might there be an intruder in  
12 the building, you might be more likely to have one  
13 now than you were when had a traditional key given  
14 the-this, um, you know the mismatches, the-the  
15 breakdowns, the, you know, all the things that you  
16 mentioned. So, you-there's no benefit for the tenants  
17 in terms of safety. You're exposed to all of the  
18 surveillance and you have no information on-on what  
19 is being done with that information. So, no I mean  
20 we've got to do more here, and-and I feel like on the  
21 one hand getting you a key that would let you in will  
22 help, but we clearly need to go further to make some  
23 changes in-in what's allowed in that kind of tracking  
24 technology. So, thank you again for being here this  
25 morning.

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CHAIRPERSON HOLDEN: Thank you Councilman Lander. I want to just mention this Knickerbocker you said that the facial recognition didn't work many times. Was it just once it didn't work or--or had-- you also heard complaints from the other tenants about it not working the facial recognition?

CHRISTINA ZHANG: Well, both like, you know, it hasn't worked for me sometimes. Actually, it didn't work for me at, you know, the entrance gate on Saturday and the security guard just buzzed me in.

CHAIRPERSON HOLDEN: So what happens? What--how long are you delayed?

CHRISTINA ZHANG: I mean if it doesn't work then it just doesn't work. You're just standing there like, you know, dancing in front of the camera. You see many tenants like do the same thing and, you know, maybe like it works for someone and then everyone goes in. So, it--it--like I don't know like under what circumstances it works, but like, you know, sometimes it lets you in [snaps fingers] like that. Other times like you're just stuck. You're locked out.



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CHAIRPERSON HOLDEN: Is there a sign in  
the building that says they're using facial tech-  
recognition technology?

5

CHRISTINA ZHANG: No.

6

CHAIRPERSON HOLDEN: There's no sign?

7

CHRISTINA ZHANG: No.

8

CHAIRPERSON HOLDEN: And so, you didn't  
have to sign any document as a waiver?

10

CHRISTINA ZHANG: I don't think we did  
that. We just got notification that management is  
installing this facial system--recognition system and  
that we have to go down and get our photos taken.

14

CHAIRPERSON HOLDEN: So you like it or  
not, just you had to--

16

CHRISTINA ZHANG: Exactly.

17

CHAIRPERSON HOLDEN: Okay.

18

CHRISTINA ZHANG: We had no choice.

19

CHAIRPERSON HOLDEN: Just a question on  
the fobs. Your--your building had only--you only get  
one fob. Is that right? Did I hear that? Okay, and  
so what happens? I mean do you have to pay for  
another one or--?

24

ALBERT CAHN: Right, exactly. So, if I

25

have someone visiting, I have to be there or we have

1 to coordinate handing then a, um, you know, how-how  
2 we're going to navigate somebody getting into my  
3 home.  
4

5 CHAIRPERSON HOLDEN: But they don't give  
6 you and option to purchase additional.

7 ALBERT CAHN: No, they-they would not.

8 CHAIRPERSON HOLDEN: And, but you-you  
9 don't have a key also?

10 ALBERT CAHN: I mean legally they are  
11 supposed to.

12 CHAIRPERSON HOLDEN: But there's no-  
13 there's not key entry at all, there's no backup at  
14 all?

15 ALBERT CAHN: No.

16 CHAIRPERSON HOLDEN: Okay.

17 ALBERT CAHN: No, no. Yeah, the keys  
18 that used to open the door no longer work.

19 CHAIRPERSON HOLDEN: Hm, okay. Did  
20 anything with a power failure? Did you ever  
21 experience a problem yet?

22 ALBERT CAHN: We just got back in--

23 CHAIRPERSON HOLDEN: [interposing] You just got back  
24 in.

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ALBERT CAHN: --so there hasn't been a  
power failure, yet but...

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4

CHAIRPERSON HOLDEN: Okay, Council Member  
Chin has a question.

5

6

COUNCIL MEMBER CHIN: Thank you, Chair. I  
wanted to ask the panel that do you consider—I think  
Knickerbocker was just in my district, and I know  
that one of the reason that, you know, the landlord  
was talking about because a lot of people they feel  
that to live in that live in the building are not on  
record, but we have such an affordable housing crisis  
in the city. A lot of families are doubling up,  
tripling up. Do you consider what the landlord is  
doing, you know with is this facial recognition, the  
key fob as a form of tenant harassment?

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CHRISTINA ZHANG: I guess I do. [laughs]  
I'm not exactly sure how to answer that. I mean it  
just feels like they're like tracking our every  
movement. Like, you know, like there were things  
discussed that I hadn't even considered like are they  
tracking like, you know, oh, Christina goes in and  
out like five times a day like do—like how necessary  
is that information? Like it doesn't really provide  
security of safety.

1  
2           ALBERT CAHN: At STOP we're quite  
3 concerned about how biometric surveillance empowers  
4 landlords to harass tenants not merely tracking every  
5 single action they take near the building or in  
6 building hallways, but there's emerging forms of  
7 artificial intelligence software called Gate  
8 Detection and other products that try to predict what  
9 our mood is. What, you know, they try to say is  
10 someone happy, are they sad, are they depressed? And  
11 that's another level of intrusive surveillance that  
12 landlords will be able to deploy unless we stop it  
13 here and now and you can easily imagine the situation  
14 in which landlords try to predict who's going to be a  
15 "good tenant" based off of these sorts of highly  
16 invasive forms of AI and trying to micro manage every  
17 part of our activity, and we've already hear horror  
18 stories of people receiving fines and warnings for  
19 their activities in their own buildings because of  
20 these systems.

21           VANESSA BERGANZOLI: As I mentioned in my  
22 testimony, my building was sold earlier this year and  
23 the new landlord wants to potentially evict and kick  
24 everyone out. We are a building of mostly working  
25 artists one of the last surviving ones in

1 Williamsburg, Brooklyn and this fob technology has  
2 the potential for being used as a method of  
3 harassment in that—in light of the current  
4 circumstances of the tenants and the building.  
5

6 JOSH STEINBAUER: I was absolutely—one of  
7 the ways that landlords harass tenants in a situation  
8 like this is to take them to court to challenge  
9 whether they have, you know, in our case it's—we have  
10 loft law coverage, and one of the ways that they  
11 harass you is to say like well this might not be  
12 your—your primary residence because I see that you  
13 were—you were not there for two to three months  
14 because you were, you know, in cases of work and  
15 other—a lot of other instances, and it forces the  
16 tenants to just, you know, you—you're sunk in—you're  
17 sunk in legal debt. I mean it costs so much. You  
18 know, it was \$100,000 just to get back in our  
19 building, and find all of our possessions destroyed.  
20 So, it's—it's just one of the ways that they  
21 landlords harass you.

22 COUNCIL MEMBER CHIN: I think, you know,  
23 that is really happening across the city for many,  
24 many years, and I think that even in the case of  
25 Knickerbocker Village I mean the landlord is looking

1  
2 for a big rent increase, and I think that, you know,  
3 for government subsidized housing and rent regulation  
4 that we have to do more oversight. I mean the  
5 tenant, you know, should organize and complain about  
6 it. At the same time I think as a city, as a state  
7 we need to really provide more oversight. I mean now  
8 that we have stronger rent laws, we have to make sure  
9 that landlords are not using these kind of  
10 technologies to harass tenant and force them, you  
11 know, to leave their home. So, that's something that  
12 we look forward to working with you on. Thank you.

13 CHAIRPERSON HOLDEN: Okay, Council Member  
14 Torres, questions for this panel?

15 COUNCIL MEMBER TORRES: Thank you for  
16 your testimony. I should confess that, you know, I'm  
17 in favor of reforming and regulating the use of  
18 facial recognition technology. I'm not quite sold on  
19 the need to ban it altogether but I'm—I'm open to  
20 persuasion. You were sharing your experience of  
21 landlords using facial recognition technology as a  
22 means of locking out tenants. In some sense is that—  
23 if I understood your correct—your testimony correctly  
24 or not.

1  
2           JOSH STEINBAUER: Locking out tenants? To  
3 deny them the—the coverage the loft law protection  
4 coverage in whatever case.

5           COUNCIL MEMBER TORRES: Okay, I must  
6 have—I must have misunderstood then. It sounds like  
7 you feel like heading in the wrong direction because  
8 most of our bills are aimed at setting standards of  
9 transparency and accountability, but it seems like  
10 you're in favor of banning it. I want to just build  
11 on some of the questions that Council Member Lander  
12 asked earlier. Are you in favor of a categorical ban  
13 on—on facial recognition technology both public  
14 sector and private sector use? Is that your  
15 position?

16           ALBERT CAHN: Yes, yes that is our  
17 position. The reason why is according to MIT and  
18 Stanford Researchers when they looked at all the  
19 commercially available facial recognition products  
20 last year, they found that for someone like me,  
21 they're pretty accurate under the right  
22 circumstances, but for black women they were wrong  
23 one in three times, and when you have that sort of  
24 performance gap, you are baking in the sort of bias  
25 and discrimination we've seen for so many decades in

1  
2 New York City with human decisions and your  
3 automating it and you're making it more obscure and  
4 harder for people to challenge because we'll see New  
5 Yorkers arrested and it will be on the basis of this  
6 facial recognition database. They won't even know  
7 that a lot of the times, thousands, and so, even if  
8 you think that facial recognition has a place in our  
9 society, I would put to you that it cannot be a part  
10 of it yet not when it continues to discriminate at  
11 this level, not when it continues to get it wrong  
12 time and time again for the same communities that  
13 have been over-policed for so many decades, and I  
14 think when we see it in the housing context we have  
15 those exact same risks, and we are already seeing  
16 this dystopian nightmare where tenants are being  
17 tracked and harassed, and potentially even evicted  
18 because of these technologies that are fundamentally  
19 reshaping the power balance between landlords and  
20 tenants.

21 COUNCIL MEMBER TORRES: So, it sounds  
22 like your objection is not so much to the technology  
23 per se. It's the underlying algorithm.

24 ALBERT CAHN: I would say-

25



1  
2 COUNCIL MEMBER TORRES: [interposing] The  
3 discriminatory bias built into the algorithm. Is  
4 that-?

5 ALBERT CAHN: I would say if the  
6 algorithms worked as advertised, it would still be  
7 deeply, deeply problematic because--

8 COUNCIL MEMBER TORRES: [interposing] And  
9 why is it problematic at that point?

10 ALBERT CAHN: So, if I get good news  
11 walking down the street, and I start doing a silly  
12 little dance, I don't want to thank that there is  
13 some form of A-I that's tracking my movement that's  
14 saying is that movement pattern indicative of someone  
15 who poses a threat? Is that threat something that  
16 needs to be logged? Does that need to be sent to the  
17 NYPD? That's not an exaggeration. That sort of  
18 technology already exists and it undermines our  
19 ability to freely move about our society when we  
20 second guess how every action will be misunderstood  
21 and mis-categorized by some form of artificial  
22 intelligence. It's deeply troubling.

23 COUNCIL MEMBER TORRES: So, your concern  
24 is that the facial recognition technology has

1 chilling effect on the free movement, free--?

2 Couldn't the same be said of cameras?

3  
4 ALBERT CAHN: Yes. The thing is the  
5 biggest shift we've seen isn't technological so much  
6 as economic. Facial recognition makes it incredibly  
7 cheap to track moment by moment the movement of  
8 millions of New Yorkers. It would have taken tens of  
9 thousands of dollars to track a single individual 30  
10 years ago simply using a bunch of officers, using  
11 multiple cars in multiple teams. The cheaper it  
12 becomes to surveil all of us, the more that  
13 technology is used for incredibly small infractions  
14 it currently is used for things like graffiti  
15 offenses, and used for, you know, someone who takes a  
16 beer from a CVS, and so the cheaper it is to use  
17 these algorithm (sic) technologies the more often we  
18 will. But the thing is that I don't think we even  
19 have to get to that philosophical question for  
20 another few years because the technology is so  
21 blatantly biased and broken today. And so, even if  
22 you don't agree that it is deeply chilling, I would  
23 hope that you do agree that there's a profound risk  
24 that as these tools work now, they are going to

1  
2 perpetuate the same sort of biases we see with human  
3 decisions.

4 COUNCIL MEMBER TORRES: I feel like in  
5 your exchange with Council Member Lander you  
6 mentioned in passing your concern about, you said in-  
7 door appliances, right?

8 ALBERT CAHN: So, we saw--

9 COUNCIL MEMBER TORRES: [interposing]  
10 With the sensors in apartments. Is that what you're  
11 referring to?

12 ALBERT CAHN: So, there are smart meters--

13 COUNCIL MEMBER TORRES: Yeah.

14 ALBERT CAHN: --which are devices that  
15 will monitor electricity usage throughout the day.  
16 There's a concern that even the data gathered by  
17 those could be of use to law enforcement or ICE for  
18 example.

19 COUNCIL MEMBER TORRES: Would you be in  
20 favor of banning those?

21 ALBERT CAHN: I would need to look at  
22 what the proper regulatory environment would be for  
23 those. I-I'm not--that's not something where we can  
24 say definitively today they pose such an outsized  
25 privacy risk that we would need to ban them, and let

1  
2 me be clear. Our organization does not go nearly as  
3 far as number of reformers in advocating for  
4 comprehensive bans. We only do it with those  
5 technologies that pose such a potent privacy risk  
6 that we see no possible path for them to be used  
7 without out-sized discriminatory impact.

8 COUNCIL MEMBER TORRES: You brought up  
9 the risk of ICE--

10 ALBERT CAHN: Uh-hm.

11 COUNCIL MEMBER TORRES:--obtaining the  
12 information, which is not a risk that anyone here  
13 takes lightly. Is there any example in the country  
14 of ICE obtaining via subpoena information collected  
15 by facial recognition technology of--?

16 ALBERT CAHN: Of ICE obtaining that?

17 COUNCIL MEMBER TORRES: Yes.

18 ALBERT CAHN: Well, we know--

19 COUNCIL MEMBER TORRES: [interposing]  
20 Has that transpired before? Is that--or is that a  
21 theoretical fear?

22 ALBERT CAHN: Well, let me take a step  
23 back and talk about sort of the information sharing  
24 environment more globally. So, we know for example  
25 that ICE for years has used automated license plate

1 readers, and then we found out in 2016 that they were  
2 using a vendor called Vigilant Solutions. It so  
3 happens that Vigilant Solutions contracts police  
4 departments all across the country, one of which  
5 happens to be the NYPD, and then we found out that  
6 there were individuals who had been detained by ICE  
7 because of license plate data that was given not in  
8 those specific cases by the NYPD, but by other law  
9 enforcement departments to Vigilant Solutions, which  
10 in turn it was used by ICE, and with facial  
11 recognition itself, you have to understand this is  
12 such a new technology in its mass deployment that we  
13 aren't going to yet have the sort of data collection  
14 that we have with these other tools. What we do know  
15 is that they are trying through vendors like Palintir  
16 to aggregate this data wherever possible that they're  
17 using more data driven detention practices to have  
18 these algorithmic systems direct them to immigrant  
19 communities, and we know that there is a huge danger  
20 there, and really I—I think with ICE in particular we  
21 can't wait until they've already abused this system  
22 to address the obvious threat.

24 COUNCIL MEMBER TORRES: But it sounds  
25 like the Council is being too timid.

1  
2 ALBERT CAHN: I would say the Council—I  
3 would always--

4 COUNCIL MEMBER TORRES: [interposing]  
5 That these--these bills are scratching the surface.  
6 It's not addressing the root causes.

7 ALBERT CAHN: I would say that these  
8 bills are important first steps--

9 COUNCIL MEMBER TORRES: Yes.

10 ALBERT CAHN: --but that more action is  
11 necessary.

12 COUNCIL MEMBER TORRES: Yes. Thank you  
13 for your testimony, sir.

14 CHAIRPERSON HOLDEN: And thank you panel  
15 for your excellent testimony. We thank you very much  
16 for going through all the questions, and we're going  
17 to--before we call our next panel, I want to recognize  
18 the Chair of the Committee on Housing and Buildings,  
19 my Co-Chair for today Council Member Cornegy for an  
20 opening statement.

21 CHAIRPERSON CORNEGY: Thank you so much  
22 chair for your indulgence. I am going to read my  
23 opening statement for the record having full  
24 knowledge you've begun and delved deeply into this  
25 conversation. So, Good morning everyone. I'm

2 Council—well actually, good afternoon, everyone. I'm  
3 Council Member Robert Cornegy, Chair of the Committee  
4 on Housing and Buildings. I want to thank Chair  
5 Holden of the Committee on Technology, Chair Espinal  
6 of the Committee on Consumer Affairs and Business  
7 Licensing, and other members of the Committee on  
8 Housing and Buildings for joining the hearing on  
9 facial recognition technology. As discussed by Chair  
10 Holden facial recognition has slowly begun to  
11 permeate our society particularly during the last few  
12 years. Facial recognition and other smart lock and  
13 keyless entry technologies can be found in tens of  
14 thousands of homes throughout the city. This  
15 technology provides some conveniences. For, example  
16 allowing the property owner to deny access to a  
17 former tenant without changing the locks, and  
18 providing for increased security over building common  
19 areas. At the time this convenience comes at a price.  
20 facial recognition and other smart lock technology  
21 can be used to track tenant movement recording when a  
22 tenant accesses his or her home. This data can be  
23 used to harass tenants particularly rent stabilized  
24 tenants to vacate their homes. In addition some  
25 smart lock technology can have a discriminatory

1  
2 impact. Facial recognition technology had a higher  
3 error rate when identifying people of color as was  
4 mentioned earlier, particularly black women. As a  
5 result, people of color who reside in buildings that  
6 use this technology could be locked out of their own  
7 homes. Other smart lock technology, for example,  
8 technology that uses mobile phone applications can  
9 discriminate against those who do not have smart  
10 phones such as the elderly. While some tenants  
11 embrace the opportunity to use new technology,  
12 existing law does not allow tenants to opt out of  
13 using this technology and using an old fashioned  
14 mechanical key instead. The Preconsidered  
15 Introduction that we've heard today sponsored by  
16 Council Member Lander requires landlords to give to  
17 tenants mechanical metal keys and forbids landlords  
18 from requiring that tenants use facial recognition or  
19 other smart locks to access their homes. This  
20 legislation will make sure that tenants have a choice  
21 and do not feel pressured to use the new technology.  
22 Again, thank you Chair for allowing me that. I just  
23 want to point out that I thought I heard the former  
24 panel mention that this was Orwellian technology.  
25 Did somebody say that? That is a terms that I'm



1 quite familiar with, and I just didn't know that that  
2 would be brought up today. So, thank you for a  
3 throwback to my graduate school days.

4  
5 CHAIRPERSON HOLDEN: We hear you  
6 graduated in '84. Okay, my next panel Taslian  
7 Francis, Fabian Rogers, Esmay Gardner, Samora Katarni  
8 (sp?) Sorry if I mispronounced that. Anita Booker.  
9 [pause] and you are all tenants?

10 FEMALE SPEAKER: [off mic]

11 CHAIRPERSON HOLDEN: Okay. Okay, we can  
12 start to my right. Okay. But you want to go the  
13 other way? Okay, we'll go. Then we'll go to the far  
14 left here. Yes, sir, go ahead.

15 FABIAN ROGERS: Hello. My name is Fabian  
16 Rogers. Should I start my testimony. So, I am here  
17 today and I want to say thank you on behalf of all  
18 the committee--what's that?

19 CHAIRPERSON HOLDEN: Bring the mic a  
20 little closer.

21 FABIAN ROGERS: Oh, good.

22 CHAIRPERSON HOLDEN: Thank you.

23 FABIAN ROGERS: So, hello City Council  
24 Committees that are here today. My name is Fabian  
25 Rogers. I'm a resident here on behalf of the many

1 tenants like those who will speak after me from-of  
2 Atlantic Plaza Towers in Ocean Hill, Brownsville,  
3 Brooklyn and potential tenants all throughout New  
4 York City. I come to this occasion with a critical  
5 lens on the issue the uprise of biometric  
6 surveillence and security technology and different  
7 facets of our society because of the potential lives  
8 that can be heavily affected by these innovations.  
9 More specifically my personal testimony is aimed at  
10 the potential legislation on the table today that  
11 focuses on this type of technology—this type of  
12 technology's use in the housing sector both public  
13 and private. With regard to the bills that we're  
14 engaging in discourse over, I'm here to strongly  
15 suggest the idea of a moratorium on these because of  
16 the stage at which tech giants—even tech giants such  
17 as Microsoft, IBM and Face Plus-Plus App with their  
18 facial recognition technology. Although I'm grateful  
19 that there are government policies being presented at  
20 all, I have to be mindful of the strength of these  
21 policies and how much protection they will provide  
22 for tenants like myself. With dealing with the vast  
23 and rapid pace of integration with technology with  
24 our society we have to be mindful of the consequences  
25

1 of dealing with new, untested and possibly  
2 incorrectly regulated biometric technology. We have  
3 to constantly ask ourselves what are we dealing with  
4 here? Who is affect? How are they affected and how  
5 does that then impact the rest of society? I  
6 recommend a moratorium because although these bills  
7 mean well, I still had discomfort with the legalese  
8 of the bills proposed. I worry that despite the  
9 premise of justice in these bills, the outcome upon  
10 these bills being passed might not reach the feet of  
11 just we hope for. That worry stems from the issue  
12 that lives—that the lives that will be impacted have  
13 yet to truly be heard and considered. I worry that  
14 these bills would unfortunately ensure we fall short  
15 of providing full protection to all tenants in the  
16 face of unsanctioned innovation with facial  
17 recognition technology today. Interestingly enough,  
18 we often talk and focus on the steps of innovation of  
19 these merging technologies around us. We get caught  
20 in the grammar of a new gadget that might offer a  
21 better sense of convenience in everyday activity.  
22 However, we don't think or talk as often about the  
23 missteps that come with innovation. Just like other  
24 science experiments, the hypotheses that come with  
25

1 these technologies can have room for errors.  
2  
3 Typically, that margin of errors is fine to tinker  
4 with and improve upon, but the major difference here  
5 is that margin of error is that facial recognition  
6 technology involves everyday people's person  
7 biometric data. That—the—through the customs of this  
8 type error can cost everyday people information that  
9 the covenant—that the government couldn't even afford  
10 to replace. A person's biometrics is essentially  
11 priceless and you unique to them, but with this  
12 ledger—legislation, we're still allowing for that  
13 private information to possibly be monetized without  
14 allowing control to the people who give up their  
15 private information in the first place. This  
16 legislation is set in a way as though we assume this  
17 facial recognition technology is foolproof when tech  
18 giants such as Microsoft, IBM and Face ++ have  
19 elusively said otherwise. A study done by Joy  
20 Buolamwini—Buolamwini--I apologize. I'm really bad  
21 at pronouncing names. A researcher at MIT and tenet  
22 giver—a researcher at Microsoft through using the  
23 evaluation systems of about 22—2,200 to 2,300 facial  
24 profiles harvested from the Internet, marketed or  
25 created—that were marketed and created by Microsoft,

1  
2 IBM and Face++ have found that there are massive  
3 inaccuracies particularly among the demographics of  
4 women of color. Although darker skin women profiles  
5 only accounted for 21% of the entire test pool of  
6 faces to be evaluated, their profiles  
7 accounted for nearly 61% to nearly 73% of error rates  
8 with in these same facial recognition technologies  
9 being marketed by the mere forerunners of this type  
10 of technology. The folks who are essentially leading  
11 the world in technological innovation in this facet  
12 still have a large margin of error yet to be  
13 addressed. Ironically, the demographic  
14 peril in this study is more like the first and main  
15 demographic at peril in reality. With gentrification  
16 phasing out, the diversity in neighborhoods, these  
17 technologies will be used as surveillance tactics to  
18 essentially speed up that process allowing them with  
19 another metric to be an intrusion among the privacy  
20 of tenants like myself and those you will hear after  
21 me. Because there is no regulation around these  
22 technologies, start-up companies such as Stonemark,  
23 the company in the midst of trying to use their  
24 technology on the buildings which me and  
25 my tenants come from can use this technology without

1 necessarily having validation studies that--to show  
2 that they have actual efficacy on the data that they  
3 would harvest. Think about for a second if you can  
4 if tech folks don't have a grip on efficacy with all  
5 the demographics and start-up companies may not even  
6 be required to have validation studies checked and  
7 critiqued, where does that leave the margin of error  
8 in reality? We are no longer talking about practice  
9 studies. We're talking about reality even having a--  
10 even having a worse reflection of what we've seen  
11 from information from knowledge of old data scientist  
12 that have shown us time and time again that this  
13 stuff doesn't work. Potentially black and brown  
14 bodies you can't afford to have a voice in this  
15 battle because of everyday life challenges can be  
16 taken advantage of and tied in to biometric data  
17 mismatches that could cost them their lives as law  
18 abiding citizens. This intrusion on personal data  
19 starts from a premise of inaccuracy and will  
20 inherently have an outcome of heavy-heavy inaccuracy  
21 that could potentially lead to eviction, unlawful  
22 arrest, and unlawful mismanagement of people's  
23 personal data. The potentiality for people's  
24 biometric data to be taken advantage of not just by  
25

2 landlords but by hackers exponentially grows with the  
3 uprise with the start of techno-tech companies that  
4 don't match the liking of tech giants such as  
5 Microsoft, IBM and Face ++, thus leaving tenants like  
6 myself in a place of peril as I am a test subject  
7 along the large scheme for hast for hasty integration  
8 of technology in our society. Thank you.

9 CHAIRPERSON HOLDEN: Thank you. Okay.

10 ICY MAY GARNER-DOWNS: Good morning, Chair  
11 and committee members. I am Icy May Garner-Downs. I'm  
12 a representative of the Atlantic Plaza Towers Tenants  
13 Association, and I have been a tenant there since  
14 1968. Atlantic Plaza Towers is composed of two 24-  
15 story buildings with a total of 714 rent stabilized  
16 units in the Brownsville section of Brooklyn. It is  
17 owned by Nelson Management Group. The demographic  
18 make-up of the complex is about 80% females and  
19 minors or colors. In the fall of 2018 we received a  
20 mailing from New York State Housing and Community  
21 Renewal Office of Rand Administration/NCI Unit better  
22 known as DHCR, stating our owner had filed for lease  
23 modification to install a facial recognition system  
24 to replace the current 2P5 Door Entry System. The  
25 notice instructed us to check the yes box if you

1  
2 agree or check the no box and explain why you  
3 disagreed and return by deadline. Attached to the  
4 notice was a list of every tenant's name and  
5 apartment number in your respective building privacy  
6 be dammed. With no guidelines from DHCR we decided  
7 to do the following: Organize and educate ourselves  
8 about facial recognition and biometric data  
9 technology. We googled until our fingers were numb.  
10 We seeked out help from elected officials,  
11 technological experts and Brooklyn Legal Service of  
12 Brownsville, and media outreach. Where are we today?  
13 On May 1, 2019 we filed our opposition papers with  
14 DHCR at their Jamaica office. Our State Senator,  
15 Assemblywoman Latrice Walker has introduced a bill A-  
16 7790 to prohibit the use of facial recognition system  
17 by a landlord on any residential premise. The Senate  
18 version is S-5687. Questions to the Council Members:  
19 Did you speak to any experts who know about this  
20 technology before you drafted these bills. Did you  
21 speak to any tenants currently living in buildings  
22 with a facial recognition system to find out about  
23 their experience and concerns? Did anybody tell you  
24 that HPD did not inform the tenants that they had a  
25 right to keys, a physical key if their landlord put



1 in a key fob system because became rent stabilized  
2 two years ago, and HPD allowed our landlord to put in  
3 a key fob system and never told us we were entitled  
4 to a key, and we have had incidents where we have  
5 been locked out of the building, and had to wait for  
6 people to exit the building in order to get in.  
7 Remember, we have to through two doors in order to  
8 get in our a building with a key fob system. Did  
9 anybody tell you that landlords will lock you out of  
10 your apartment or I should say disconnect your key  
11 fob because they notice that you haven't been using  
12 it lately so maybe you don't live there any more.  
13 Yes, this happens, okay. [laughter] Sorry because  
14 Council Members had—if you had spoken to either of  
15 these groups, then you would know these bills do not  
16 go far enough. We the tenants of Atlantic Plaza  
17 Towers do not believe that Intro 1672 and T-2019-4579  
18 as proposed are not strong enough to support our  
19 opposition to the use facial recognition and  
20 biometrics data collection in residential buildings.  
21 We now that facial recognition/biometric surveillance  
22 systems have already been installed in residential  
23 buildings. We ask for a moratorium to stop any  
24 current or planned use of these systems until there  
25

1 is a full ban in place for we are going nowhere fast,  
2 but we can go somewhere slow. Thank you for allowing  
3 me to speak.  
4

5 CHAIRPERSON HOLDEN: Thank you.

6 ANITA BOOKER: Good afternoon. My name  
7 is Anita Booker (sic). I've lived in Atlantic Towers  
8 for 21 years. I may sound repetitive for what I'm  
9 saying because what Miss ICY just spoke about. As  
10 tenants of ATA, Atlantic Towers why wasn't we  
11 informed about this meeting and pertaining to our  
12 place of residence in advance. Last year DHCR sent  
13 out an owner's application for modification of  
14 services and provided residents with 20 days to  
15 respond with a yes or a no when some residents—I take  
16 that back, the majority of the residents either  
17 didn't receive it or received it after the deadline  
18 because this was the renovation. There was a  
19 renovation going on in the building. This is the  
20 package here that DHCR sent out. I know this because  
21 a few of us canvassed the tenants in the lobby after  
22 the tenants' monthly meeting. Tenants have so many  
23 issues that needs to be addressed. While is this  
24 facial gadget such a big deal to install, which is  
25 very frightening because it's an invasion of our

1  
2 privacy. People with money is starting to fixing up  
3 our neighborhoods to bring the property value up so  
4 the poor people like me can't afford to live here any  
5 more. Yeah, gentrification. Excuse me because I am  
6 pissed at what's going on. I am part of EBC, East  
7 Brooklyn Churches, and we are finding out that there  
8 are so many people losing their homes because of the  
9 changes taking place. Now we have to fight to  
10 protect our privacy where we live. As it's written,  
11 in a DHCR package the owner is seeking to install to  
12 just increase the safety and security of the  
13 building's residents. When you enter the building  
14 with your key fob some can walk in behind—someone  
15 could walk in behind you. What difference is it going  
16 to make if our face is scanned? Someone can still  
17 walk in with off your facial scan. I'm off of what I  
18 said—what I was just talking about. When they  
19 presented a key fob to us they told us a key fob  
20 couldn't be duplicated. When they send JCS (sic) in  
21 this package out they claimed that oh, it could be  
22 duplicated. So, it's like they're saying to  
23 different things. Now I'm going back to what I have  
24 written. I have my proof that ATA security work—  
25 works. The five of us who was asking other tenants

1 if they received a package from DHCR, the human  
2 security guard reported us, and weeks later, a week  
3 later we received a letter stating that the lobby is  
4 not a place to solicit, electioneer hangout or  
5 loiter. To top it off, we also received a color  
6 photo with our partners. I have the paper right here  
7 see in color. Okay, just a second—in color. Sounds  
8 like we have perfect security. We are not here to  
9 speak only on behalf of the tenants at Atlantic  
10 Towers. With so many people needing housing with how  
11 it's so-called affordable housing is now being  
12 designed with this bio gadget, people are being  
13 forced to scan—to be scanned before they sign their  
14 lease. Is that the government way of—to say we  
15 control you? I ask you how would you feel as a  
16 tenant if your landlord installed this gadget that  
17 would invade your privacy and you don't know where it  
18 went, and when tragedy hits, we tend to come  
19 together. I'm asking please consider this a tragedy  
20 waiting to happen. Please work with us to come up  
21 with a strong bill to prevent this bio gadget out of  
22 residential areas. Thank you.

24 CHAIRPERSON HOLDEN: Thank you.

1  
2           KATHRYN FRANCIS: Hello Chair and Council  
3 Members. My name is Kathryn Francis and I am  
4 currently a working mom who has been raised from a  
5 third generation and not making a fourth and residing  
6 in Atlantic Plaza Towers in Brooklyn, New York.  
7 Alongside many of us who have lived here just as long  
8 as I have would like to continue to raise our  
9 children in an environment where we already feel safe  
10 and security with the many forms of security  
11 provided. This is why I'm proud to be here to  
12 represent myself, Atlantic Tower tenants and others  
13 who are in opposition to this biometric system  
14 referred to as facial technology and other forms of  
15 technology that uses our biometric identity as a form  
16 of entry at our place of residence without an option  
17 to consent. We are urging the Council to broaden  
18 federal privacy legislation to get the use of  
19 biometric data collection in residential buildings  
20 across New York City and not just for Atlantic Plaza  
21 Towers. I'm testifying that we push for a moratorium  
22 and a ban for this—on this matter since the tenants  
23 feel that security, which is why us in management  
24 once input this technology in the first place is not  
25 an issue on where we live, but merely have an issue

1 with discrimination and how minorities predominantly  
2 women who are raising families are being treated and  
3 the risks, the introduction of risk surveillance  
4 systems that would also scan our children, which can  
5 also cause a huge issue because children's facial  
6 features can change over time. And as we all may  
7 know, that in history, which some systems have  
8 appeared to be beneficial to citizens especially  
9 without proper knowledge or education we have, in  
10 fact, become so unsafe that the harm-to-benefit  
11 ration become inexcusable and unfair, and should be  
12 enough to bear in mind complete bans. It may sound  
13 like a cliché, but this is an example of everything  
14 that glitters just is not gold. The law already  
15 prohibits certain kinds of dangerous digital  
16 technology such as spyware, and I honestly feel that  
17 facial recognition technology has become far more  
18 dangerous especially since hackers are still at bay  
19 and is in dire need for prohibition in the  
20 residential buildings. When entering our building we  
21 come through a door without a key, but then the next  
22 two require the use of election key fobs upon entry  
23 for a total of three doors. We have gates that are  
24 all around the premises that we must use for key  
25

1  
2 fobs. There is an intercom system, another form of  
3 electric use, or intercom use to which a visitor  
4 enters a numerical passcode for the apartment they  
5 want to visit and the tenant can speak back and then  
6 press a button to unlock the door, and once inside  
7 the intercom system, our cell phones can be attached  
8 to this device in cases where you do not use your key  
9 fob. We can use our cell phones to let ourselves  
10 into the building. There's a security guard that  
11 sits in the booth, but in any case, what would happen  
12 to tenants if a power outage happens, and the heavy  
13 use of technology works against us. This heavy use  
14 of technology does not protect us in cases of  
15 emergency, and I feel that strangers or just about  
16 anybody would have the ability to walk in--be able to  
17 walk in the premises or for tenants to be completely  
18 locked out. Just recently we experienced a quick  
19 power outage in our area to where water and  
20 electricity was completely out. One building had no  
21 water, and the other had both no water or electricity  
22 for a full day. So, we had to--we had to be let in  
23 the premises by security guards because the key fobs  
24 and intercom systems were all out. After walking  
25 through the door and past the security guards, there

1 are cameras positioned by doors both the front and  
2 back entrance to the building by the elevators and  
3 the elevators, and as soon as you get off the  
4 elevator to walk to our apartments, yes you guessed  
5 it, there is another camera that watches us to our-to  
6 our doors. There are certain—we also have a  
7 maintenance crew who also secures the premises. They  
8 are indirectly put onto duty to watch us, and some  
9 were past security guards who given "promotions" to  
10 become part of the maintenance teams in our building,  
11 but some of us feel that they, too, watch us. If the  
12 security maintenance system—excuse me. There is  
13 security maintenance team in our buildings, but some  
14 of us feel they, too, watch us. Okay. Sorry. If a  
15 security guard is not sitting at the booth, a  
16 maintenance worker will be seated there. When we  
17 slip flyers under the doors, and I have some that  
18 that cannot be pushed fully under the doors, we are  
19 told by building maintenance are told by management  
20 to pick up the flyers that are visible and throw them  
21 away. As residents do not feel as though we are being  
22 protected, but merely feel like prisoners or feel  
23 like we're being tagged in our own homes on a place  
24 or for any place for that matter we do not want this  
25



1 type of system. We as predominantly women, we as  
2 predominantly women and people of color already feel  
3 heavily surveilled and targeted. Other minorities  
4 profile-profiled whether it be the color of our skin  
5 of culturally. Why should we feel this way in a  
6 place where we pay our rent? Let's take a look at  
7 Jimmy Gomez, a California Democrat, which according  
8 go CNN facial recognition is-has been brought about  
9 in one of the largest states and has the largest  
10 state-is one of the largest states that takes action  
11 against the technology. Excuse me. He is-Gomez is a  
12 Harvard graduate, and one of the rank (sic) spank  
13 lawmakers serving in the U.S. House of  
14 Representatives, but to Amazon's Facial Recognition  
15 System he was able to pass as a criminal. Gomez is  
16 one of the 28 U.S. Congress members falsely matched  
17 mug shots of people who have been arrested as part of  
18 the test of the American Civil Liberties Union ran  
19 last year with the Amazon Recognition program. the  
20 results emphasizes increasing concern among civil  
21 liberty groups, lawmakers, tech firms and either  
22 other tenants who live in buildings throughout the  
23 nation that facial recognition could hurt minorities  
24 as the technology becomes more conventional. The  
25

1  
2 uses of the technology is not being used in I-Phones  
3 and Android phones, police, retailers, airports and  
4 schools and are gradually approaching around us too.  
5 This is proving that facial recognition systems have  
6 a tougher time identifying women and darker skin,  
7 which police are fighting (sic) false positives  
8 especially within Atlantic Plaza Towers residents  
9 because predominantly we are all women of color  
10 living there. This is an example of how the  
11 application of technology in residential space can  
12 cause harmful consequences for communities who are  
13 already over-surveilled. We have experienced being a  
14 suspect and we are continuously treated like  
15 criminals in our own homes. For instance, when some  
16 of us first learned about facial recognition, tenants  
17 gathered in the lobby to discuss the use of this  
18 technology. Building management sent the tenants who  
19 are spreading knowledge or awareness a notice to  
20 threaten us with pictures as Ms. Anita has presented  
21 before you guys to, um, sorry-The-the place-the lobby  
22 was not a place to solicit, electioneer, hangout or  
23 loiter when, in fact, landlords never let have the  
24 right to ban non-violent and diplomatic gatherings in  
25 this way because it is our rights as citizens to

1  
2 congregate and educate one another. Our biggest  
3 danger is that the technology gets into hands of  
4 third-party entities who will get unsolicited access  
5 to our biometric information and ultimately will be  
6 placed in damaging systems such as perpetual police  
7 line-ups as indicated by researchers at Georgetown  
8 Law School. This huge growing gap between existing  
9 laws and current privacy bills have not been  
10 ambitious enough to protect people, all people. I  
11 suggest you create for future legislation. We need  
12 to consider ways to improve—introduce bill proposals  
13 including a central golden rule of privacy to ensure  
14 we can trust that our personal data is handled in  
15 ways consistent with our own interests and within our  
16 parameters and with—which it is collected. High tech  
17 revolution is surpassing privacy protections.  
18 Government is not capable of collecting specifics  
19 about our private lives, for instance in New York.  
20 Police have secretly installed surveillance gear  
21 plants for conflict and now seeks to start. Facial  
22 recognition technology has slowly crept into transit  
23 hubs, and now schools. Our government and in courts  
24 have outsourced sensitive decision making to apply  
25 its algorithm systems. In conclusion, privacy has

1  
2 become a complicated concept, one that frequently  
3 changes with time, and with evolving technology. The  
4 technology device is one they assume is *vita tot*  
5 modern life. It also keeps an extensive record of  
6 where we go, who we interact—interact with, how we  
7 entertain ourselves and more. As a result, we suffer  
8 the consequences, and are forced—some of us  
9 experienced over the past several years often  
10 corporations build to protect our most sensitive by  
11 receiving unknown phone calls or unwanted emails.  
12 We're also feeling like government is secretly spying  
13 on us. There are actions one can take to secure our  
14 information, but I still feel comfortable with  
15 broader protections requiring new legislation or  
16 either reconstruction of our construction rights in  
17 this new digital era. Since the Fourth Amendment  
18 protection against unreasonable searches and seizures  
19 leave substantial room for clarification. The urge  
20 for more privacy has been gaining recognition. Now  
21 the question is whether the courts, the federal  
22 government or the state to step in and protect our  
23 privacy. Ladies and gentlemen, one must realize that  
24 we are living in a day and age with rapid advancement  
25 in our technology to where artificial intelligence

1 has become highly regulated by people in specific  
2 power and to those who have to depend on it for their  
3 social media or for other urges—for other uses.

4 Sorry. As it is necessary and the wisest thing to  
5 set forth by implementing new laws against specific  
6 advanced technology such as facial recognition in a  
7 residential area where privacy is a huge concern in  
8 our security. Ultimately in a residential area, or  
9 ultimately we the tenants of Atlantic Plaza Towers  
10 erase those stakes (sic) and urge out City to push in  
11 taking better precautions against warrantless  
12 collection of sensitive data by the government  
13 fighting for transparency about the information  
14 governments have sought and its techniques and  
15 advocating for New Yorkers to cautiously take control  
16 over their personal data, and who has access to it.

17 Thank you all for your time and consideration, I hope  
18 to hear a positive solution and us all happy in this  
19 case.  
20

21 CHAIRPERSON HOLDEN: Thank you, thank you  
22 very much.

23 SUMMER CATIGNANI: Hello everyone. My  
24 name is Summer Summer Catignani and I am Deputy  
25 Director at the Tenants Rights Coalition at Legal

2 Services NYC. The Tenants Rights Coalition is at the  
3 forefront of the fight to prevent evictions, preserve  
4 affordable housing, combat harassment and ensure that  
5 New York City tenants' homes are safe and in good  
6 repair. I'd like to speak today about Intro No. 1672  
7 and the Keys Act. We are watching facial recognition  
8 technology expand rapidly with no formal oversight as  
9 a new threat to housing stability. We know about at  
10 least four residential where facial recognition  
11 technology has already been utilized in the Bronx,  
12 Manhattan and Queen and we continue to learn more as  
13 concerned tenants reach out to us. I will not that  
14 each of these buildings are either rent stabilized or  
15 new affordable housing construction as regulated and  
16 sanctioned by the city and HPD. In one of those  
17 affordable housing lottery buildings in the Bronx  
18 from notices that tenants have shared with us that  
19 we've reviewed, we know that as of today, they will  
20 not have any option other than to use facial  
21 recognition technology as the only means of entry.  
22 We also know that tenants had to agree to use facial  
23 recognition technology and scan their faces while  
24 signing their leases. This required exchange of a  
25 tenant's biometric data for a roof over their head is

1 extremely troubling for a litany of reasons, many of  
2 which the tenants here have laid out. While the Keys  
3 Act provides that a landlord cannot require that a  
4 tenant use facial recognition technology, from  
5 everything we know about the relationships between  
6 landlords and tenants from our work, tenants will not  
7 have a meaningful choice to decline such use,  
8 particularly where the bill does not require informed  
9 consent. Tenants who are seeking housing are in a  
10 vulnerable position, and we see time and time again  
11 that tenants are not able to assert rights or  
12 question the conditions or preferences set by  
13 landlords who are in control of the resource they  
14 desperately need. Tenants accept rent overcharges,  
15 improper fees, terrible conditions, all things that  
16 are technically illegal, and for tenants to truly  
17 understand what they are consenting to with respect  
18 to facial recognition technology, it requires  
19 significant disclosure and education even before  
20 taking into account the wide range of education and  
21 literacy levels of tenants across the city. This  
22 Council should not discount this real power and  
23 balance and what facial recognition can mean for  
24 tenants in the city particularly low-income tenants  
25

1 of color who will most acutely feel the impact of  
2 this technology. Giving a landlord control over a  
3 tenant's biometric data exacerbates an already  
4 coercive relationship. A landlords may now do any  
5 number of things with this data that would put a  
6 tenant at risk. A landlord may share the data with  
7 law enforcement agencies as many have said, use in  
8 eviction proceedings, or use it to harass-harass  
9 tenants in order to drive them out or as that-that  
10 not even facial recognition technology, but other  
11 surveillance technology has already tried to attempt  
12 to stop tenants from organizing and to assert their  
13 rights. Equally troubling will the ability of the  
14 landlords to profit off of its tenant biometric data  
15 either by selling it post-collection to a third party  
16 or by some are raising it with a technology vendor  
17 who will reap tremendous monetary benefits from  
18 access to a large data set of faces. Here in these  
19 buildings in New York, black and brown faces to test  
20 and train its systems. Further, the error rate of  
21 facial technology is significantly higher for people  
22 of color making the chances of discrimination, police  
23 profiling, and false arrest and accusations higher.  
24 Lack of accuracy also means tenants of color will be  
25



1 more readily susceptible to be locked out of their  
2 homes. In addition, the risk and harm from possible  
3 data breaches will fall—fall more readily on tenants  
4 of color for whom identity theft is already a very  
5 real and serious threat to people's ability to  
6 recover. Though the irreplaceable nature of  
7 biometric identifiers, your face is one of them,  
8 makes the compromise of this data a severe privacy  
9 and security threat to all city tenants. Landlords  
10 are not properly equipped nor are they required under  
11 the bills to secure this extremely sensitive data,  
12 but the commercial industry has already faced a  
13 number of data breaches, landlords certainly are not  
14 going to do better, and the city agencies here today  
15 are already suggested they are not in a position to  
16 actually monitor or enforce the bills that are on the  
17 table. These bills sanction landlords' collection of  
18 biometric data, creating a situation where city  
19 tenants must turn over this unique identifying  
20 information to a private actor in order to obtain or  
21 retain a home. There is no need or justification for  
22 this in the residential context. We agree with the  
23 Atlantic Tower Tenants that an outright ban of facial  
24 recognition in—in residences would best protect Legal  
25

1 Services, NYC's clients, the population and all  
2 tenants, and which is currently the bills that are  
3 pending in the State Assembly and Senate. However,  
4 should the Council decide to move forward with  
5 legislation permitting the use of such technology by  
6 landlords, we have included a list of suggested  
7 measures in our written testimony that could mitigate  
8 some of the potential risks and harms that tenants  
9 will face and make the bills much stronger  
10 legislative tools for advancing racial and housing  
11 justice across the city. Though it sounds like  
12 passing these measures will take time, and with all  
13 the areas that will remain unregulated that Council  
14 Member Lander raised earlier, to allow the use of  
15 this technology while these issues gets resolved is  
16 concerning. We agree also with Atlantic Plaza Towers  
17 tenants that a moratorium on use in the residential  
18 context until these issues can be resolved is  
19 prudent. We thank you for the opportunity to give  
20 feedback on these bills, and we would be happy to  
21 respond to any questions the Council may have.

22  
23 CHAIRPERSON HOLDEN: Thank you for your  
24 testimony. Council Member Cornegy a question?

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CHAIRPERSON CORNEGY: Yes. So, it's just a-a basic question to the entire panel. I'm not sure whether there's opposition to the technology or opposition to the use of the technology and how it could disproportionately negatively impact communities of color. Because as-as-as part of, you know, a responsibility it is to adapt to and compete globally on a world stage, I'm just wondering if it's-if it's the technology that is obviously scary as we go into the technology or is it the use of the technology in a way that disproportionately negative- could negatively impact in particular communities of color and tenants of color and black women.

MALE SPEAKER: Personally, just on behalf of the tenants in front of me we'd like to say it's a risk to us on both sides just for the simple fact that what we're talking about in terms of the technology that we're dealing with currently, it's not at a point, and you could see from the validation studies done with, you know, valid research from data scientists that are more expert-that have more expertise than me. The margin of error along the current technology that's within this facet of society-of-of understanding facial recognition

1  
2 technology and biometrics period. It's not ready to  
3 be able to be implemented on communities or the  
4 residential circuit period both public and private  
5 housing. We're taking too much of a risk with this  
6 large margin of error especially on those of color  
7 and those who are women to try a test pool of this  
8 technology to see if it works or not. We're not at a  
9 point amongst even the tech giants who were the  
10 forerunners of this technology. They themselves  
11 can't even handle the margin of error that comes with  
12 this technology. So to try to implement it within  
13 society, and not do the rightful testing and make  
14 sure that this is foolproof, it's almost as though  
15 you're putting in a half sawed off key, and giving  
16 that to tenants to say hey you can use this knowing  
17 that the--that the key might not open the door all the  
18 time. Now just because it's convenient doesn't mean  
19 that it's effective, and all I'm--and all I'm saying  
20 and all my tenants and all the tenants that are with  
21 me today are going to constantly be saying is that  
22 this technology is not effective especially within  
23 the residential circuit, and all you're going to give  
24 us is more problems that have to deal with what we  
25 already currently have. Can I just reiterate one

1 thing along this? It wasn't the tenants that said  
2 they needed more security. It was the landlords that  
3 were proposing this technology on the-on the  
4 communities among them. Everyone that you've heard,  
5 the local community advocates or people who come from  
6 these living complexes they never said security was  
7 on the top of their list of concerns. So, I say both  
8 the technology and the use of the technology is that  
9 of which we're not comfortable with and we do not  
10 want to have any interaction with because that wasn't  
11 one of our concerns to begin with. The only reason  
12 why we're here is because the technology was imposed  
13 on us. So, now we're stuck here having to oppose and  
14 be defensive towards this technology. We didn't ask  
15 for this in the first place. I have many other  
16 concerns as a tenant within my housing complex.  
17 Security was not one of them. Knowing that I have  
18 cameras that are literally doing 24/7 feeds on where  
19 I live within the hallways, knowing that only the  
20 staircase in my apartment is the only place that  
21 doesn't have a camera and knowing that I have key fob  
22 technology that tracks my every movement whether of  
23 when and where I come inside the-the apartment  
24 complex that-for which I live, I already feel like  
25

1  
2 I'm well enough surveilled and I kind of feel like a  
3 criminal even though I pay my rent just like the next  
4 person. I kind of feel like there's a stigma against  
5 rent stabilization, and I get it. There's a lot of  
6 legalese that's going to be within this room and a  
7 lot of people can't talk about it, but I want to  
8 bring it up the fact that this legalese just feels  
9 like we're constantly touching an underlying issue of  
10 the fact that residents who are of rent stabilized  
11 apartments and building complexes they feel like  
12 they're at risk because they have to deal with  
13 landlords imposing this technology on them. You  
14 don't see this in the more popular, the more—the  
15 higher, the higher costing apartments within New  
16 York. The first places at which this technology is  
17 being implemented and that of which at this stage is  
18 being imposed upon, it's very faulty. It's being  
19 imposed on people who can't afford to have a voice to  
20 say hey, I don't think this is right for me nor us,  
21 and I think we should look into this, and I'm coming  
22 to you today to make sure that you at least  
23 understand that I get that this isn't as personal to  
24 you all just because you may not live in the  
25 complexes that might be dealing with this technology,

1 but I'm kind of tired of having for these sort of  
2 situations having to be personal in order for people  
3 to be mindful of the risk involved. I'd rather  
4 people be pre-eminent about the risk involved just  
5 the way landlords are being pre-eminent about  
6 integrating technology that we didn't ask for in the  
7 first place. That's all.

9 CHAIRPERSON CORNEGY: Actually, though, I  
10 really appreciate that, but thank you. Sometimes  
11 it's better for us to be able to put a face. So, I  
12 know you don't want to make it personal, but to be  
13 able to put a face and an experience to-to  
14 legislation that we're proposing, right, because  
15 there is-and-and just-the reason that I asked is  
16 because as a-as an-obviously as a black man who  
17 represents Bed-Stuy and Crown Heights who is acutely  
18 aware that a lot of times technology and/or products  
19 reach our communities at the end of their life-  
20 product life cycle. That's concerning for me. So,  
21 when there's an opportunity for some, maybe not in  
22 this case products and/or services to introduce  
23 themselves in the early stages I'm acutely aware that  
24 we're, we're, we're capable as communities of color  
25 to able to participate. This may not be one of those

1 times, but for me I'm sick of watching products and  
2 services be introduced into our communities at the  
3 end of their product life cycle. So, that—that's  
4 why—that's why I asked.

5  
6 SUMMER CATIGNANI: Council Member, if I  
7 can add to—to that, I think this is the product you  
8 do not want to be at the beginning of the life cycle,  
9 and I think somebody mentioned earlier that Google is  
10 paying people off the street \$5.00 in order to scan  
11 their faces, and so the accuracy and bias of these  
12 products they should not be allowed to be only in the  
13 residential context in New York City in affordable  
14 housing at this time because the reason we believe  
15 could be—they could be being put in these buildings  
16 is because companies had a really hard time accessing  
17 darker faces for their algorithms, and so this is as  
18 one of the A-I experts that we've worked with has  
19 called it, has called it data mining and it's almost  
20 like involuntary servitude of using a part of a—of a  
21 tenant's body, right, their biometric data in order  
22 to improve their systems, in order to train the  
23 algorithm and to make it better. So, perhaps putting  
24 these—these systems in these buildings would make—  
25 would improve the accuracy of the systems, but that



1 shouldn't be at the expense of the tenants who are  
2 living there, and it should not be for the profit of  
3 the landlords or and the companies without any  
4 benefit to the tenants. And so, you know, this is  
5 extremely troubling to us that we—we see it as part  
6 of the motivation for the installation of these  
7 technologies here is because of right, in Atlantic  
8 Towers alone you have over a thousand faces, right,  
9 more than that. Probably closer to 3 to 5,000 faces  
10 that can be scanned—scanned and—and integrated into  
11 an algorithm.

12  
13 CHAIRPERSON CORNEGY: Thank you for that  
14 context. I appreciate it.

15 CHAIRPERSON HOLDEN: Council Member  
16 Lander.

17 COUNCIL MEMBER LANDER: First, I want to  
18 thank you guys all for coming out today, and really  
19 becoming leaders on this. I'm sorry that it was  
20 imposed on you and that you had to do it, but that  
21 you have taken that to become leaders for the city is  
22 great, and I'll be honest. The, you know, the kind  
23 of people I think the public might have in their head  
24 as privacy advocates, you know, is probably more  
25 likely like young white millennials than—than you

1  
2 guys, and that doesn't fit with the fact that  
3 actually, you know, the evidence is clear that  
4 surveillance technology disproportionately impacts  
5 people of color. So I just want to start by, you  
6 know, appreciating you being here, respecting your  
7 leadership and, you know, it's because I met Miss Icy  
8 at a Mitchell-Lama tenants meeting that I went ahead  
9 and put in the drafting request for this bill. So,  
10 you know, I did have the chance at least to some  
11 extent to speak with tenants and it's from your  
12 experience that this legislation is coming forward,  
13 which is not to say it's yet as strong as we want it  
14 to be, and that there's not ways we can make it  
15 stronger. So, we appreciate your input, but it—it is  
16 your leadership that got this bill introduced into  
17 the—into the Council and is pushing this conversation  
18 forward. I really support the idea of going further  
19 of banning facial recognition technology, and  
20 figuring out how to get that golden rule of privacy  
21 that you mentioned. I guess I do want to ask, you  
22 know, I think the, you know, coming up with the  
23 Golden Rule of privacy is going to—is going to be  
24 some work. I think the inclination behind the Keys  
25 Act was, oh, you know, let's move forward and—and

1 work toward a bigger stronger ban, but in the  
2 meantime let's at least make sure everybody has a  
3 physical key so they don't—aren't required to be  
4 subjected to that technology, and it—it isn't yet the  
5 case that that rule is clearly in place, and so  
6 that's where the idea of this law would be so that  
7 the HPD and the Department of Buildings and tenants  
8 themselves could enforce their right not to be  
9 subjected to the technology and to get the key. So—  
10 so, that's, you know, why we're here and—and I hear  
11 you for a desire for a moratorium. I agree with you  
12 for a—for a ban and for stronger privacy protections  
13 but I guess I want to just, you know, I'd like to ask  
14 you the real practical question, you know, and—and  
15 we'll talk more after this as well sort of in the  
16 meantime until we can get that bigger, broader  
17 prohibition or set of restrictions in place. It  
18 doesn't seem like it would be useful to make sure  
19 that everybody at Atlantic Plaza and every other  
20 tenant in the city at least had the right to a  
21 physical key and not to be required to subject  
22 themselves, and we'll look in the suggestions you've  
23 made for how we might it even stronger, address these  
24 issues of informed consent.  
25

1  
2 CHAIRPERSON HOLDEN: Thank you. I'd like  
3 to ask the attorney have you--do you know of anybody  
4 that's been evicted based on facial recognition or--?

5 SUMMER CATIGNANI: We are not aware of  
6 any like thing like that yet. Knickerbocker is the  
7 longest standing building that's used facial  
8 recognition. So, we don't know if any of that data  
9 was used to evict tenants. We do know that other  
10 surveillance technology such as video footage and I  
11 think even key fobs for this has been used by  
12 landlords as evidence of comings and goings and where  
13 somebody is at a certain time in non-primary  
14 residents and--and things like that. So, for us if--if  
15 the other kinds of surveys on technology have been  
16 used, it's likely this technology will be used as  
17 well, and in this case like I believe another speaker  
18 had said, right, if you're using video surveillance  
19 technology to build a case against a tenant, you have  
20 to sit and watch hours and hours and days and days  
21 and days of video in order to prove, and we've  
22 watched hours and hours of video before to prove that  
23 our clients actually, in fact, live in the building,  
24 but here you'd be able to just really easily from--so  
25 the ability of the landlord to use this data for

1  
2 eviction will be much more readily available, but  
3 this technology is really nascent—I mean it's  
4 nascent, Even in the buildings where it's been  
5 utilized, it's only been a matter of I don't even  
6 think a year so.

7 CHAIRPERSON HOLDEN: Thank you all for  
8 your excellent testimony. Thanks so much.

9 SUMMER CATIGNANI: Thank you.

10 CHAIRPERSON HOLDEN: Okay. Our final  
11 panel Daniel Schwartz, Zach Steinberg, Sky Devine,  
12 Vincent Sutherland, and Laura Heck Felly—For the—I'm—  
13 oh, I'm sorry. [pause] Okay, who wants to start?  
14 Either side. Are you ready? You can go. Okay.  
15 [pause]

16 SKY DEVINE: Good afternoon. My name is  
17 Sky Devine representing a community group called  
18 Rethink Link NYC. I've worked in the technology  
19 industry for 25 years seeing many different faces of  
20 privacy violations, and the evolution into our  
21 current, beyond Orwellian state. First, as a hacker  
22 in my Sophomore high school days, then dealing with  
23 educational and security aspects at schools, I was  
24 also the Director of Technology at WNYC Radio for  
25 four years. I first wanted to celebrate two aspects

1 of this bill that you should preserve with future  
2 legislation. First, you avoided the narrow framing  
3 of only facial recognition and discussed biometric  
4 recognition in general. This is important since the  
5 industry often retreats to narrowly excluding facial  
6 recognition. While this is among many forms of  
7 recognition that we've heard about also, and not even  
8 the most reliable, among others are gate recognition,  
9 voice recognition, smell recognition or recent patent  
10 files was about butt recognition. Second you avoid  
11 the framing of markers that immediately are connected  
12 to individuals and define the technology around what  
13 it's capable of identifying a person. Many times the  
14 local company or collector will not know the person,  
15 but can collect the markers and then pass it onto  
16 other companies, which do the matching without any  
17 transparency that it's happening at all. The local  
18 organization can confidently say we don't identify  
19 individuals all the while passing biometric data to  
20 third parties and targeting them or profiling them in  
21 other ways. I'm here to request that you pass this  
22 legislation, and also pass further legislation that  
23 is more aggressive in the following ways: First,  
24 that you expand identifying technology to include  
25

1  
2 consumer products and objects like key fobs that have  
3 not been established with local permission on  
4 premises. Our personal phones are tracked as we walk  
5 down the street with WiFi and Bluetooth technology.  
6 RFIDs are embedded in retail items to track during  
7 shipping from clothing to children's toys. However,  
8 they mostly stay on beyond purchase and can often  
9 track your person as you walk around in the public  
10 spaces, and people are doing this. There are patents  
11 that that have been filed from the '90s onward to do  
12 this. Secondly that, that you expand the law to New  
13 York City furniture, i.e. Link NYC kiosks. One  
14 organization that has committed both sins that I  
15 mentioned above is Sidewalk Labs, partners with  
16 DOITT. Their current "privacy policy" if you could  
17 call it that, excludes facial recognition, but  
18 doesn't say they are avoiding any other biometric  
19 markers as we walk down the street. As an example,  
20 while there are several paragraphs about what they  
21 collect for video, and I don't know why they should  
22 be collecting any video whatsoever in the first  
23 place, but they include audio as ambient noise in the  
24 category, which they can share indiscriminately with  
25 third-parties and store indefinitely. New Yorkers

1 should be secure in our public space, and we the  
2 people should set the terms for our identity being  
3 tracked rather than let the companies write their own  
4 loopholes. One last thing I wanted to discuss that  
5 the Council has asked some other folks testifying  
6 today besides the possible harms that have already  
7 been brought about our credit scores, loan approvals,  
8 and advertisements for opportunities. These have  
9 been used based on, for instance your Facebook  
10 friends have changed what loan approvals or credit  
11 scores or whatever, and they could just as easily use  
12 who I walk down the street with, who visits me in my  
13 apartment with, you know, my key fob or somebody  
14 else, and we shouldn't wait until, you know, that  
15 becomes public. It's probably already happening in  
16 some ways. Thank you.

18 CHAIRPERSON HOLDEN: Thank you.

19 VINCENT SOUTHERLAND: Good afternoon. My  
20 name is Vincent Southerland and I'm the Executive  
21 Director of Center on Race Inequality and the Law,  
22 NYU School of Law, and I want to thank the joint  
23 committee for providing us with the opportunity to  
24 testify this afternoon. In the course of work the  
25 Center among other things has frequently provided



1  
2 commentary and guidance regarding specific  
3 technologies with a focus on racial justice in  
4 locations of those technologies across a number of  
5 domains. Our comments here are driven by the  
6 concerns raised by these technologies specifically  
7 the ability to perpetuate or further redefines the  
8 basis of inequality in our society. As always, we're  
9 also informed by the lives and experiences of people  
10 in communities of color who are disproportionately  
11 subjected to the harmful use of technological tools.  
12 Being that my comments and testimony are largely  
13 informed by the experiences of the residents of the  
14 Atlantic Towers who are waging a battle to stop the  
15 use of this technology in their homes, and where I  
16 met in my role as a member of the ADS Task Force that  
17 the city is currently convening. And with that in  
18 mind, I recommend an outright ban on the use of  
19 facial recognition technology in residential spaces.  
20 We, in light of the potential harms caused by this  
21 technology, the potential for abuse it represent and  
22 in the absence of any appreciable or negligible  
23 benefits to be gained by its use that a ban is  
24 appropriate. We appreciate the vast possibilities  
25 the technological innovation holds for improving

1 human life in our society. With those promise come  
2 perils. Technology itself does not inevitably foster  
3 progress. It is simply a tool that can be wielded for  
4 many different purposes including harmful ends. The  
5 hands in which those tools are held often determines  
6 how those harms are felt and who bears the burden—the  
7 disproportionate burden of them. Experience tells  
8 that the consequences of facial recognition  
9 technology clearly outweigh its benefits. That  
10 experience is largely informed by an understanding  
11 that Black and Latins and poor and working class New  
12 Yorkers will inevitably bear all the most extreme  
13 burdens if New York City continues to permit the use  
14 of facial recognition technologies in the manner  
15 contemplated by the proposed legislation. We come to  
16 our position for three principal reasons. First, as  
17 detailed in the written submission, technologies need  
18 to increase surveillance of communities of color,  
19 which are already the disproportionate targets of  
20 unjustified law enforcement surveillance. Second  
21 because of that potential an in many ways inevitable  
22 misuse of surveillance tech data. There are already  
23 many well documented who are associated with facial  
24 recognition technology across the world from the  
25

1 United States to China including NYPD's documented  
2 abuse of facial recognition technology against  
3 children over the last four years and China's use of  
4 it to engage in racial profiling. One can easily  
5 imagine tools such as these or the data that they  
6 produce being turned over to the state and federal  
7 law enforcement agencies particularly in our current  
8 political climate where efforts are undertaken to  
9 identify and root out those among us who the  
10 government insists do not belong. To really trust HUD  
11 and ICE and any other federal government agency in  
12 this current legal regime to do what is right and  
13 moral and defensible vis-à-vis of this technology or  
14 even landlords for that matter. Third, because  
15 facial recognition is unique—excuse me. Because  
16 facial recognition technologies are broken, there are  
17 racial discriminations baked into the algorithms and  
18 data sets that drive their operation. The pervasive  
19 nature of racism and gender bias in this world means  
20 that the raw materials used to build these tools and  
21 the technologists to build them simply do not and  
22 cannot fully account for race and gender. We are  
23 training datasets or missing entire swaths of the  
24 population and, therefore, producing faulty results.  
25

1  
2 The very definition of garbage in and garbage out. In  
3 the residential context, the introduction of this  
4 technology creates a two-tiered race-based system of  
5 egress and access to one's home, a system in which  
6 white people encounter few hurdles to accessing their  
7 buildings using facial recognition technologies while  
8 black or brown people are often left to grapple with  
9 the race-based flaw endemic to the technology itself.  
10 While it raises concerns and encourage improvements  
11 to the design of these technologies, but rather to  
12 highlight another way in which facial recognition  
13 technologies foster racial inequality and why New  
14 York City should ban them. While I support the  
15 proposed legislation and respectfully—respectfully  
16 submit that while well intended, it's a retail  
17 solution to a wholesale problem. We detail our  
18 concerns with the proposed provisions in our written  
19 testimony so I will not belabor them here. However,  
20 the—the basic point is that they all revolve around  
21 one simple fact, that the law is insufficient at this  
22 point to guard against the abuses that this  
23 technology will inevitably foster. Ultimately facial  
24 recognition technology is being used to determine who  
25 and who does and does not belong. Racial bias is

1 baked into these tools itself as it signals New  
2 Yorkers about who that actually is. As the abuses  
3 outlined in—throughout today’s hearing, and at the  
4 outset of my comments made clear is that technology  
5 has already deployed by those who have used it to  
6 marginalize and oppress communities of color and  
7 vulnerable populations. We know that the negative  
8 impacts of the facial recognition technology is  
9 likely to far outweigh any purported benefits. We  
10 also know that people figured out how to build safe,  
11 healthy and thriving communities without surveilling  
12 one another for generations that existed before this  
13 technology ever came along. Let’s not mistake safety  
14 for surveillance. Understand that reality and take  
15 steps to ban its use in residential spaces.  
16

17 CHAIRPERSON HOLDEN: Thank you very much.

18 LAURA HECK-FALELLA: Good afternoon,  
19 Council Members, Chairman Cornegy and Chairman  
20 Holden. My name is Laura Heck Falella (sp?) and I am  
21 a Legal Fellow with the Liberty and National Security  
22 Program at the Brennan Center for Justice. I have  
23 prepared longer written remarks. I will just present  
24 a short summary here. The Brennan Center is a non-  
25 partisan law and policy institute that seeks to

1 improve out systems of democracy and justice. The  
2 Liberty and National Security Program in particular  
3 focuses on ensuring that government use of new  
4 technologies do not violate fundamental rights. The  
5 Brennan Center commends the City Council on its  
6 commitment to address the growing prevalence of  
7 biometric identification technology in New York City.  
8 However, we must also express our disappointment that  
9 this commitment has not resulted in oversight of the  
10 New York City Police Department. Meaningful efforts  
11 by the City Council to increase transparency of these  
12 technologies must include law enforcement. The  
13 NYPD's expansive arsenal of surveillance technology  
14 includes several biometric tools like facial  
15 recognition, video analytics, which isolate people  
16 and objects within videos, and DNA database.  
17 Attached to my testimony is a chart that the Brennan  
18 Center published this morning. It outlines the scope  
19 of the NYPD's surveillance capabilities, and several  
20 technologies for which the NYPD does not provide even  
21 basic information about what safeguards, if any,  
22 exist to protect New Yorkers' privacy and civil  
23 right. This is especially concerning because as the  
24 Council has heard this morning tools like facial  
25

1  
2 recognition are significantly less reliable when it  
3 comes to identifying communities of color, but often  
4 times it's exactly where this technology is being  
5 utilized. One step forward in addressing these  
6 concerns is the Post Act, which requires the NYPD to  
7 disclose basic information about the surveillance  
8 tools it uses and the safeguards in place to protect  
9 the privacy and civil liberties of New Yorkers. The  
10 bill is supported by over half the City Council with  
11 28 co-sponsor including some of you in this room  
12 today, and who were here previously, and is carefully  
13 drafted to ensure that the NYPD can continue to  
14 keep the city safe while providing policy makers and  
15 the public with the information necessary for  
16 effective oversight. Several cities have passed far  
17 more centric bills as this product earlier today as  
18 well. Transparency and oversight are essential  
19 features of a strong democracy, and the Brennan  
20 Center commends the City Council for addressing these  
21 critical and timely issues. However, it's vital that  
22 any legislation requiring transparency also apply to  
23 law enforcement, which is why the Post Act is so  
24 important. Thank you for the opportunity to testify  
25 today and I'm happy to answer any questions.

CHAIRPERSON HOLDEN: Thank you.

DANIEL SCHWARTZ: My name is Daniel

Schwartz and I'm here to testify on behalf of the New Yorker Civil Liberties Union. We thank the three chair persons and Council Members for holding this hearing and for the opportunity to give our testimony today. Biometric surveillance and specifically face surveillance is on the verge of becoming a widespread reality in New York City in businesses, places of entertainment, housing, schools, airports, mass transit, how to grow infrastructure and by law enforcement agencies. Face surveillance allows for the pervasive tracking of individuals' movements, interests, habits and associations, and it has repeatedly been proven to perform less accurately on people of color, women and young people. We are heartened to see the Council beginning to tackle facial recognition and biometric data collection. Unfortunately, none of these bills go far enough in regulating and curtailing the technologies. Moreover, if passed as drafted, it could normalize biometric recognition technologies and create a clearer path for its broad deployment in our homes, Businesses and space, effectively robbing our



1 freedoms and exacerbating bias and discrimination.  
2 This year San Francisco, Oakland and Summerville,  
3 Massachusetts all recognized what you uses threats  
4 (sic) and passed bans on government use of face  
5 surveillance. As is evidenced, New York City despite  
6 its immense population and resources falls far behind  
7 in ensuring its public policy meets the threats of  
8 surveillance. While these bills are a positive step  
9 that this Council recognizes the need for legislation  
10 in the face of this new technology, none of them go  
11 far enough. First, the NYCLU takes the position of  
12 qualified support on Intro 1170. As currently  
13 drafted, the legislation defines biometric  
14 identifiers narrowly. For example, as drafted the  
15 information excluded several biometric identifiers  
16 such as scape (sic) and your recognition board of  
17 which ae already in use. We urge the Council to  
18 define biometric identifiers broadly and in a tech  
19 exhaustive (sic) way. Second, the bill should be  
20 amended to cover not only situations where the system  
21 ties the aggregated data to a particular individual's  
22 names, but also to situations where the system  
23 profiles an individual student on the mezzanine. We  
24 further urge the sponsor to amend the legislation to  
25

1 include other uses of biometric recognition an  
2 analytics that create data on people including gender  
3 and age estimation, automatic labeling or  
4 classification, a motion recognition and behavior  
5 detection. Finally, given the highly sensitive  
6 information, additional security duties should be  
7 placed on commercial entities operating surveillance  
8 systems. Biometric recognition should not be  
9 deployed without serious considerations for  
10 individuals' private data, and help to safeguard  
11 them. The NYCLU opposed Intro 1672 because it would  
12 entrench face surveillance and other biometric  
13 recognition tools in housing, an area of already  
14 highly imbalanced power relationship between tenants  
15 and landlords. The imposition of a biometric  
16 identification access system conditions entry into  
17 one's home, the place where constituents' rights are  
18 most robust on the provision of one's most sensitive  
19 biological data, and because facial recognition  
20 systems are notoriously inaccurate when it comes to  
21 women, children and people of color entrenched in  
22 biometric identification access system render these  
23 groups particularly vulnerable, thus will not only  
24 reduce systems, undermine tenants' privacy rights but  
25

1 these systems also undermine their rights to access  
2 housing on equal and non-discriminatory terms. The  
3 NYCLU supports Preconsidered Introduction T2019-4579.  
4 We are encouraged by the Council Member taking up the  
5 issues to protect the privacy rights of tenants in  
6 their homes and offer our support for the enactment  
7 of the bill. However, despite its good intentions,  
8 the bill does not sufficiently protect tenants from  
9 all invasive access control technologies.  
10

11 Consequently, this bill should be amended to include  
12 the many safeguards described in our written response  
13 to Intro 1672 when landlords do choose to impose  
14 automatic technologies, and the Council should  
15 consider whether particularly invasive biometric  
16 technologies are ever appropriate in the housing  
17 context. Finally, pass the Public Oversight, Over-  
18 surveillance Technology Act or POST Act Intro 487-  
19 2018. As we have outlined and as the measures  
20 before the committees today recognize, the use of  
21 face surveillance and other forms of biometric  
22 recognition technology present serious threats to the  
23 privacy rights of New Yorkers in their homes and in  
24 places of business. Beyond these specific threats,  
25 however, if the threat is opposed to the Fourth

1  
2 Amendment rights of New Yorkers should law  
3 enforcement seek access to the vast amounts of data  
4 that these technologies generate. Landlords and  
5 business owners who deploy biometric recognition  
6 technology may inadvertently be creating databases  
7 that present enticing targets of the NYPD to access.  
8 The POST Act would bring much needed transparency and  
9 oversight to the NYPD's use of invasive surveillance  
10 technologies, and the ways in which the NYPD amasses  
11 and shares surveillance data with out public and  
12 private entities. Thank you.

13 CHAIRPERSON HOLDEN: Thank you for your  
14 excellent testimony. Any questions? We're good?  
15 Okay, thank you panel. Great, great testimony again.  
16 Once again, great panels today. Anybody else would  
17 like to testify? Hearing none, okay, nobody. Thank  
18 you very much for coming. Thank you so much for your  
19 testimonies and the hearing is adjourned. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date October 12, 2019