

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES
Of the
COMMITTEE ON PUBLIC SAFETY

Jointly with
COMMITTEE ON TECHNOLOGY

And
COMMITTEE ON OVERSIGHT &
INVESTIGATIONS

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February 19, 2025
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HELD AT: Committee Room - City Hall

B E F O R E: Yusef Salaam
Chairperson

Jennifer Gutiérrez
Chairperson

Gale A. Brewer
Chairperson

COUNCIL MEMBERS:

Joann Ariola
Diana I. Ayala
Tiffany Cabán
Carmen N. De La Rosa

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

Robert F. Holden
Rita C. Joseph
Christopher Marte
Chi A. Ossé
Carlina Rivera
Althea V. Stevens
Eric D. Bottcher
Vickie Paladino
Julie Won
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Captain Michael Eichner
NYPD Chief of Department

Jerome Greco
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Cynthia Conti-Cook
Surveillance Resistance Lab

Talia Kamran
Brooklyn Defender Services

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

David Siffert
S.T.O.P.

Sharon Brown

Alex Stein

Christopher Leon Johnson

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Sergio De La Pava

Quincy Blair

Pastor Adlerette Kebreau

Michele Blondmonville

Golin Buckingham

Andrew

Michael Sisitzky

Nina Loshkajian

Thomas Gilbert

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3 SERGEANT AT ARMS: Quiet please. Good
4 morning and welcome to the New York City Council
5 hybrid hearing on the Committee on Public Safety
6 jointly with the Committee on Technology and
7 Oversight and Investigations. At this time, please
8 silent all electronic devices. If you have any
9 questions, please raise your hand and one of us
10 Sergeant at Arms will kindly assist you. At no time
11 please do not approach the dais. Thank you very much
12 for your kind cooperation. Chair, we are ready to
13 begin.

14 Good morning. I'm Council Member Yusef
15 Salaam, Chair of the Committee on public Safety, and
16 I want to thank Chair Brewer of the Committee on
17 Oversight and Investigations and Chair Gutiérrez of
18 the Committee on Technology for co-chairing this
19 important hearing on examining the NYPD's
20 implementation of the POST Act. I want to recognize
21 the members of the Public Safety Committee who are
22 here, and the members who are in-- who are present.
23 I recognize Council Member Fariás, Council Member
24 Won, Marte, Williams, and Joseph. And Chair Chi A.
25 Ossé-- I mean, Council Member Chi Ossé. He's a

2 Chair, yes, he's a Chair. Today we will examine--
3 Council Member Holden as well has also-- and we're
4 also acknowledging that we have been joined by
5 Council Member Holden and Council Member De La Rosa
6 as well. Today, we will examine the NYPD's
7 compliance with the public oversight of Surveillance
8 Technology Act, also known as the POST Act, and
9 consider legislation proposals aimed at strengthening
10 transparency, accountability and oversight of the
11 Department's use of surveillance technologies. The
12 NYPD utilizes a vast array of surveillance tools in
13 its efforts to maintain public safety. While these
14 technologies can aid in crime prevention and
15 legislation-- in investigations, rather, it also
16 collects and stores significant amounts of personal
17 data. This raises serious concerns about privacy,
18 civil liberties, and the potential for misuse. The
19 public has a right to know how these technologies are
20 being used, what safeguards exist to prevent
21 overreach, how the NYPD is ensuring compliance with
22 established policies. Recognizing these concerns,
23 the City Council enacted the POST Act in 2020,
24 requiring the NYPD to publish impact and use
25 policies, IUPs, for surveillance deployed by the

2 Department. These IUPs are intended to outline key
3 information about each technology, including its
4 capabilities, data collection and retention policies,
5 access restrictions, public accountability measures.
6 Additionally, the act mandates that the NYPD provide
7 a public comment period before finalizing these
8 policies to ensure transparency and public input.

9 Over the past several years, the NYPD has expanded
10 its use of surveillance tools from drones and facial
11 recognition to GPS tracking, biometric scanning, and
12 robotic technologies. While these tools can assist in
13 crime prevention and investigations, they also raise
14 serious concerns about privacy, civil liberties, and
15 the potential for misuse. The public rightfully
16 demands assurances that these technologies are not
17 only effective, but are also properly regulated and
18 free from abuse. While the NYPD has taken steps to
19 publish IUPs, recent reports from the Office of
20 Inspector General for the NYPD have highlighted
21 ongoing challenges in the Department's compliance
22 with the POST Act. Concerns persist regarding vague
23 and generalized IUPs, insufficient details on data
24 access and retention policies, the lack of disclosure
25 around technological advancements, and the continued

2 practices of grouping multiple technologies under a
3 single IUP. These layers limit transparency.

4 Furthermore, recommendations for stronger internal
5 oversight and public disclosure and the assessment of
6 potential disparities impact-- disparate impacts,

7 rather, on communities remain unaddressed. Today's

8 hearing will address the NYPD's progress in

9 implementing the POST Act, examine areas where

10 further improvements are needed, and consider

11 legislative proposals to strengthen oversight. While

12 we will hear from representatives of the NYPD

13 oversight agencies, we'll hear from advocates and

14 we'll hear from members of the public as we work to

15 ensure that surveillance practices in New York City

16 strike the right balance between public safety and

17 civil liberties. Legislative proposals the Public

18 Safety Committee will be hearing include Introduction

19 168 sponsored by Council Member Fariás, legislation

20 to strengthen the OIGs/NYPD's capacity to conduct

21 meaningful audits of the NYPD published IUPs.

22 Introduction 233 sponsored by Council Member Hudson,

23 legislation requiring the NYPD to publish a written

24 policy that establishes procedures and regulations

25 for its use of facial recognition technology and

2 conduct biannual public audits of the Department's
3 use of facial recognition technology. And finally,
4 Introduction 480 sponsored by Council Member Won,
5 legislation to amend the existing POST Act to ensure
6 IUPs contain sufficient detail and specificity needed
7 to enable meaningful oversight and regular audits. I
8 want to extend my gratitude to my colleagues, Chair
9 Brewer, Chair Gutiérrez, and to all the staff who
10 work diligently to organize this hearing. I look
11 forward to a thoughtful and productive discussion
12 that will help guide our efforts to promote greater
13 transparency, accountability and fairness in the use
14 of surveillance technologies. Thank you all for
15 being here and for your engagement in this most
16 important conversation. I'll now turn it over to
17 Chair Brewer for her opening statement.

18 CHAIRPERSON BREWER: Thank you very much,
19 Council Member Salaam. I am Gale Brewer. I chair the
20 Committee on Oversight and Investigations. I want to
21 thank you all for being here. Just as the chair
22 indicated, we're examining the PD's implementation--
23 we keep saying it over and over again, because I
24 don't think people know what the hell the POST Act
25 is. It's the Public Oversight of Surveillance

2 Technologies Act. Here, we all want to keep our city
3 safe in a changing and threatening world, and New
4 Yorkers have provided the NYPD with the authority and
5 means to conduct extensive high-tech surveillance
6 over our streets our phones and just about anywhere
7 else they believe evidence of public safety threatens
8 may lurk. NYPD's wide-ranging surveillance powers
9 have the potential to keep us safer, but they also
10 carry an inherent potential for abuse and violation
11 of civil liberties as the Chair indicated. So, in
12 2020, the Council passed the POST Act to provide
13 greater transparency into the Police Department's use
14 of these technologies and intelligence gathering
15 techniques. The Act compels the Department to release
16 surveillance impact and use policies, or IUPs, for
17 any technology it utilizes so the public can
18 understand and comment on how police watch them. And
19 as it changes so often, it's an example of why we
20 need this act. Unfortunately, the Police
21 Department's compliance with the Act leaves much to
22 be desired. In the first POST Act annual report, the
23 Office of Inspector General or the NYPD found that
24 the IUPs released by the Department have been filled
25 with boiler plate often identical language to

2 describe different data collection technologies and
3 methods. I think there were 15 suggestions how to
4 address that. The Police Department also use single
5 IUPs to cover multiple significantly different
6 technologies in a way that can obscure how each
7 individual method works. Subsequent POST Act reports
8 have entirely omitted or failed to update IUPs on
9 high-profile, new police technologies like autonomous
10 robots-- I think you remember that one-- GPS
11 trackers, aerial drones and biometric data
12 applications. All these technologies can greatly
13 expand police surveillance's reach into New Yorker's
14 lives with fears and potential for abuse of the
15 Department does not comply with oversight measures,
16 and today in 20225 this is of particular
17 significance. So we meet today to hear from the
18 Department of Investigations and NYPD about how they
19 will make sure the Department follows the laws of the
20 city, restrains itself from subjecting residents to
21 invasive surveillance, and makes necessary public
22 reports. To that end, we're also hearing as you
23 heard earlier several piece of legislation, and the
24 Chair mentioned all three of them. I also want to
25 mention just as a personal note examples of what

2 we're not-- which is-- I have relative who just was
3 on a business trip to Dubai, and there are no police,
4 but there is a camera on every single building
5 imaginable. Is that good? Is that bad? I don't
6 know, but that's how they do their policing, and I
7 bet they don't have a POST Act. So, I'd like to
8 thank the following council staff for their work,
9 from the ONI committee staff Nicole Cata, Erica Cohen
10 [sp?], Alex Yablon [sp?], and Owen Kotowski [sp?],
11 from my staff Sam Goldsmith [sp?] and everyone who
12 made it possible for this hearing to take place, and
13 now I'd like to hear, as we all do, from Council
14 Member Gutiérrez.

15 CHAIRPERSON GUTIÉRREZ: Thank you, Chairs
16 Brewer and Chair Salaam. Good morning. Buenos dias
17 everyone and welcome to our hearing. I'm Council
18 Member Gutiérrez and the Chair of the Committee of
19 Technology. I'm pleased to be joined by my
20 colleagues, Council Member Salaam and Council Member
21 Brewer, and I'd like to acknowledge Deputy Speaker
22 Ayala who's joined the hearing. The Technology
23 Committee will also hear the super-majority bill
24 sponsored by Council Member Williams, Intro 978 in
25 relation to requiring the 311 customer service center

2 to provide relevant resources in response to tree
3 pruning related requests. The Committee expects to
4 receive written testimonies from both the Office of
5 Technology and Innovation, OTI, and Parks Department.
6 A little over a year ago in December 2023, we held a
7 hearing on the POST Act and the use of surveillance
8 technologies. That hearing provided us with insights
9 from both NYPD and DOI as well as various advocacy
10 and watchdog groups. Coming out of that hearing, I
11 was disappointed by not surprised by the opaque
12 information provided by the NYPD regarding their lack
13 of full compliance with the POST Act. The NYPD
14 either did not comprehend the fundamental purpose of
15 the POST Act, transparency and accountability, or it
16 is willfully disregarding the intended goals. It was
17 unfortunate that the logic cited in their testimony
18 was non-linear, giving NYPD carte blanche to act with
19 impunity with a notable absence of clarity
20 surrounding individual use policies or IUPs. I come
21 to this hearing hoping that there were lessons
22 learned from the last hearing and that the explosion
23 of new surveillance related technology contracts are
24 addressed and treated with the weight they deserve,
25 and an understanding that public safety means more

2 than just enforcement, but also the long-lasting
3 safety of New Yorkers, their data, and their ability
4 to lives without fear and lack of due process. A few
5 refreshers from last year: the PD claimed it does
6 not use artificial intelligence, does not share data
7 with ICE, and properly records all contracts.

8 However, when confronted with evidence that
9 technologies like facial recognition use AI, they
10 removed references rather than clarifying their use.

11 DOI confirmed that the PD has yet to fully comply
12 with the POST Act and provided recommendations for
13 improving oversight. Advocates highlighted that
14 between 2007 and 2020 the NYPD procured surveillance
15 technologies such as facial recognition and cell
16 phone tracking through special expense purchase
17 contracts, bypassing standard procurement processes
18 and raising transparency concerns. Since our last
19 hearing in December 2023, the PD has updated its POST
20 Act report to include previously undisclosed
21 technology like weapons detection systems and
22 tracking devices. I'm glad to see they've corrected
23 that stance. Additionally, DOI's latest report
24 underscores the PD's ongoing lack of full compliance
25 with the Act. I want to take a moment to echo my

2 colleagues, Council Member Salaam and Council Member
3 Brewer who have emphasized the importance of public
4 safety, transparency and civil liberties.

5 Transparency and accountability are more important
6 than ever, especially in an era when technologies are
7 rapidly evolving and being both adopted and discarded
8 at a pace far exceeding public expectation. I also
9 want to stress that ensuring public trust is just as
10 critical, and transparency is the first step toward
11 achieving it. Today, I look forward to hearing
12 technology updates from PD, recommendations from the
13 DOI and concerns from the public. And finally, I'd
14 like to thank the Technology Committee staff
15 including Counsel Irene Byhovsky [sp?], Policy
16 Analyst Erik Brown, and my Chief of Staff and Senior
17 Advisor Anya Lehr [sp?] for their tremendous work on
18 ~~phthis~~ingaring together. I will now turn it over. I
19 think we've recognized everybody. Yeah, you want to
20 go first? Okay, I'll now turn it over to Council
21 Member Won, sponsor of Intro 480.

22 COUNCIL MEMBER WON: Thank you, Chair
23 Gutiérrez and Chair Salaam for convening this hearing
24 today. My bill, Intro 480 is a common-sense bill
25 that strengthens the POST Act of 2020 by requiring

2 greater transparency around the NYPD's use of
3 surveillance technology. The need for this bill is
4 clear. Intro 480 does not originate from activists
5 or external pressure groups. It comes directly from
6 the Office of Inspector General for the NYPD and the
7 Department of Investigation. These agencies tasked
8 with independent oversight of the NYPD identified
9 critical gaps in the current law and recommended
10 these changes in their 2022 report. This bill does
11 not introduce radical reforms, it simply clarifies
12 and strengthens the original intent of the POST Act,
13 ensuring it fulfills its promise of meaningful
14 oversight. With Intro 480, the NYPD will now be
15 required to provide detailed reports on each
16 individual surveillance technology it uses instead of
17 grouping multiple technologies under vague
18 categories. All data sharing agreements with outside
19 entities including federal agencies, ensuring
20 transparency on how information collected by the
21 NYPD, can be accessed beyond city jurisdiction. The
22 potential disparate impact of each surveillance
23 technology so we can better understand whether
24 certain tools disproportionately affect specific
25 communities. In a time when technology is advancing

2 faster than ever, it is our responsibility to ensure
3 that surveillance is used in a way that balances
4 public safety with civil rights. Strengthening the
5 POST Act is a no-brainer and I urge my colleagues to
6 move forward with this bill.

7 CHAIRPERSON SALAAM: Thank you. We will
8 now hear from our Majority Leader Farías on her
9 introduction bill 168.

10 COUNCIL MEMBER FARÍAS: Thank you, Chair
11 Salaam and Chairs Gutiérrez and Brewer. Intro 168 is
12 designed to enhance oversight of the NYPD's use of
13 surveillance technology, reinforcing transparency,
14 accountability and public trust. This legislation
15 grants the Department of Investigation the necessary
16 access to monitor the deployment of surveillance
17 tools, ensuring the responsible use and respect for
18 civil liberties in our communities. The bill
19 requires the NYPD to provide the Department of
20 Investigation with a comprehensive itemized list of
21 all surveillance technologies currently in use. This
22 list must include details on each technology's
23 functionalities and capabilities, the types of data
24 collected, and the specific NYPD units responsible
25 for controlling and managing that data.

2 Additionally, the bill mandates that the NYPD grant
3 the DOI access to its data retention policies for
4 these surveillance technologies. This requirement
5 applies both the Department's internal policies and
6 to any retention policies outlined in vendor
7 contracts. To ensure ongoing oversight, the NYPD
8 must also submit quarterly reports detailing any
9 newly-acquired or discontinued surveillance
10 technologies along with any updates to data retention
11 policies included in contracts with technology
12 providers. Surveillance technology is rapidly
13 evolving as our chairs have stated, and without
14 oversight there's a real risk of unchecked
15 surveillance that can infringe on civil liberties.
16 This bill does not prohibit or restrict the NYPD from
17 using technology for public safety, but it ensures
18 clear guidelines and oversight to prevent potential
19 misuse. By providing regular updates to DOI, we
20 ensure that the public has a voice in how these
21 technologies impact their privacy and rights. Intro
22 168 is a common-sense measure that strengthens
23 accountability without compromising law enforcement
24 effectiveness. I look forward to hearing from the
25 admin, advocates, and stakeholders on feedback on

2 this policy measure, and I urge my colleagues to
3 support this bill, and reaffirm our commitment to
4 transparency and responsible governance in public
5 safety. Thank you.

6 CHAIRPERSON SALAAM: Thank you. I would
7 like to acknowledge that we've been joined by Council
8 Member Cabán, and we will now hear from Council
9 Member Williams on Introduction 978.

10 COUNCIL MEMBER WILLIAMS: Good morning,
11 colleagues, and thank you so much to Chairs Brewer,
12 Salaam, and most importantly, the Tech Chair
13 Gutiérrez for the opportunity to speak today at this
14 joint oversight hearing. While much of our
15 discussion today focuses on the NYPD's implementation
16 of the POST Act, a critical step forward in ensuring
17 that our use of surveillance technology is
18 transparent and accountable. I'd like to take a few
19 minutes to introduce an initiative that speaks to
20 another vital element of our work, ensuring that New
21 Yorkers have timely accessible information about the
22 services that impact their daily lives. My bill,
23 Intro 978, is a straightforward but important measure
24 that requires our 311 customer service center in
25 coordination with the Department of Parks and

2 Recreation to provide comprehensive online resources
3 to any 311 customer filing tree pruning related
4 requests or seeking information on the subject.

5 Under this bill, when a resident reaches out about
6 tree pruning issues, they will receive online links
7 directed to them, the map maintained by DPR that
8 displays tree inspections, any map maintained by DPR
9 that outlines tree pruning schedules, and any
10 informational web page on tree pruning maintained by
11 DPR. In addition to these digital resources, our
12 constituents will also be provided with available
13 information on opportunities to receive volunteer
14 certification in the pruning of street trees
15 throughout New York City. Why is this important?

16 First, it directly supports our commitment to
17 transparency. Trees are not only an essential part
18 of our city's character and environment. They are a
19 resource that when care for properly contribute to
20 public health, safety, and community wellbeing. By
21 making these resources readily available, we empower
22 residents with the knowledge they need to care for
23 our shared urban landscape. Furthermore, by
24 including information about our volunteer
25 certification opportunities, this measure encourages

2 community engagement and opens and path for residents
3 to contribute directly to the maintenance and
4 beautification of our street. In doing so, we create
5 a stronger bond between government services and the
6 community, reinforcing the idea that New York City is
7 built by and for its residents. This bill is about
8 leveraging the power of digital communication to
9 bridge gaps between city departments and our
10 communities. It's about ensuring that residents can
11 easily access the information they need to
12 participate in the care of their neighborhoods, and
13 in turn, to foster a safer, greener and more-
14 connected city. I urge my colleagues to support
15 Intro 978. It is a very small step, but extremely
16 promising with a significant return, increased
17 transparency, enhanced public service and a more
18 engaged citizen. By empowering our residents with
19 knowledge and opportunities, we uphold the values of
20 public oversight that we champion here every day,
21 whether in the realm of technology or in the
22 stewardship of our city's natural resources. So,
23 thank you again for your time and your continued
24 commitment to making New York City a place where
25 every resident can thrive.

2 CHAIRPERSON SALAAM: Thank you. We've
3 been joined also by Council Member Ariola. We will
4 now hear from the first panel, DOI, and start with
5 Commissioner Strauber. I would like to turn this over
6 to Nicole to swear in with the affirmation.

7 COMMITTEE COUNSEL: Thank you, Chair
8 Salaam. Before we begin I will administer the
9 affirmation. Commissioner Strauber, please raise
10 your right hand. Do you affirm to tell the truth,
11 the whole truth and nothing but the truth before this
12 committee and to respond honestly to Council Member
13 questions?

14 COMMISSIONER STRAUBER: I do.

15 COMMITTEE COUNSEL: Thank you. You may
16 begin when ready.

17 COMMISSIONER STRAUBER: Thank you. Good
18 morning. My name is Jocelyn Strauber and I am the
19 Commissioner of the Department of Investigation.
20 Thank you, Chair Salaam, Chair Brewer, and Chair
21 Gutiérrez and members of the Committees on Public
22 Safety, Oversight and Investigations, and Technology
23 for the opportunity to speak about DOI's oversight
24 role with respect to NYPD's use of surveillance
25 technology, as set out in the Public Oversight of

2 Surveillance Technology legislation, known as the
3 POST Act. As you know, DOI oversees the operations,
4 policies, programs and practices of the New York City
5 Police Department through DOI's Office of the
6 Inspector General for the NYPD. The POST Act
7 requires NYPD to produce and publish Impact and Use
8 Policies, referred to as IUPs, for each surveillance
9 technology used by the NYPD and directs OIG-NYPD to
10 prepare an annual audit of the Department's
11 compliance with those IUPs. Since DOI last testified
12 on this topic in December of 2023, we have issued two
13 additional reports pursuant to the POST Act. The
14 first of these reports focused on five technologies
15 deployed by NYPD in 2023 and the second report
16 focused on NYPD's drone program. Today I will give
17 you a summary of DOI's findings from these two
18 reports and share our view of the three proposed
19 bills under consideration today that relate to the
20 NYPD's use of surveillance technology. Starting with
21 our 2023 POST Act report, issued in the spring of
22 2024, that examined the IUPs applicable to five
23 surveillance technologies NYPD introduced in 2023:
24 Digidog, a remotely-operated robot; the second one
25 was the Knightscape [sic] K5 Autonomous Security

2 Robot known as K5; the third was StarChase GPS
3 tracking technology known as StarChase, which allows
4 officers to attach GPS trackers to moving vehicles;
5 number four was IDEMIA Mobile Biometric Check
6 application referred to as IDEMIA, a smartphone
7 application capable of collecting and comparing
8 digital fingerprints; and five, an augmented reality
9 smartphone application which I'll refer to as the AR
10 application, built by NYPD's Information Technology
11 Bureau, capable of displaying data from NYPD
12 databases concerning a specific location when a
13 smartphone camera is pointed at that location. Our
14 review found that NYPD did not issue new IUPs in
15 connection with the deployment of these five
16 surveillance technologies but addressed four of them--
17 - K5, StarChase, IDEMIA, and the AR application-- in
18 five different addenda to existing IUPs. Those
19 addenda were issued in April of 2023. According to
20 NYPD, the Digidog technology was addressed in an
21 existing IUP, issued in 2021, when an earlier version
22 of Digidog briefly was used by the Department, and
23 therefore no addendum was required. OIG-NYPD
24 concluded that as of 2024, NYPD continued to group
25 distinct surveillance technologies within a single

2 IUP, a practice discussed in detail in OIG-NYPD's
3 first annual POST Act report and in my testimony
4 before these committees in December of 2023. We
5 found that the grouping approach may shield
6 individual technologies from public scrutiny and
7 oversight. It is OIG-NYPD's position that the POST
8 Act requires an IUP for each distinct surveillance
9 technology, unless the surveillance technologies at
10 issue are substantially similar in capability and
11 manner of use. In that event, a single IUP may
12 address more than one technology and should name each
13 individual technology to which it applies. With
14 respect to the five technologies reviewed in the 2023
15 report, OIG-NYPD found that the IUPs did not include
16 all of the information required by the POST Act. With
17 respect to Digidog, OIG-NYPD maintained, as it did in
18 the first annual POST Act report, that Digidog was a
19 surveillance technology with distinct capabilities
20 and, therefore, NYPD should have issued an IUP
21 specific to Digidog when the technology was initially
22 deployed in 2021. Instead, NYPD asserted that Digidog
23 was sufficiently addressed by the IUP for Situational
24 Awareness Cameras. We also concluded that the
25 Digidogs purchased and deployed in 2023 had enhanced

2 capabilities that, at a minimum, should have been
3 addressed in an addendum to the Situational Awareness
4 Camera IUP. OIG-NYPD further found that the
5 Department appropriately treated K5, StarChase,
6 IDEMIA, and the AR application as enhancements to, or
7 new uses of, existing surveillance technologies, and,
8 therefore, issued addenda for each of those
9 technologies. However, we concluded that, taken
10 together, the IUPs and the addenda did not meet the
11 POST Act's requirements in the following ways: First,
12 the Situational Awareness Camera IUP and its addenda
13 did not disclose health and safety information with
14 respect to K5, the autonomous security robot; second,
15 we concluded that the GPS Tracking Devices IUP and
16 its addenda did not adequately disclose the
17 specialized rules, processes, and guidelines that
18 distinguish StarChase technology from other GPS
19 tracking technologies. The addenda also did not
20 adequately disclose health and safety information, or
21 the type of data that the NYPD may disclose to
22 external entities; third, the two IUPs relevant to
23 the IDEMIA application and their addenda did not
24 provide sufficient information about IDEMIA with
25 respect to policies and procedures related to data

2 retention and access; and finally the Portable
3 Electronic Devices' IUP and its addenda did not
4 provide sufficient information about the AR
5 application regarding policies and procedures related
6 to data retention and access. Based on our review,
7 OIG-NYPD issued seven policy and procedure
8 recommendations to NYPD in the 2023 POST Act Report.
9 The recommendations advised NYPD to issue a new IUP
10 for Digidog and to update the addenda to the IUPs as
11 noted above, and also to limit grouping technologies
12 in a single IUP to those technologies that are
13 sufficiently similar in capability and manner of use.
14 Two of the recommendations proposed that NYPD include
15 mechanisms within the IUPs for tracking and
16 monitoring uses of surveillance technologies and that
17 each IUP should identify the potential impact of the
18 surveillance technology on protected groups, measures
19 that the POST Act does not require. NYPD rejected
20 those two recommendations, the ones that the POST Act
21 does not require, and accepted the remaining five.
22 I'm going to turn now to our 2024 POST Act report
23 which focused on the NYPD's use of drones or unmanned
24 aircraft systems, UAS. The Department employs drones
25 to further search and rescue missions, disaster

2 responses, documentation of traffic accidents and
3 crime scenes, crowd monitoring, and for situational
4 awareness in active shooter and hostage situations.
5 NYPD's drone program was first announced in 2018. At
6 that time, officers assigned to TARU, the Technical
7 Assistance Response Unit which provides NYPD with
8 equipment and tactical support and specializes in
9 audio/visual technology, was tasked with
10 implementation of the program. Since that time the
11 NYPD's drone usage has increased. In 2023, the
12 Department reportedly deployed drones on over 4,000
13 flight missions, including responding to 2,300
14 priority calls for service, including searches for
15 missing people, alerts from the ShotSpotter gunshot
16 detection system, and crimes in progress as needed.
17 OIG-NYPD reviewed the two IUPs applicable to the
18 drone program, the UAS IUP and the Thermographic
19 Cameras IUP, and concluded that the Thermographic
20 Cameras IUP satisfied the POST Act with respect to
21 the Department's use of drone technology, but the UAS
22 IUP did not disclose all of the information required
23 by the POST Act and did not provide a complete and
24 accurate picture of all aspects of the PD's drone
25 operations in the following ways: First, the UAS IUP

2 inaccurately states that all drone deployments are
3 operated and supervised by TARU, when in fact
4 multiple units within NYPD operate their own drone
5 programs; second, the UAS IUP requires that the
6 Commanding Officer of the Drone Team report to the
7 highest-ranking uniformed member of NYPD, but in fact
8 the Commanding Officer reports to the Deputy
9 Commissioner of Operations, not the highest-ranking
10 uniformed member; third, the UAS IUP does not
11 disclose several capabilities of the Department's
12 drone fleet including features that enable fully
13 autonomous and pre-programed flights, two- and three-
14 dimensional mapping technologies, two-way
15 communication capabilities, and glass breaker
16 attachments; fourth, the UAS IUP does not disclose
17 any potential health and safety impacts of drones,
18 including risks related to personal injury, property
19 damage, and the device's lithium-ion batteries, when
20 potential health and safety risks plainly exist; and
21 fifth, the UAS IUP does not accurately reflect how
22 NYPD maintains the logs of each drone flight. Based
23 on its review, OIG-NYPD issued 10 policy and
24 procedure recommendations to NYPD. Nine proposed
25 that NYPD to update the UAS IUP to include the types

2 of disclosures I just described, as required by the
3 POST Act. OIG-NYPD also recommended that NYPD
4 include in the IUP the potential impact of the
5 surveillance technology on protected groups, which
6 the POST Act does not require. We await NYPD's
7 response to these recommendations which is due by
8 March 18th. DOI recognizes that the use of
9 surveillance technology in New York City raises
10 important public concerns and we are committed to
11 providing robust oversight in this area. Because the
12 annual comprehensive inquiry that the POST Act
13 requires DOI to undertake, an audit of the NYPD's
14 compliance with each of its three dozen IUPs, for
15 more than 80 surveillance technologies, is not
16 feasible, we focus each annual report on particular
17 surveillance technologies of greatest public interest
18 and concern. We also seek to identify and to address
19 any broader issues relevant to the POST Act's
20 requirements and NYPD's compliance more generally,
21 such as the grouping issues that I've discussed
22 today. With respect to the proposed legislation, DOI
23 has reviewed Introductions 168, 233, and 480, which
24 are being considered at today's hearing. These are
25 bills that were first heard in December 2023, and

2 that DOI testified about at that time. We continue
3 to be generally supportive of the three bills, which
4 track 11 of our recommendations made in our first
5 2022 POST Act report. Nine of those 11
6 recommendations remain rejected by NYPD. One
7 recommendation, that NYPD issue a unique IUP for each
8 distinct surveillance technology, was initially
9 rejected, but was later accepted after DOI reissued
10 the recommendation in our 2023 report. Another
11 recommendation, that NYPD provide DOI with an
12 itemized list of all surveillance technologies the
13 Department is using, was initially rejected, but has
14 now been accepted in principle. We appreciate the
15 Council's support for our oversight mission, as well
16 as for the specific recommendations we have made to
17 the Department in regard to surveillance technology.
18 We look forward to working with the Council on these
19 bills should they move forward to a vote. Thank you
20 for your time, and I'm happy to take any questions
21 that you may have.

22 CHAIRPERSON SALAAM: Thank you. I'd like
23 to turn it over to Council Member-- Chair Brewer for
24 her questions.

2 CHAIRPERSON BREWER: Thank you very much,
3 Chair, and we've been joined by Council Members
4 Paladino and Rivera. Before I start on the questions
5 that were listed here and respond to your excellent
6 testimony, I have a question about data, as the
7 author of the Open Data bill many years ago. Does
8 some of the data that is produced by this technology,
9 should-- it's not part of the POST Act now, but is
10 that something that you think should go to a data
11 bank like the Open Data if it is not involved with
12 personnel and something that would not be
13 appropriate? But is there some of this data that
14 should be going to the public?

15 COMMISSIONER STRAUBER: You know, I
16 haven't really studied where the data might go or how
17 it might be used. I mean, the POST Act definitely--

18 CHAIRPERSON BREWER: [interposing] Does
19 not call for it.

20 COMMISSIONER STRAUBER: Well, it
21 requires, you know, IUPs to describe how data is
22 retained and who can have access to data and what--

23 CHAIRPERSON BREWER: [interposing] Right.

24 COMMISSIONER STRAUBER: restrictions
25 might apply to that, but I haven't studied the

2 broader question of where and how that data might be
3 stored or accessed to the public.

4 CHAIRPERSON BREWER: Something to think
5 about for the future, I think. What-- I think you
6 sort of talked about this. What's the importance of
7 the Police Department producing individual IUPs for
8 each distinct surveillance rather than relying on
9 updates through existing IUPs of similar or
10 overlapping technologies? Now you talked something
11 about the Digidog etcetera. So I just want to
12 explain for the public more than even us why this is
13 important.

14 COMMISSIONER STRAUBER: sure. Well, it's
15 our position that as an oversight body, if we're
16 going to adequately evaluate compliance with the
17 IUPs, each surveillance technology that has distinct
18 function capabilities, a distinct manner of use,
19 needs to be described in a distinct IUP. Otherwise,
20 it's possible that grouping of distinct technologies
21 in a single IUP could shield individual technologies
22 from oversight. We would not necessarily know if
23 multiple technologies that are in fact different in
24 function are grouped together. We might not be able
25 to evaluate how those technologies are actually used,

2 and if they're being used how they should be used or
3 if the IUPs are adequate to address the capabilities
4 of each technology. So, it's our view that the POST
5 Act to effectuate its purpose really requires that
6 each distinct technology have its own IUP. Now,
7 there may be technologies that overlap sufficiently
8 in function and in capability, that they don't need a
9 distinct IUP, but that's our position.

10 CHAIRPERSON BREWER: And do you think--
11 you mentioned many recommendations between these
12 three different surveys. Do you think that this is
13 going to be more distinct in the future as a result
14 of your recommendations?

15 COMMISSIONER STRAUBER: Well, I'll note
16 that although the Department initially rejected our
17 recommendation with regard to distinct surveillance
18 technologies, having distinct IUPs. That
19 recommendation has subsequently been accepted at
20 least in principle. There may be some discussion
21 around the parameters of what distinct functionality
22 actually means, but I think we're getting closer to
23 consensus on that point.

24 CHAIRPERSON BREWER: Okay. How does OIG-
25 NYPD, which is basically your office, ensure

2 transparency in its audits and investigations of
3 police practices? How do you ensure transparency?

4 COMMISSIONER STRAUBER: Well, I think the
5 work that we do and the reports are really the way
6 that we ensure transparency. So for some of these
7 devices, like drones for example, they're subject of
8 public concern, but there are aspects of drone use
9 that the public is not aware of. When we issue these
10 reports, we not only look at the IUPs, but we also
11 describe the practices that currently exist,
12 particularly if they're distinct from those IUPs.
13 The IUPs provide, obviously, a form of transparency as
14 well, but our work enables the public to see if
15 there's a disconnect between the policy and the
16 reality. We are sharing through our reports what
17 that reality is, and that creates additional
18 transparency around the use of these technologies.

19 CHAIRPERSON BREWER: An ongoing theme of
20 this City Council is staffing, and obviously when
21 you're talking about these technology instances
22 changing all the time, do you have enough staffing to
23 do the kind of comprehensive audits that we've been
24 talking about?

2 COMMISSIONER STRAUBER: Well, look, I
3 want to be very clear here that to the extent that
4 the POST Act purports to require our office to
5 evaluate with respect to over 80 surveillance
6 technologies, whether every instance of use by the
7 Police Department complies with each IUP. That is
8 not a realistic task. I don't think we have the
9 staffing to do that. I'm frankly not sure that that
10 is a good use of the resources that we have. I think
11 what we have done is we've identified significant
12 thematic concerns like the grouping issue, and we
13 have also used our annual reporting obligation which
14 we do have sufficient staffing to meet to identify
15 technologies that we think are of greatest public
16 concern and to provide transparency about those and
17 recommendations where necessary. So, while I always
18 quarrel with the amount of staffing we have, I think
19 we do have sufficient staffing to comply with the
20 POST Act requirements in the way that we've
21 interpreted them.

22 CHAIRPERSON BREWER: I want my colleagues
23 to know that every budget season we fight for more
24 staffing for your agency, period. That's a different
25 topic.

2 COMMISSIONER STRAUBER: I know that and I
3 thank you for that.

4 CHAIRPERSON BREWER: We're going to keep
5 doing it. So, one way to get at these issues is, of
6 course, contract agreements and conditions with
7 vendors of surveillance technologies. I know even me
8 I get these crazy suggestions from all over the
9 country. The city should buy this technology or that
10 technology. I just hit delete, because I know that's
11 the Police Department's problem, but it is
12 complicated. So my question is, do you have access
13 to these agreements, and the vendors, and their
14 surveillance technology? Because that's how you can
15 in fact get more information to be in compliance with
16 the POST Act.

17 COMMISSIONER STRAUBER: I mean, that is
18 something that we can and do request when we do our
19 audits, and we do have access to it, and those
20 agreements can have information that bears on data
21 access and retention, for example, because sometimes-
22 - I'm not speaking to any specific technology, but a
23 third-party provider may have access to data that a
24 particular service or technology generates.

2 CHAIRPERSON BREWER: Okay. The-- I'm
3 wanting to know how your agencies assesses whether
4 the Police Department's use of new surveillance
5 technology-- the drone are pretty new, they're
6 changing all the time, facial recognition changing
7 all the time-- complies with the POST Act because
8 there is often new surveillance technologies?

9 COMMISSIONER STRAUBER: Right. Well, one
10 of the things that we've requested and that is in one
11 of eh bills you're considering today is a requirement
12 that the Department provide us with updates as to new
13 technology. So, on whatever schedule we might
14 receive those, receiving those in a timely manner
15 will enable us to identify new technologies, and so
16 that's one way that we're able to sort of stay on
17 top-- or that we would be able to stay on top of
18 that. There's also, you know, often public reporting
19 and announcements that the Department makes when it
20 deploys new technologies. That's certainly been the
21 case with the ones that we've looked at in the last
22 two reports.

23 CHAIRPERSON BREWER: Council Member
24 Gutiérrez, you want to ask your questions and then
25 I'll come-- I could go on forever, so. Go ahead.

2 CHAIRPERSON GUTIÉRREZ: Thank you. Thank
3 you, Chair Brewer. Thank you, Commissioner, for your
4 thorough testimony. I just have a couple questions,
5 one specifically from your testimony if you could
6 just clarify for me. I believe you said in the 20--
7 you had mentioned in your summary of the
8 recommendations that PD rejected, two recommendations
9 I think it was in their 2023 POST Act report. Can
10 you just clarify which were the two that were
11 rejected?

12 COMMISSIONER STRAUBER: Yes. So the
13 first was that each IUP should identify the potential
14 impact of the surveillance technology on protected
15 groups. To be clear, the actual language of the POST
16 Act-- and we lay this out in the 2022 report--
17 requires the Department to report on any disparate
18 impact arising from the IUPs, arising from the
19 policies. You would not necessarily expect there to
20 be disparate impact arising from the policies. We
21 ask that the Department disclose any disparate impact
22 arising from the use of the technology itself. That
23 is not required by the POST Act and that was
24 rejected. The second recommendation that was
25 rejected was that the Department include mechanisms

2 within the IUPs for tracking and monitoring uses of
3 the surveillance technology so that the policy itself
4 incorporate a procedure for essentially auditing and
5 tracking and that was also rejected. That is also
6 not required by the POST Act currently.

7 CHAIRPERSON GUTIÉRREZ: And then just for
8 my clarification, when they are rejected, is there a
9 reasoning shared or is it-- how-- what does that look
10 like when they reject recommendations?

11 COMMISSIONER STRAUBER: The Department is
12 required by law 90 days after a report is issued to
13 respond in writing to our recommendations, and they
14 do provide reasons for the rejection. If they are
15 going to reject a recommendation, and here I believe
16 the rejection is because this goes beyond the
17 requirements of the POST Act.

18 CHAIRPERSON GUTIÉRREZ: Okay, so I
19 understand. Thank you. And then my last question--
20 thank you, Chair-- is we believe some contracts with
21 PD are not registered with the Comptroller or visible
22 in Checkbook. Some are demonstration projects. Are
23 you aware if the agency is tracking these, or are you
24 given access? Are they at all included in any of, I
25 guess, the report backs or IUPs shared by PD?

2 COMMISSIONER STRAUBER: So, we are given
3 access to all kinds of information that is not public
4 when we do these reports, but I don't know and can't
5 speak to the question of whether particular contracts
6 for technology that we looked at are publicly
7 registered or not. I don't know the answer, and I
8 don't think we conducted an inquiry of that.

9 CHAIRPERSON GUTIÉRREZ: Okay, are they
10 share-- you have access. Is it explicit that they--
11 when they are demonstration projects?

12 COMMISSIONER STRAUBER: Again, I'm not
13 sure. When we make requests to the Department when
14 we're going to conduct an investigation like this, we
15 receive materials from them. Some materials are
16 public. Some materials are not public, but I don't
17 know the specific answer to your question.

18 CHAIRPERSON GUTIÉRREZ: Okay, alright.
19 Thank you.

20 CHAIRPERSON BREWER: Are there other
21 members who have questions to the DOI? Go ahead,
22 Cabán.

23 COUNCIL MEMBER CABÁN: Thank you to the
24 many chairs today. So many of you. I thank you for
25 being here. Thank you for the work that you do. I

2 have a couple of questions for you. What materials
3 has OIG-NYPD requested from the NYPD as part of OIG's
4 POST Act responsibilities that the NYPD has not
5 provided?

6 COMMISSIONER STRAUBER: You know,
7 there's-- we actually have at this point a very good
8 sort of communication system and we generally get all
9 of the materials that we ask for. That was not
10 always the case. We've worked hard, I think, over
11 the last couple years, and we now really do receive
12 the materials that we ask for, and when there are
13 delays or other issues we have an internal escalation
14 process and a way of communicating with the
15 Department about that. The one example that we
16 mentioned in our drone report was we received records
17 solely from the Transit Bureau about its drone
18 deployments. My understanding is that there are
19 other divisions within the Department that deploy
20 drones, and so we noted in our findings that we were
21 not able to assess whether all of the PD's drone
22 operations complied with the IUPs, because we only
23 had records relating to the Transit Bureau. So
24 that's one example. Now,--

25 COUNCIL MEMBER CABÁN: [interposing] Okay.

2 COMMISSIONER STRAUBER: I want to be
3 clear, though, that we decided in the interest of
4 time that we wanted to issue this report rather than
5 spending additional time conferring--

6 COUNCIL MEMBER CABÁN: [interposing]
7 Right.

8 COMMISSIONER STRAUBER: with the
9 Department, and given the track record of the work
10 that we've done together, I have no doubt that if we
11 had had the time, we would have gotten the rest of
12 the records, but we decided to move forward.

13 COUNCIL MEMBER CABÁN: I mean, it is a
14 balance, though, between you want to be-- make sure
15 that you're complying. You get these records out, and
16 they've got a responsibility to sort of get you that
17 information in a certain amount of time. But I
18 appreciate that there's improvement there. Besides
19 the drones, is there any other things that you--

20 COMMISSIONER STRAUBER: [interposing]
21 There are no examples other than that one that I can
22 think of, and we obviously have the option as we did
23 here of noting that in our reports if that is an
24 issue, but it really has not been.

2 COUNCIL MEMBER CABÁN: And if there is
3 anything outside of-- that you guys think of or
4 outside of that, if you could follow up with the
5 Chair on that information. I know we'd all love to
6 hear that. and then my other question is-- so the
7 NYPD, the DOI, the Comptroller, the Mayor's Office of
8 Contract Services, the Office of Management and
9 Budget, and the Law Department all had an agreement
10 to hide special expenses budget contracts which
11 includes a lot of the surveillance contracts, and at
12 the time, Comptroller Stringer withdrew from that
13 agreement after the POST Act passed, and so I'm
14 wondering whether you know if other agencies are
15 still abiding by that agreement to keep this info
16 from the public. Is the DOI still part of that
17 agreement? Have any new agreements been made since
18 the POST Act? Those are-- yeah, those are my
19 questions.

20 COMMISSIONER STRAUBER: Yeah, no, and I'm
21 not aware of any such agreement. Actually, this pre-
22 dated me, so I'm sure I could do some research and
23 try to figure out. I'm not aware that we're a party
24 to any agreement that involves hiding information
25

2 from the public which would surprise me, but I'm
3 happy to look into that.

4 COUNCIL MEMBER CABÁN: I mean, again, it
5 definitely existed. It was acknowledged by certain
6 folks.

7 COMMISSIONER STRAUBER: No, I--

8 COUNCIL MEMBER CABÁN: [interposing] I
9 appreciate that you're saying that it predates you--

10 COMMISSIONER STRAUBER: [interposing] I
11 don't doubt it. I'm just not familiar with it, so.

12 COUNCIL MEMBER CABÁN: If you could
13 follow up with that information as well, that would
14 be great.

15 COMMISSIONER STRAUBER: Happy to do that.

16 COUNCIL MEMBER CABÁN: And we thank you,
17 and I will turn it back.

18 CHAIRPERSON BREWER: Thank you. Council
19 Member Williams, you have questions about DOI? PD
20 later on? Council Member Ossé, is it on DOI? Okay,
21 and Council Member Paladino? On this-- go ahead.
22 This is on DOI. PD is later on. Alright, so I do
23 have a question while we're checking on that. One is
24 with CCRB. Are-- obviously, I know you have
25 different roles. I'm quite familiar with that, but

2 is there a way that the-- your agencies collaborates
3 with-- like CCRB on issues of surveillance
4 technology?

5 COMMISSIONER STRAUBER: You know, we make
6 referrals, as you know, of certain types of
7 complaints that we received to CCRB. I'm not aware
8 that we're actively working with CCRB on matters
9 related to surveillance technology. I could try to
10 find out more about that. Not that I'm aware of.

11 CHAIRPERSON BREWER: Okay. And then the
12 other question I have, with AI-driven surveillance
13 technologies, I don't know if that's a new technology
14 in this arena. It's obviously much broader than any
15 of the types of technology that you discussed. So
16 how do you plan to adopt its oversight strategies to
17 keep with that kind of development? Again, different
18 kind of technology.

19 COMMISSIONER STRAUBER: Yeah, I don't
20 know that our approach would be any different than it
21 currently is, right, which is to see what the
22 policies are, how the technology is used, and if we
23 see a potential for abuse, we would look at it from
24 that perspective. I don't have a particular strategy
25 with respect to AI oversight.

2 CHAIRPERSON BREWER: Alright. Also, you
3 mentioned lithium batteries, one of my favorite
4 topics. My question is how do that, if at all, fit
5 into this discussion. We have lithium batteries on
6 the cameras. We have lithium batteries on the e-
7 bikes. We have lithium batteries elsewhere. Is that
8 something that would fit into POST Act?

9 COMMISSIONER STRAUBER: Yeah, I mean, to
10 us that's a health and safety issue, right? There
11 are obviously-- we've done reports on this with
12 regard to e-bikes. There's substantial public concern
13 about safety with respect to lithium batteries. It's
14 one of the reasons we felt that the drone IUPs should
15 make greater disclosures or some disclosures about
16 the health and safety risks, and we've made that
17 recommendation with respect to other technologies as
18 well that use lithium batteries.

19 CHAIRPERSON BREWER: Okay. And if-- the
20 Police Department fails to comply with your
21 recommendations regarding surveillance technology--
22 just like many other things, we're not quite sure
23 what to do. How do you think we should be handling
24 that or how do you handle that?

2 COMMISSIONER STRAUBER: Well, we have an
3 ongoing process with the Police Department. So as I
4 mentioned, the recommendation that was initially
5 rejected, we maintained an ongoing dialogue, so one
6 hope is that through conversations and discussion we
7 can change minds on things. There's also, obviously-
8 - you know, the Council has taken on a number of our
9 recommendations here that were rejected, and there's
10 also, obviously, you know, the public value of our
11 reports so that people what we've recommended that's
12 out there, and you know, that the Department has
13 declined to comply with it.

14 CHAIRPERSON BREWER: And just finally,
15 are there other technologies coming down the road
16 either that you've heard about internationally or
17 nationally that Police Department could be-- so that--
18 - using so that it's more proactive, or do we wait to
19 see what comes from NYPD?

20 COMMISSIONER STRAUBER: I mean, I'm sure
21 there are many. I can't say that I'm in a position
22 to say whether there are any that should be used. I
23 think we'll see what happens.

24 CHAIRPERSON BREWER: Okay. Thank you
25 very much. Mr. Chair, turn it back to you.

2 CHAIRPERSON SALAAM: Thank you. I don't
3 think we have any more questions for you. So thank
4 you for your testimony and your--

5 COMMISSIONER STRAUBER: [interposing]
6 Thank you.

7 CHAIRPERSON SALAAM: questions-- answers.
8 I'd like to call the next panel for the NYPD. We
9 have Joshua Levin, Director of Legislative Affairs,
10 Michael Gerber, Deputy Commissioner of Legal Matters,
11 Jason Savino, Commanding Officer of detective Bureau,
12 and Captain Michael Eichner, Chief of Department.
13 Okay, so when you're ready, Nicole will offer the
14 swearing in affirmation.

15 COMMITTEE COUNSEL: Thank you, Chair
16 Salaam. Before we resume I will administer the
17 affirmation. Panelists, please raise your right
18 hand. Do you affirm to tell the truth, the whole
19 truth and nothing but the truth before this committee
20 and to respond honestly to Council Member questions?
21 Thank you. You may begin when ready.

22 DEPUTY COMMISSIONER GERBER: Yes, thank
23 you. Good morning Chair Salaam, Chair Brewer, Chair
24 Gutiérrez, and members of the Council. My name is
25 Michael Gerber and I'm the Deputy Commissioner of

2 Legal Matters for the New York City Police

3 Department. I am joined today by Assistant Chief
4 Jason Savino, Commanding Officer of the Detective
5 Bureau Specialty Enforcement Division, Josh Levin,
6 Director of Legislative Affairs for the Department,
7 and Captain Eichner of the Department's Drone Team.

8 On behalf of Police Commissioner Jessica Tisch, we
9 thank you for the opportunity to speak about the
10 Department's compliance with the POST Act and about
11 three pieces of legislation relating to the
12 Department's use of surveillance technology.

13 Technology is critical to our public safety mission.

14 Every day we use technology to solve crimes and to
15 keep people safe. We are committed to using

16 technology with care and precision, and doing so

17 consistent with the law. When it comes to mandating

18 disclosures regarding the Department's use of

19 surveillance technology, there are several critical

20 interests: transparency, public safety, innovation,

21 and administrability. The POST Act strikes a balance

22 between these interests, and the Department has gone

23 to great lengths to meet its obligations under the

24 Act. Since the passage of the POST Act in 2020, the

25 Department has published 37 Impact and Use Policies,

2 or IUPs. The Department has amended its IUPs 16
3 times, sometimes to reflect changes in policies or
4 practices, sometimes because the surveillance
5 technology was being deployed in anew manner or for a
6 new purpose, and sometimes because we identify an
7 error and acted to correct it. The IUPs are publicly
8 available on our website and provide a wide range of
9 information concerning the capabilities of our
10 surveillance technologies, as well as various
11 policies and procedures relating to those
12 surveillance technologies. I would like to take a
13 moment to comment on the bills under consideration
14 today. Intro 168 would require the Department to
15 provide to DOI upon request a list of surveillance
16 technologies, information on data access and
17 retention policies related to those surveillance
18 technologies, and quarterly updates on all new and
19 discontinued surveillance technologies. The
20 Department takes DOI's oversight mission very
21 seriously and provides DOI with the information that
22 it needs to perform that role. The Department's only
23 concern regarding Intro 168 is the frequency of the
24 mandated updates to DOI. Requesting updates every
25 quarter imposes a burden on the Department that does

2 not seem necessary for DOI to perform its annual
3 audit function. The Department looks forward to
4 working with the Council to formulate a schedule for
5 reporting to DOI that ensures that DOI has the
6 information that it needs in a timely fashion. Intro
7 233 would require the Department to establish and
8 publish procedures and regulation for the use of
9 facial recognition technology. The bill would also
10 require the Department to conduct a biannual audit of
11 our use of facial recognition and to provide the
12 results to DOI as well as publish them on our
13 website. I would note that the Department currently
14 posts its facial recognition policy on its website
15 along with answers to frequently asked questions
16 regarding our use of facial recognition. We of
17 course have no issue with continuing to publicize
18 this information. We also have no objection in
19 principle to providing additional data to the public
20 regarding our use of facial recognition. The
21 Department has had an ongoing dialogue with the
22 Council regarding the contour and scope of the audit,
23 and we believe that we can continue this
24 collaboration to craft an audit that will further
25 increase transparency regarding our use of facial

2 recognition without impeding the use of this critical
3 law enforcement tool. Intro 480 would amend the POST
4 Act to require, among other things, a separate IUP
5 for each surveillance technology used by the NYPD
6 regardless of whether such technology overlaps in
7 functionality or capability with any other technology
8 for which an IUP already exists. We are not sure
9 what is intended by that language. At best, it is
10 ambiguous and will lead to confusion regarding the
11 Department's disclosure obligations. At worst, it
12 could be read to suggest that even the slightest
13 alteration in functionality requires a new IUP,
14 followed by a public notice and comment period and a
15 90-day delay before the new hardware can be used. We
16 would need a new IUP every time we upgrade our
17 officer cell phones, by a different make or model of
18 camera, or purchase new covert recording devices for
19 undercover officers. This would be very harmful to
20 the daily functioning of the Department, and could
21 serve to compromise public safety. The Department
22 opposes the legislation as drafted. I would note,
23 however, that we have been in dialogue with advocacy
24 groups regarding proposed changes to the POST Act in
25 effort to formulate revisions to Intro 480 that will

2 meet their concerns relating to privacy and
3 transparency without undermining the Department's
4 public safety efforts. That dialogue extending over
5 many months has been detailed and productive, and I
6 understand that the sponsor of the bill has been
7 supportive of these efforts. I believe that thanks
8 to our work with those advocacy groups and with the
9 Council there is an opportunity to finalize a bill
10 that expands the scope of disclosure obligations
11 under the POST Act without objection from the
12 Department. I would add that I am proud of our
13 efforts to work towards a compromise with groups
14 that, to put it mildly, are harsh critics of the
15 Department. Despite fundamental disagreements on a
16 variety of issues, we have listened to each other and
17 work to identify common ground. I am hopeful this can
18 be a model for future dialogue. Thank you for the
19 opportunity to speak to these issues. We look
20 forward to answering any questions that you may have.

21 CHAIRPERSON SALAAM: Thank you for your
22 testimony. I'd like to start with privacy and civil
23 liberty concerns. Are any of these technologies used
24 without warrants, and if so, under what legal
25 framework?

2 DEPUTY COMMISSIONER GERBER: Sure. So,
3 some technologies require a warrant and some do not.
4 In our IUPs, each IUP actually requires-- one of the
5 requirements of the POST Act to address essentially
6 that-- the answer to that question. Is a warrant
7 required? Is a warrant not required? Is there some
8 lesser judicial standard that's required? So, I
9 think each one of our IUPs addresses that, and
10 obviously it really just depends on the technology
11 and the way in which the technology is being
12 deployed. You know, there are some surveillance
13 technologies that are never going to require a
14 warrant or a court order, some that will always
15 require it, and then some where it really will depend
16 on the context on which it's being used.

17 CHAIRPERSON SALAAM: Has the NYPD used
18 any of these technologies to monitor protests,
19 political demonstrations, or religious gatherings?

20 DEPUTY COMMISSIONER GERBER: So, as you
21 know, we are banned-- we are bound by the Handschu
22 rules, Handschu court orders. That is incredibly
23 important. We take those very, very seriously. We
24 use drones-- we're talking about a large protest and
25 alike. We do use drones not to zoom in. We use

2 drones to be able to track let's say where a group is
3 moving. It allows us-- helps us with deployment.
4 Sometimes we'll have very large demonstrations or the
5 like. We actually don't know where the group's going
6 to go. That can present very significant challenges
7 from a public safety perspective just in terms of
8 making sure that we have the appropriate officers in
9 the right places. So we will use drones to track the
10 movement, say, of a group. We are very clear on the
11 rules on this. In the absence of criminal activity
12 or enforcement activity in response to criminal
13 activity, those drones are not zooming in. They're
14 not allowed to do that, right? If we were zooming in
15 on a peaceful political protest, that would be a
16 violation of Handschu. We don't do that. So, we do
17 use drones in that way. We are very, very careful to
18 abide by the Handschu rules.

19 CHAIRPERSON SALAAM: Has the NYPD ever
20 used any of these technologies to track journalists,
21 activists, or civil rights organizations?

22 DEPUTY COMMISSIONER GERBER: I'm not sure
23 what you're referring to. We use these surveillance
24 technologies to investigate criminal activity, in
25 response to criminal activity. If you're suggesting

2 that we're using them inappropriately to target civil
3 rights groups or journalists, the answer to that is
4 no.

5 CHAIRPERSON SALAAM: How long does the
6 NYPD retain audio, video, biometric and geolocation
7 data collected by each of these technologies, and who
8 has access to this data?

9 DEPUTY COMMISSIONER GERBER: So, the
10 answer to that in terms of the retention period is
11 going to vary by surveillance technology, and this is
12 addressed in our IUPs. There are some surveillance
13 technologies where nothing is recorded at all, right?
14 So, there's no retention-- there's no retention
15 policy because there's no retention. And then some
16 surveillance technologies, data is stored, and then,
17 you know, how long it's stored for will vary.
18 Obviously, if something becomes part of a criminal
19 case file, there are very specific rules which are
20 laid out in our IUPs about the rules for data
21 retention in connection with different types of
22 criminal cases. So you really-- there are two
23 things. There's one is sort of the retention policy
24 with regard to a particular surveillance technology,
25 and again, that varies and is disclosed in the IUPs,

2 and then separately if it becomes part of a criminal
3 case, then there are other rules about how long data
4 is maintained in a criminal case that's statutory in
5 nature, and that's again laid out in the IUPs.

6 CHAIRPERSON SALAAM: Does the NYPD share
7 collected data with law enforcement entities such as
8 ICE or the FBI? If so, under what guideline?

9 DEPUTY COMMISSIONER GERBER: So, we do
10 share information with other law enforcement
11 organizations in connection with criminal
12 investigations, right, and we, as you know, are a
13 part of numerous federal taskforces, criminal
14 taskforces investigating criminal activity, and as
15 part of that there is sharing of data and information
16 in connection with those criminal investigations.
17 And I should say, when we think about a joint
18 criminal investigation, let's say working with the
19 FBI or working with the DEA, we don't think about
20 sharing in that context broken down by surveillance
21 technology. If we're doing a case jointly, a
22 criminal case jointly with the FBI, the expectation
23 is that our detectives and the FBI agents are going
24 to share information freely between them as part of
25 that joint investigation. We expect the FBI to share

2 with us. The FBI expects us to share with them, and
3 that's really the whole taskforce model, right, of
4 bringing together different law enforcement partners
5 and agencies working collaboratively on criminal
6 investigations. I also want to say you mentioned
7 ICE. Be very, very clear, as you know, we do not
8 engage in civil immigration enforcement, and we do
9 not share surveillance technology in furtherance of
10 civil immigration enforcement.

11 CHAIRPERSON SALAAM: How does the NYPD--
12 actually, before I ask this next question, I'd just
13 like to acknowledge that we've been joined by Council
14 Member Stevens as well. How does the NYPD track,
15 prevent-- track and prevent unauthorized access or
16 misuse of surveillance data by officers or external
17 entities?

18 DEPUTY COMMISSIONER GERBER: So, I think--
19 - and this comes up in the IUPs. What you see in the
20 IUPs is there's sort of baseline data security,
21 right, that is consistent across all of our
22 surveillance technology, and that is-- I will say,
23 you know, this talk about boiler plate and the IUPs.
24 There is certain boiler plate language, because we do
25 have a baseline of data privacy that exists across

2 all surveillance technologies, and you would expect,
3 frankly, to see the same language over and over
4 again, because that baseline is the same across the
5 Department. That's a good thing. Then, for certain
6 surveillance technology, there's going to be
7 heightened security. Just to give one example, if
8 you look at our IUPs we discuss the fact that in for
9 information derived from court-ordered wire taps,
10 right? Obviously, incredibly powerful investigative
11 tool, but obviously that raises incredibly sensitive
12 privacy concerns. There our IUP will describe
13 additional privacy protections and safeguards on top
14 of the baseline. But the answer is going to vary
15 somewhat depending on the nature of the surveillance
16 technology.

17 CHAIRPERSON SALAAM: Has the NYPD ever
18 experienced a breach, leak, or unauthorized access s
19 to its surveillance data? What safeguards exist to
20 prevent such abuse?

21 DEPUTY COMMISSIONER GERBER: So, I'm not
22 sure I can answer that question in terms of whether
23 there's ever been a breach. You know, that's a
24 question that would have to go to our Information
25 Technology team. The folks who are here wouldn't

2 necessarily be aware of any breach into our systems.

3 I will say, to the extent you're focused on
4 surveillance technology and that data, I'm certainly
5 not aware over the past few years of that type of a
6 breach, but if you're asking whether that's ever
7 happened, that's hard for me to answer. I'm not the
8 right person to answer that question. But I'm
9 certainly not aware of that.

10 CHAIRPERSON SALAAM: I want to move to
11 questions on drones. The OIG-NYPD report found that
12 some drones have multipurpose droppers and glass-
13 breaking attachments. Does the NYPD plan to use
14 drones to deploy non-lethal weapons for crowd control
15 measures?

16 DEPUTY COMMISSIONER GERBER: So, be very,
17 very clear. This is as a matter of policy and this
18 is non-negotiable. Drones are not used as weapons.
19 Drones do not have weapons. They are not going to
20 have weapons. We-- our policy does not allow for
21 that, period. What is described in the DOI report,
22 there are two different things that are described.
23 One is the ability of drones to drop things as a
24 life-saving measure. For example, if we have drones
25 off on the beaches and someone's in distress, and the

2 idea as I understand it is that a drone could drop a
3 buoy or the light [sic], something that would
4 actually save someone's life. There also is a
5 capacity for a drone-- the breaker capacity is not as
6 a weapon at all. It's in exigent circumstances if
7 there's a need for a drone to go into an otherwise
8 closed off space and to be able to break glass in
9 order to do that. But I want to be very, very clear.
10 Under no circumstances are drones allowed to be used
11 as weapons or are any weapons put on drones,
12 absolutely not.

13 CHAIRPERSON SALAAM: Just following along
14 with that, with the drones, in terms of-- where's the
15 video and data from NYPD drones stored and who has
16 access to it?

17 DEPUTY COMMISSIONER GERBER: alright, so
18 the short answer to that is the storage period is 30
19 days, right? 30 days, unless it's related to a
20 criminal case. So, right, so if there's footage on a
21 drone that relates to a criminal matter, to a
22 criminal case, that'll obviously be saved for
23 discovery purposes and becomes part of the criminal
24 case file essentially as a practical matter, right.
25 I mentioned this before. So, if it's part of a

2 criminal case, it's going to go as part of that
3 criminal case, and obviously that has to be stored
4 and critical it'd be stored for discovery purposes.
5 Otherwise, the storage period for our drones is 30
6 days. I should add, by the way, there are other
7 reasons why video could be retained, right? So, if
8 there's a FOIA request and we have other disclosure
9 obligations, just to be clear on that, but unless
10 there's some other reason why the video is going to
11 be saved, it'-- it would otherwise only be saved for
12 30 days.

13 CHAIRPERSON SALAAM: so, they just have
14 like-- if someone, for instance, with a FOIA request,
15 they would have to make sure that they would ask for
16 or request that information within that time period.

17 DEPUTY COMMISSIONER GERBER: Yes.

18 CHAIRPERSON SALAAM: I want to move to
19 facial recognition and algorithmic bias. Studies
20 have shown that facial recognition misidentifies
21 people of color at disproportionate rates. What
22 steps has the NYPD taken to ensure that its facial
23 recognition does not contribute to wrongful arrest?

24 DEPUTY COMMISSIONER GERBER: So, I'm
25 aware of some of the studies and reports that you're

2 referring to. Obviously, it's a very serious matter.

3 I do think that some of those studies were in the
4 earlier days of facial recognition. I think that the
5 technology has actually gotten much better. So I
6 think that actually lessens the concerns on that
7 front. Now, that said, I think this is critical,
8 facial recognition is only a lead. It is only elite,
9 right? No one is getting arrested on the basis of a
10 facial recognition match standing alone, right? We
11 can't do that. We don't do that. It is a lead which
12 then sends the detectives to do additional work to
13 try to develop probable cause. I also-- so part of
14 this is it's a lead, but it's not in of itself going
15 to be the basis for an arrest. I think that's
16 critical. It's very, very important. Also, I think
17 critical is that this is not some fully-automated
18 process that takes human beings out of it. On the
19 contrary-- and this is described in our facial
20 recognition policy which is public, it's also
21 described in the IUP. There are human beings
22 involved here as well, right? And in fact, when
23 there's a potential match, you're going to actually
24 have two separate individuals looking at that. So
25 the front line review, and then a second supervisory

2 review before the match is even sent back to a
3 detective, and again, they're only as a lead. So,
4 there are a lot of checks in place.

5 CHAIRPERSON SALAAM: What is the false
6 positive rate-- oh sorry.

7 ASSISTANT CHIEF SAVINO: I'm sorry. I
8 just want to add to that. In a sense that, you know,
9 we need to know how the technology works, right? It
10 works off an algorithm, and that algorithm doesn't
11 even see color. In a sense that it works off of
12 mathematical measurements. So it's take quadrants of
13 your face and then measure each variable. So it'll
14 go nose to ear and what have you. So it really
15 doesn't even see color at all. In fact, we've used
16 black and white photos and had the exact same
17 replicas from inputting it into this database as we
18 had with color photos. So, it doesn't see gender.
19 It doesn't see race. What it does see is
20 mathematical measurements.

21 DEPUTY COMMISSIONER GERBER: I also want
22 to add one other thing on this which is that we-- you
23 know, the algorithm we use, it's DataWorks Plus.
24 There's a-- NIST is sort of an evaluation. It's from
25 the NYPD. It's sort of an industry standard kind of

2 evaluation system, and DataWorks Plus is sort of one
3 of the sort of recognized algorithms under that NIST
4 evaluation system.

5 CHAIRPERSON SALAAM: I just have a few
6 more before I pass it. What is the false positive
7 rate of the NYPD's facial recognition system, and how
8 does the Department address cases of
9 misidentification?

10 DIRECTOR LEVIN: so, as I understand it,
11 there has never once been a wrongful conviction in
12 NYPD's use of this facial recognition technology in
13 order to determine whether somebody is actually a
14 suspect of interest. So, what I think the important
15 thing to think about is, there's multiple layers of
16 human review on this. You have to keep a human in the
17 loop, and what that does is allows a human being to
18 look and compare, right? And again, this is just to
19 help us figure out the identity of somebody. This is
20 not evidence at trial. You might have somebody using
21 homophobic or-- this is actual example-- slurs on a
22 train. And the person on the train doesn't know who
23 this person is, but they snap a picture of them
24 before they walk out. Nobody knows who this person
25 is. And so this technology allows us to figure out

2 an identity which then we can do a further
3 investigation. And in regards to your specific
4 concern, we do many checks internally once the
5 machine gives us a possible match. We have human
6 beings who are checking what's that person's
7 pedigree? Do they even live in the city? Do they
8 have proof that they were outside of the city at the
9 time this incident happened? So, just because it
10 gives us that as a lead, we do all these extra things
11 to try to build an outside case of determining could
12 it even be this person. Were they in a morgue, God
13 forbid? Were they in a hospital at the time? Were
14 they incarcerated somewhere else? So we build a
15 whole case. We don't just rely on that.

16 ASSISTANT CHIEF SAVINO: And if I could
17 add to that as well, you know, it is so much more
18 than just a match on a still. In a sense that the
19 investigators that are assigned are experts. They
20 look for physical characteristics first. What am I
21 talking about? Scars, tattoos, anything that would
22 match up. The bridge to the nose, eyebrows, they're
23 looking at-- from a physical standpoint, but then
24 comes in the investigative aspect, right? We need
25 those corroborative factors to actually publish a

2 match. And what am I talking about with that? I'm
3 talking about like Josh alluded to. It this
4 individual out and available to commit the crime? We
5 are looking for past arrests. Have we seen it
6 before? Looking at body cam. We're looking for all
7 those corroborating factors, maybe matches in
8 clothing, matches to social media. So it's so much
9 more than just getting that still. There's a physical
10 and investigative aspect to it as well, and the
11 investigators are as good as they come and finding
12 them.

13 CHAIRPERSON SALAAM: Is the NYPD
14 currently using or planning to use artificial
15 intelligence for predictive policing? And if so, how
16 does it address concerns about potential bias?

17 DEPUTY COMMISSIONER GERBER: so, for
18 predictive policing, no. We use AI in certain
19 contexts. There's not really a POST Act issue. But
20 you know, we have annual reporting to the city
21 regarding the use of AI. We do have several
22 surveillance technologies that qualify as AI. Facial
23 recognition is one actually that constitutes AI in
24 one form. Patternizr and ShotSpotter are others.
25 But none of those are predictive in nature. They are

2 looking, by definition, as historical data. And so
3 to the extent the question is do we have plans now to
4 use AI for predictive purposes, at present, no.

5 CHAIRPERSON SALAAM: How does the NYPD
6 monitor social media activity, and what are the
7 safeguards to ensure protected speech is not unfairly
8 targeted or added to the NYPD's Criminal Group
9 Database, the gang database?

10 DEPUTY COMMISSIONER GERBER: Well, I
11 guess there are a few different parts to that
12 question. In terms of the social media work, you
13 know we-- obviously we look at publicly available
14 social media, as would any good investigation would
15 do. We obviously do sometimes use undercovers in the
16 social-- you know, in the sort of online space. That
17 definitely happens. In terms of, you know, protected
18 speech, again, we-- you know, we take Handschu
19 incredibly seriously. We have a civilian
20 representative as part of the Handschu Committee who
21 provides outside civilian oversight reports to court
22 every year. One thing we're very proud of, extremely
23 proud of is that for years now we've had 100 percent
24 compliance in the annual report from the civilian
25 representative to the court regarding Handschu. So,

2 I do think we have very, very robust, very
3 significant checks in place to avoid the concern that
4 you're raising. And then in terms of the Criminal
5 Group Database, there are-- obviously, there are
6 times when social media posts could be incredibly
7 significant for assessing whether someone should be
8 entered in the Criminal Group Database. We have
9 tightened our rules on that significantly and
10 narrowed that significantly, but yes, there
11 definitely are times when someone's social media
12 posts are relevant to assessing whether or not
13 someone's a member of a gang.

14 CHAIRPERSON SALAAM: Thank you. I'd just
15 like to acknowledge that we've been joined by Council
16 Member Krishnan, as well. Earlier we were discussing
17 privacy and civil liberty concerns about has the NYPD
18 ever experienced a breach, leak, or unauthorized
19 access to surveillance data. There was testimony
20 that we heard that said that there's never been a
21 breach of protocol in use of surveillance technology.
22 We found that there-- my team was researching this
23 quickly and he's found that there's a whole lawsuit
24 about targeting of Black Lives Matter activists, and
25

2 it was found to be unauthorized use. I just want to
3 know if there was anything to address that.

4 DEPUTY COMMISSIONER GERBER: Yes, first
5 of all, just to be clear, I was asked earlier about
6 breaches on the IT side, and I said and I stand by
7 this that I'm not aware of that, but I wouldn't
8 necessarily know of any possible breach obviously. I
9 mean, in terms of a claim by an activist that he or
10 she was unfairly targeted, I'm not familiar with that
11 particular allegation. The fact that someone
12 allegedes [sic] it does not make it so. And to the
13 extent there's ongoing litigation over that, that
14 litigation will play out. I'm not familiar with the
15 particular matter, but in any event I wouldn't be
16 commenting on an active pending case.

17 CHAIRPERSON SALAAM: Thank you. I'm going
18 to pass it to Chair Brewer.

19 CHAIRPERSON BREWER: Just quickly, going
20 back to this data issue that I asked earlier.
21 Obviously, there's data that is not going to be
22 available to the public for obvious reasons, but I'm
23 still focused on the fact that the Open Data Portal
24 which you do produce data for the seven major
25 categories, are there data lists here that should

2 also be going to the Open Data Portal from your
3 perspective?

4 DEPUTY COMMISSIONER GERBER: Well, you
5 know, the Department does produce a tremendous amount
6 of data--

7 CHAIRPERSON BREWER: [interposing] You do.

8 DEPUTY COMMISSIONER GERBER: to the
9 public, some of it mandated by law, some of it
10 voluntarily. Actually one example is disclosure that
11 we make regarding drone usage. It's actually a great
12 example. We put out-- and I'm actually not sure this
13 is mandated by law. Actually, I'm not 100 percent
14 sure. I think we just do this voluntarily. We
15 disclose I think each year, I think it's quarterly
16 actually, certainly annually our number of drone
17 deployments. That's something I think is actually
18 important for the public to understand and to know.
19 It's actually something-- you know, it's data
20 quantifiable. It does not impose an undue burden on
21 the Department to put that out there. I would want to
22 think about other examples of things like that.

23 CHAIRPERSON BREWER: How many times-- I
24 would assume it's on a database, how many times the
25 drones have gone out. That's not a--

2 DEPUTY COMMISSIONER GERBER: [interposing]

3 Yeah.

4 CHAIRPERSON BREWER: I don't think
5 secrete information.

6 DEPUTY COMMISSIONER GERBER: No, it's
7 publicly disclosed.

8 CHAIRPERSON BREWER: Right. So that would
9 be something that would go onto the Open Data
10 database?

11 DEPUTY COMMISSIONER GERBER: Yeah, I'm
12 not-- I'm actually not familiar with the Open
13 Database in particular.

14 CHAIRPERSON BREWER: I am.

15 DEPUTY COMMISSIONER GERBER: Right, no, I
16 understand. So I'm not in the position sitting here
17 to actually express a view about the Open Database in
18 particular, but to be clear, like that is data that
19 we share with the public.

20 CHAIRPERSON BREWER: Okay. Mr. Chair, go
21 to others, and we can always come back. They haven't
22 had a chance.

23 CHAIRPERSON GUTIÉRREZ: Thank you. I'll
24 ask them a few, and then I think we should open it up
25 since I know the time is limited. Thank you, Chairs.

2 Can I get you just to confirm, because at a joint
3 hearing we had back in December of 2023, PD testified
4 that it was not using AI. You just confirmed that
5 they are. Can you just repeat the programs or tools
6 that PD is using AI?

7 DEPUTY COMMISSIONER GERBER: Right. So,
8 we are annually required to report-- there's a
9 reporting requirement to City Hall regarding any
10 Department technologies that use AI, and the three
11 that we report on are Patternizr, ShotSpotter and
12 facial recognition. I do want to be very, very
13 clear. I said it before. I'll say it again. This is
14 not AI predictive policing. That's not what this is
15 at all, but these are technologies that use AI in
16 some form.

17 CHAIRPERSON GUTIÉRREZ: And do you know
18 if the agency plans to comply with the AI Action
19 Plan?

20 DEPUTY COMMISSIONER GERBER: Yeah. So
21 this is the Citywide Action Plan. Yes. I mean, I
22 will say that Action Plan is broad and the question
23 becomes sort of, you know, like what does that mean
24 sort of day-to-day. I think there's a real challenge
25 in terms of the definition of AI. I think frankly

2 everyone sort of struggles with what exactly AI is
3 and what counts as AI and what doesn't.

4 CHAIRPERSON GUTIÉRREZ: Well, you've just
5 classified them, so let's go with that.

6 DEPUTY COMMISSIONER GERBER: Yeah. Yeah,
7 so those--

8 CHAIRPERSON GUTIÉRREZ: [interposing]
9 those [inaudible]

10 DEPUTY COMMISSIONER GERBER: three, we
11 report on that to City Hall, and we're going to
12 comply with all city laws and mandates, 100 percent.

13 CHAIRPERSON GUTIÉRREZ: Okay. Okay.
14 Sorry, I'm going to jump to an IUP document that you
15 all submitted regarding the vendor electromagnetic
16 weapons detection system. Can you just confirm the
17 name of the vendor?

18 DEPUTY COMMISSIONER GERBER: It was
19 Evolve.

20 CHAIRPERSON GUTIÉRREZ: Evolve, okay,
21 great. Can you share-- regarding facial recognition
22 technology, what are PD's policies on sharing facial
23 recognition data from any agency outside of the PD--
24 of NYPD?

2 DEPUTY COMMISSIONER GERBER: Right. So
3 we certainly will share with other law enforcement
4 agencies in connection with criminal investigations.
5 Again, criminal investigations. We, as you know,
6 again, we work on many taskforces.

7 CHAIRPERSON GUTIÉRREZ: So, but what are
8 some of the other agencies? What are agencies that
9 you all can share facial recognition data with?

10 DEPUTY COMMISSIONER GERBER: In
11 connection with criminal investigation, it's all our
12 criminal law enforcement partners. I'm not sure I
13 could list all of them here, but for example, if
14 we're doing a joint case with-- criminal case with
15 the FBI or with DEA or with ATF, with State Police.
16 I mean, there are others--

17 CHAIRPERSON GUTIÉRREZ: [interposing] Is
18 that limited to crime agencies in New York City, New
19 York State?

20 DEPUTY COMMISSIONER GERBER: I'm not sure
21 I understand the question.

22 CHAIRPERSON GUTIÉRREZ: We learned about
23 facial recognition data shared with New Jersey
24 detectives.

2 DEPUTY COMMISSIONER GERBER: Right. So
3 if we-- if we were working on a joint criminal case
4 with them, we would share, and quite frankly, if
5 there was a criminal investigation where they came to
6 us and say hey, can you help us with our criminal
7 investigation, we would provide assistance.

8 CHAIRPERSON GUTIÉRREZ: So, and what's
9 the policy? What is the process for them to request
10 that technology from the New York PD? What's the
11 time frame that you can provide that information in?

12 ASSISTANT CHIEF SAVINO: Yeah, as far as
13 official policy, I can't speak on that. what I can
14 say is this, the assistance that we provide for the
15 most part, because our technology is so good, is
16 quite often non-criminal in nature in that we-- our
17 facial recognition works for more than just crimes,
18 right? What am I talking about? I'm talking about
19 that unidentified individual, or that individual that
20 may have been shot that can't speak, or that DOA that
21 now we need to provide closure, we need to make
22 notifications to someone's family. We've use that
23 technology for that as well, and that's where we've
24 seen some interstate or out of state, rather,
25 organization and it's worked. They know how good our

2 technology is. Once again, just a lead, you know.

3 So many other corroborating factors need to be
4 followed up on, but we have had New Jersey request,

5 hey, you know, we can't identify this individual.

6 They're dead. They can't speak for themselves. Can
7 you help us? And we've been more than willing to do
8 so.

9 DEPUTY COMMISSIONER GERBER: and I would
10 just add to that, Chair, if you look at our facial
11 recognition policy, which again is posted online, it
12 actually lists the various types of-- the various
13 ways in which facial recognition technology may be
14 used, along the lines of what Chief Savino just said.
15 It lists, you know, criminal investigations, but then
16 for example someone who's deceased or someone who is
17 paralyzed and can't speak, is unidentified. So, there
18 actually is a list which is publicly available.

19 CHAIRPERSON GUTIÉRREZ: Does PD use
20 facial recognition technology obtained from other
21 agencies, by other agencies, FDNY for example?

22 ASSISTANT CHIEF SAVINO: Yeah, no, we're
23 quite confident in our technology and stay virtually
24 exclusive to what we have.

2 DEPUTY COMMISSIONER GERBER: And I will
3 say just-- maybe this is what you're getting at, I'm
4 not sure. The-- as per our policy, and I think I
5 testified to this last time. If members of the
6 Department want to go outside the scope of our facial
7 recognition system, they're only allowed to do that
8 with authorization from either the Chief of
9 Detectives or the Deputy Commissioner of Intelligence
10 and Counterterrorism, and that's going to be, you
11 know, in writing and memorialized. That is extremely
12 rare, and again, it's only with their authorization.

13 CHAIRPERSON GUTIÉRREZ: Okay. I just want
14 to ask a couple questions regarding data sharing, and
15 then we'll move along. Does the NYPD purchase data
16 or act as a consumer with other-- with DNA companies,
17 for example? Are you purchasing data from private
18 companies?

19 DEPUTY COMMISSIONER GERBER: Not that I'm
20 aware of, but-- no. Certainly not the individuals
21 here are aware of.

22 CHAIRPERSON GUTIÉRREZ: Say that again.

23 DEPUTY COMMISSIONER GERBER: The
24 individuals here at the table are not aware of that,
25 no.

2 CHAIRPERSON GUTIÉRREZ: Okay. What
3 information does the NYPD share with federal law
4 enforcement partners?

5 DEPUTY COMMISSIONER GERBER: well, if
6 we're working on a joint investigation, typically as
7 part of a taskforce, we're going to share whatever is
8 relevant to that criminal investigation.

9 CHAIRPERSON GUTIÉRREZ: Do you all share
10 real-time access to surveillance with these agencies?

11 DEPUTY COMMISSIONER GERBER: So, that's a
12 really question. So, no. we almost never-- almost
13 never allow direct access to our systems. Now, I
14 should say, as you know we have taskforce officers
15 who will sit as part of the taskforce, right? So, if
16 you have let's say an FBI NYPD taskforce, you have
17 NYPD detectives who do have direct access of course
18 to the system, because they're members of the NYPD,
19 and they're sitting, you know, literally next to FBI
20 agents. They're working collaboratively. That's the
21 whole model. That's the whole point. But if the
22 question is about direct access by outside entities,
23 that is incredibly, incredibly rare. But then in
24 terms of the sharing, like I said, it's not broken
25 down by surveillance technology. If we're working on

2 a case jointly with our federal partners or state
3 partners, whoever the partner may be in a criminal
4 investigation, you know, the point is work
5 collaboratively as a team and we're sharing whatever
6 is relevant to that case.

7 CHAIRPERSON GUTIÉRREZ: Obviously, in
8 this climate there's a ton of concern regarding the
9 vulnerability that so many of our constituents are
10 in, specifically with regards to ICE, and so I think
11 a lot of the concerns that folks in my district have
12 and so many throughout the City is the ease at which
13 very important information, data that PD has at their
14 disposal, the ease at which it can get transferred to
15 an agency like ICE. I'm aware just from you
16 answering my previous question that, you know, with
17 permission federal agencies, any agency, of course
18 through the right process, can get their hands on
19 this important information on important data. Can
20 you all-- what can you tell me today? I know things
21 are changing regarding the ease at which ICE can have
22 access to this important data that in past we were
23 assured was not possible. Has that changed today?

24 DEPUTY COMMISSIONER GERBER: No, that has
25 not changed. Let me be very, very clear about this,

2 and the Police Commissioner has been crystal clear
3 about this. We do not participate in civil
4 immigration enforcement. We do not.

5 CHAIRPERSON GUTIÉRREZ: But they-- the--
6 the data that another agency, for example, attains
7 from PD, that can be shared with ICE.

8 DEPUTY COMMISSIONER GERBER: So, we share
9 information in connection with criminal
10 investigations. If your question is, is it possible
11 that a federal agency then-- or a participant in the
12 taskforce then uses that or shares that in connection
13 with civil immigration enforcement, that is possible.
14 Yes, it is possible. We do not do that, period. I do
15 want to emphasize that what I'm describing is
16 consistent with the law and is actually addressed in
17 city law, right? Because if you look at in the admin
18 code 10178 has an express carve-out for the
19 taskforces, right? It speaks to this situation that
20 we are allowed to and we do work with the taskforces
21 as part of taskforces on a wide variety of very
22 important criminal investigations. It's incredibly
23 important work, the safety of the city and for
24 fighting crime. We will not and do not provide
25 information in furtherance-- we do not provide

2 surveillance technology information, period, in
3 furtherance of civil immigration enforcement. No
4 exceptions to that. What federal agencies then do in
5 terms of their communications and sharing, I can't
6 speak to that.

7 CHAIRPERSON GUTIÉRREZ: Can you just-- so
8 the information that, for example, is asked from a
9 task-- by a taskforce, excuse me, once it's passed
10 over to them, there is-- it's out of your control how
11 they're using this data, how they're using facial
12 recognition, how they're using information from the
13 DAS [sic] system.

14 DEPUTY COMMISSIONER GERBER: Right. So,
15 there are many other restrictions in terms of, you
16 know, what they're allowed to do with information.
17 Obviously, if it's a grand jury information, there
18 are restrictions on that. But, I would just-- I
19 would note, you know, when our taskforce officers,
20 our detectives as part of these taskforces are doing
21 work, they're gathering evidence or data. That then
22 belongs to the taskforce. That is the taskforce's
23 data, and they-- they may or may not choose to pass
24 that along to other entities. We can't control that.
25 There is no way for us to have control over that.

2 CHAIRPERSON GUTIÉRREZ: And there's no
3 data sharing agreement with, for example, a taskforce
4 or Department of Homeland Security after-- before
5 giving that information? There's no--

6 DEPUTY COMMISSIONER GERBER: [interposing]
7 No, so there are MOUs with all the taskforces. There
8 are MOUs that govern our dealings with them, and
9 those do provide rules with data sharing, but the
10 point is that these taskforces are federal
11 taskforces. The taskforces control ultimately how
12 taskforce information is used. We cannot dictate to
13 federal agencies what they can or can't do as part of
14 their federal investigations. We don't control that.
15 We control what we do, and what we do is we work on
16 criminal cases and partner on criminal cases, and we
17 do not provide assistance in connection with civil
18 immigration enforcement, period.

19 CHAIRPERSON GUTIÉRREZ: I understand. I
20 just want to make clear that the nontransparent use
21 of some of these tools is what makes some of our--
22 what makes our communities really come out in fear,
23 because of the way-- because of the relationship that
24 PD has had with vulnerable, disenfranchised folks in
25 our communities. And so I understand where your

2 limit is, but oftentimes the overuse of these tools
3 in a way that was not transparent and a way that is
4 often-- you know, oftentimes New Yorkers aren't even
5 made aware that their biometric information is being
6 captured. And so the risk of that being caught up in
7 something that didn't concern them is a legitimate
8 fear for so many. So I understand what you're
9 saying, but it's not going to stop our communities
10 from really pushing you all as an agency on the
11 relevancy and the use of these tools, because it puts
12 a lot of people at risk.

13 DEPUTY COMMISSIONER GERBER: Totally
14 understood, and I just want to emphasize again one,
15 that we're going to follow the law. second, you
16 know, as I mentioned in my opening testimony, we
17 actually have been in a very productive dialogue with
18 some of our biggest critics, actually, in this space
19 really to understand better kind of their concerns,
20 for them to hear from us as well really what the goal
21 of addressing some of what you're talking about, and
22 working towards changes to the POST Act that again
23 are going to, I think, address concerns that have
24 been raised by the Council, that have been raised by

2 advocacy groups while also not undermining our
3 ability to use these tools for public safety.

4 CHAIRPERSON GUTIÉRREZ: I'm just going to
5 ask one more question, Chairs, and then I'll pass it
6 back. So, thank you, for your responses. This one
7 is just-- I'm curious on the purchase of particular
8 tools made on behalf of PD. So, for-- I was made
9 aware through Checkbook and Passport that DCAS made
10 purchases on NYPD's behalf, specifically the bot,
11 spending about \$200,000. Is that-- I don't know-- you
12 can confirm that, and part two of that question is,
13 is that a common practice for other agencies to
14 purchase items, technology items for PD's use.

15 DEPUTY COMMISSIONER GERBER: I'm not sure
16 exactly what you're referring to, and you know, the
17 truth is there are-- the people at the Department who
18 would be best suited to answer your questions in this
19 regard are actually not sitting here. That's really
20 a contracting issue and sort of a budget side issue.

21 CHAIRPERSON GUTIÉRREZ: But to your
22 knowledge, all of the sur-- the technology tools that
23 let's say are included in your participation of the
24 POST Act are purchased by PD.

2 DEPUTY COMMISSIONER GERBER: In terms of
3 like the contracts being PD contracts versus being
4 city contracts, that I really can't speak to. I'm
5 not the right person to answer that question.

6 CHAIRPERSON GUTIÉRREZ: Did you want to
7 say something?

8 DIRECTOR LEVIN: No.

9 DEPUTY COMMISSIONER GERBER: Okay, we'll
10 follow up, then. Thank you, Chairs.

11 CHAIRPERSON SALAAM: Thank you. We're
12 going to hear from Council Member Cabán.

13 COUNCIL MEMBER CABÁN: Thank you. Before
14 I start my questions, I just want to clarify the
15 record and provide some context for the record. The
16 facial recognition website that you referenced in
17 your testimony and celebrated, it's old and it's
18 outdated. Those stats haven't been updated since
19 2019, and the Patrol Guide section posted on it is
20 from 2020, even though the most recent version is
21 from 2022. It also doesn't list any information
22 about false positives and false negatives. So, I
23 just want that to be known. And then you said in
24 your testimony there's never been a breach of
25 protocol in the use surveillance technology, correct?

2 DEPUTY COMMISSIONER GERBER: That's not
3 what I--

4 COUNCIL MEMBER CABÁN: [interposing] Just
5 yes or no.

6 DEPUTY COMMISSIONER GERBER: That's not
7 what I said. Council Member, that's not what I said.
8 I was asked about whether there was a breach, an IT
9 breach, in connection with surveillance technology.

10 COUNCIL MEMBER CABÁN: So, has there been
11 a breach of protocol in surveillance technology?
12 That's my question to you.

13 DEPUTY COMMISSIONER GERBER: has-- if the
14 question is has anyone every failed to follow any
15 Department policy in connection with any surveillance
16 technologies, yes, I'm sure it has happened at some
17 point.

18 COUNCIL MEMBER CABÁN: Thank you. I want
19 to--

20 DEPUTY COMMISSIONER GERBER:
21 [interposing] Wait, Council Member, Council Member,
22 Council Member-- no, no, no.

23 COUNCIL MEMBER CABÁN: [inaudible] five
24 minutes of questions.

2 DEPUTY COMMISSIONER GERBER: No, no, no,
3 but see-- no, no, no.

4 COUNCIL MEMBER CABÁN: [inaudible]

5 DEPUTY COMMISSIONER GERBER: No, no, no.
6 It's not a yes or no question. It's not.

7 COUNCIL MEMBER CABÁN: It did. It did.
8 You said yes--

9 DEPUTY COMMISSIONER GERBER: It's
10 actually-- it's actually really not. We--

11 COUNCIL MEMBER CABÁN: [inaudible] Chairs,
12 can you help me out here?

13 DEPUTY COMMISSIONER GERBER: I would like
14 to be able--

15 COUNCIL MEMBER CABÁN: [inaudible] my
16 time. It was a yes or no question.

17 DEPUTY COMMISSIONER GERBER: I would like
18 to be able to respond to the Council Member and to
19 provide a full answer. That's all.

20 CHAIRPERSON GUTIÉRREZ: We've only got
21 five minutes, though, for-- limited for every member.

22 COUNCIL MEMBER CABÁN: Thank you. So,--

23 CHAIRPERSON GUTIÉRREZ: [interposing] And
24 you all have a hard stop, correct?
25

2 DEPUTY COMMISSIONER GERBER: I will stay
3 here longer so I can answer the Council Member's
4 question. I would like to be able to answer her
5 question, please.

6 COUNCIL MEMBER CABÁN: It's a yes or no
7 question.

8 DEPUTY COMMISSIONER GERBER: It's not a
9 yes or no question. It's a--

10 COUNCIL MEMBER CABÁN: [interposing] Has
11 there ever been a breach of protocol--

12 DEPUTY COMMISSIONER GERBER: [interposing]
13 It-- you--

14 COUNCIL MEMBER CABÁN: of surveillance
15 technology?

16 DEPUTY COMMISSIONER GERBER: Council
17 Member, there are 50,000 members of the NYPD.

18 COUNCIL MEMBER CABÁN: Then the answer is
19 yes.

20 DEPUTY COMMISSIONER GERBER: And the
21 question--

22 COUNCIL MEMBER CABÁN: [interposing]
23 [inaudible]

24 DEPUTY COMMISSIONER GERBER: And the
25 point is-- the point is-- the point is that we have

2 policies in place. We take this incredibly
3 seriously. If we learn of such breaches, people
4 place discipline.

5 COUNCIL MEMBER CABÁN: Thank you.

6 DEPUTY COMMISSIONER GERBER: But if the
7 question is are we perfect, the answer is no, we are
8 not perfect.

9 COUNCIL MEMBER CABÁN: Great. Thank you.
10 Now, I believe you also testified that there has not
11 been a false conviction based on these-- this
12 technology, correct?

13 DEPUTY COMMISSIONER GERBER: I am not
14 aware--

15 COUNCIL MEMBER CABÁN: [interposing]
16 Okay.

17 DEPUTY COMMISSIONER GERBER: of a false
18 conviction that resulted from our use of facial
19 recognition technology.

20 COUNCIL MEMBER CABÁN: That's just-- no,
21 you're not aware. I just want to note that a false
22 conviction is not the same as a false arrest or a
23 false positive, and those two things are actually
24 really, really harmful things, and that distinction
25 is important. Thank you for answering that question.

2 If-- okay, so in relation to documents-- documenting
3 and preserving discovery materials related to the
4 drone as a first responder program, what are the
5 procedures you have in place specifically for the
6 drone as a first responder program-- not just the
7 drones in general-- that would ensure the
8 preservation of the materials related to a criminal
9 investigation or arrest. How and when are those
10 materials provided to prosecutors, and how does a
11 prosecutor become informed that a drone was used as
12 part as an investigation? What discoverable
13 materials are generated?

14 DEPUTY COMMISSIONER GERBER: Right. So,
15 in connection with a criminal case, right, the drone
16 video like any video that is relevant to that
17 criminal investigation we put into the-- into the
18 sort of our system as part of that case, and that
19 will get, you know, sent over to the DA's office, the
20 prosecutor's office as part of discovery.

21 COUNCIL MEMBER CABÁN: And so you're
22 saying that in this case when you have discovery
23 materials related to the drone as a first responder
24 program, NYPD is always documenting that and
25 preserving it to hand over to the prosecutor?

2 DEPUTY COMMISSIONER GERBER: We are to the
3 best of our ability in good faith acting to preserve
4 all materials that are relevant to a criminal case
5 whether it's from a drone or otherwise. We do our
6 very best to meet our discovery obligations.

7 COUNCIL MEMBER CABÁN: Your very best,
8 the best of your ability. Would you say that that
9 results in that happening 70 percent of the time, 80
10 percent of the time, 40 percent of the time, 90
11 percent of the time? What's-- what is the best of
12 your ability? Because again, this is discovery
13 information involved in, you know, a criminal
14 investigation that then gets prosecuted and
15 somebody's liberty is at stake. So I want to know
16 what the best of your ability at the NYPD amounts to
17 in terms of complying with that discovery--

18 DEPUTY COMMISSIONER GERBER: [interposing]
19 If you're asking for what percentage of time we fall
20 short in our discovery obligations, I'm not going to
21 be able to answer that question, and you know it. We
22 do--

23 COUNCIL MEMBER CABÁN: [interposing] You
24 should.

2 DEPUTY COMMISSIONER GERBER: No. we do
3 our very best.

4 COUNCIL MEMBER CABÁN: [inaudible]

5 DEPUTY COMMISSIONER GERBER: We-- Council
6 Member, we of course try to be as close to perfect as
7 we can be. If your question is are we perfect, the
8 answer is no.

9 COUNCIL MEMBER CABÁN: Except that the
10 public has a right to know how often you guys are--
11 what your best of ability is in complying with
12 discovery laws, especially when that information
13 could be Brady material, for example. Or it could be
14 to the detriment to a person's defense by not having
15 that discovery. I think it's an absolutely fair
16 question to say what is the best of your ability.
17 Are you complying with the discovery laws by 80
18 percent, 90 percent? What is it?

19 DEPUTY COMMISSIONER GERBER: Right, and
20 the answer is institutionally we are committed to
21 complete compliance, complete compliance, 100 percent
22 compliance with the discovery laws. To the extent we
23 ever fall short, I'm not sure how we would generate
24 the data to answer your question.

2 COUNCIL MEMBER CABÁN: I just have one
3 question to complete this line of question since we
4 cannot get an answer on what the best of your ability
5 is. So, I have information that-- there are reports
6 basically that NYPD is not documenting and preserving
7 discovery materials related to this program, and so
8 for example, I've been told that-- prosecutors in
9 Brooklyn are telling us that they can't provide the
10 drone deployment report because the officer never
11 completed one, and they can't provide the video from
12 the drone because it was never preserved, and it was
13 either overwritten or deleted, and they can't provide
14 any metadata because it was similarly never
15 preserved. And so my question to you based on the
16 information we're getting from Brooklyn DAs is are
17 they lying or are you lying?

18 DEPUTY COMMISSIONER GERBER: Council
19 Member, no one is lying here. And you know, frankly,
20 for you to suggest that we're sitting here lying,
21 it's just wrong. It is just wrong. We come here--

22 COUNCIL MEMBER CABÁN: [interposing] Is
23 it accurate then?

24 DEPUTY COMMISSIONER GERBER: No, hold on,
25 Council Member. We come here prepared. We want to

2 answer all your questions the best of our ability in
3 good faith. If you don't like what we're doing,
4 that's one thing. But--

5 COUNCIL MEMBER CABÁN: [interposing]
6 Define best of your ability.

7 DEPUTY COMMISSIONER GERBER: to say-- to
8 suggest that we're lying it's just outrageous.

9 COUNCIL MEMBER CABÁN: No, I'm asking a
10 question. You're saying--

11 DEPUTY COMMISSIONER GERBER: [interposing]
12 No, it really is outrageous.

13 COUNCIL MEMBER CABÁN: you're doing it,
14 and the DAs in Brooklyn are saying you're not, so
15 which-- but which one is it?

16 DEPUTY COMMISSIONER GERBER: Council
17 Member, I am not sure what you're referring to here.

18 COUNCIL MEMBER CABÁN: I just said it.

19 DEPUTY COMMISSIONER GERBER: I want to be
20 very, very clear. We are testifying--

21 COUNCIL MEMBER CABÁN: [interposing] It's
22 referring to the discovery materials from the drone
23 as a first responder program.

24 DEPUTY COMMISSIONER GERBER: And if you--
25 if there is a particular case where you have concerns

2 about our compliance with our discovery obligations,
3 please let us know. We will happily look into it.

4 But I just want to be very, very clear, the
5 suggestion that we are sitting here and lying is
6 outrageous.

7 COUNCIL MEMBER CABÁN: So, is-- but is--
8 are the Brooklyn prosecutors not giving accurate
9 information that you are not turning over--

10 DEPUTY COMMISSIONER GERBER: [interposing]
11 Council Member, I don't-- I don't even know what
12 you're referring to. I have no idea what you're
13 talking about.

14 COUNCIL MEMBER CABÁN: I [inaudible] it
15 out.

16 DEPUTY COMMISSIONER GERBER: No, you've
17 spoken vaguely about you've heard from people. If
18 you want to refer to a particular case--

19 COUNCIL MEMBER CABÁN: [interposing]
20 [inaudible]

21 DEPUTY COMMISSIONER GERBER: If you want
22 to refer to a particular case, we will certainly look
23 into it.

24 COUNCIL MEMBER CABÁN: So--
25

2 DEPUTY COMMISSIONER GERBER: [interposing]

3 If you believe we have failed in our discovery
4 obligations in a particular matter, we will
5 definitely look into it.

6 CHAIRPERSON GUTIÉRREZ: Council Member,
7 can you-- can we just wrap up, we have--

8 COUNCIL MEMBER CABÁN: [interposing]

9 Yeah, no, I'm done. Thank you.

10 CHAIRPERSON GUTIÉRREZ: Council Member
11 Ossé is next. I apologize. Council Member Ossé?
12 And can we quiet down over here?

13 COUNCIL MEMBER OSSÉ: Thank you, Chairs.
14 I have several questions. On the first part I want
15 to ask about deployment. I know that you spoke about
16 the deployment of drones when it came to protests,
17 but can you go more in-depth in terms of other
18 instances when drones are deployed depending on the
19 investigation?

20 CHIEF EICHNER: Good morning. I can
21 speak a little bit to how we deploy drones within the
22 Department. For example, if there was a flood
23 incident, a building collapse, we've deployed them at
24 building collapses. We deploy them on our beaches,
25 four New York City beaches. A missing child, traffic

2 incident, things of that nature we've-- anywhere we
3 think it could be a force multiplier and assist our
4 units on the ground. If a drone is capable of
5 assisting them, we'll deploy the drone.

6 COUNCIL MEMBER OSSÉ: Are there other
7 instances where drones are just deployed for basic
8 surveillance?

9 DEPUTY COMMISSIONER GERBER: No.

10 COUNCIL MEMBER OSSÉ: Okay. In terms of
11 data and how it's collected, when data that is
12 collected through a drone, how long is that data kept
13 for?

14 DEPUTY COMMISSIONER GERBER: The baseline
15 is 30 days.

16 COUNCIL MEMBER OSSÉ: 30 days, and then--

17 DEPUTY COMMISSIONER GERBER: [interposing]
18 Again, if it's-- if whether for a case or otherwise,
19 it could be-- obviously that can be taken and sort of
20 extended. Sometimes it has to be kept for much
21 longer, but the baseline is 30 days. And just to go
22 back to your-- one second-- for your question
23 earlier, when you asked about general surveillance,
24 that is codified in Department policy that we will
25 not use drones for general surveillance of that sort.

2 COUNCIL MEMBER OSSÉ: Okay, thank you for
3 that information. So if the data is determined to
4 not be needed, it's destroyed or what happens with
5 that data?

6 DEPUTY COMMISSIONER GERBER: After 30
7 days it's deleted. It's not-- right. So, it's
8 written over. In other words, it's like a-- first
9 in, first out sort of thing. But after 30 days it
10 should be just delete-- manually overwritten.

11 COUNCIL MEMBER OSSÉ: And it's not saved
12 in a cloud or a third-party application, or?

13 DEPUTY COMMISSIONER GERBER: Not that I'm
14 aware of, no.

15 COUNCIL MEMBER OSSÉ: Okay. Are there--
16 in terms of some of the other technology that you
17 use, whether it's through drones or facial
18 recognition, are there third-party programs or
19 services that the NYPD contracts or uses for this
20 surveillance?

21 DEPUTY COMMISSIONER GERBER: Can you just
22 ask that question again?

23 COUNCIL MEMBER OSSÉ: When it comes to
24 data collection, facial recognition, maybe even the
25 drones, are there third-party services that are used

2 or programs outside of the NYPD that are used for
3 that data collection?

4 DEPUTY COMMISSIONER GERBER: Certainly
5 not facial-- not facial recognition, not-- I mean,
6 there is a [inaudible] piece the facial recognition
7 that's discussed in the DOI report. We've discussed
8 that a little bit. You know, the drones-- excuse me--
9 - the drones are our drones. Are there any
10 surveillance technologies-- well, there are
11 surveillance technologies where we're using third-
12 party vendors. That definitely is the case. And then
13 you know, then I will say-- maybe this is where is
14 going, any contract we have with a vendor will have a
15 standard exhibit A. That has sort of standard
16 privacy provisions, especially publicly available.
17 You can get it on the city website. And that's going
18 to be standard and non-negotiable for any vendor who
19 would have access to data from surveillance
20 technology.

21 COUNCIL MEMBER OSSÉ: And I think you
22 spoke earlier about the NYPD's use of artificial
23 intelligence, or AI, is that something that you guys
24 are currently using?

2 DEPUTY COMMISSIONER GERBER: Well, as I
3 mentioned, we've disclosed that there are three
4 surveillance technologies that we have fall within
5 the broad ambit of AI.

6 COUNCIL MEMBER OSSÉ: And those are--
7 those are-- those are purchased through IUPS, the use
8 of those-- those are purchased through IUPS, the use
9 of--

10 DEPUTY COMMISSIONER GERBER: Purchase
11 through IU--

12 COUNCIL MEMBER OSSÉ: Are you paying
13 third-party services to use those--

14 DEPUTY COMMISSIONER GERBER: [interposing]
15 Oh, no. So, for example--

16 COUNCIL MEMBER OSSÉ: AI programs?

17 DEPUTY COMMISSIONER GERBER: No, so we're
18 talking about ShotSpotter. We're talking about
19 Patternizr, and we're talking about-- what was the
20 third? And facial recognition, right? So, those are
21 all surveillance technologies. Those programs, the
22 way they work, there's an AI component to it, right?
23 It's the learning of what the gunshot sounds like.
24 It's the learning of sort of facial matching. That
25

2 process that allows the program to do that has an AI
3 component to it.

4 COUNCIL MEMBER OSSÉ: Sure. Thank you
5 for that answer. The last question that I have is--
6 I know that I spoke about instances in terms of when
7 drones are deployed, and I think it was noted in
8 regards to floods or building collapses, and I know
9 those are not necessarily criminal investigations,
10 but in the process of when those drones are deployed,
11 is there any mechanism for protecting the data and
12 biometrics of bystanders when the drones are
13 capturing footage of a flood or of a building that is
14 collapsing.

15 DEPUTY COMMISSIONER GERBER: I'm not sure
16 this totally answers your question, but the way I'm
17 thinking about that is if we're in a situation,
18 building collapse, flood, it's-- we're talking
19 exigent circumstances, right? We're going to-- we're
20 trying to save lives. You know, in terms of how a
21 drone is deployed and zooming in there, we're going
22 to do what we need to do try to keep people safe, and
23 again, save people. I think what we're getting at
24 is, okay, we're doing that. Is it possible that some
25 random person has their face--

2 COUNCIL MEMBER OSSÉ: [interposing] sure.

3 DEPUTY COMMISSIONER GERBER: captured on
4 the drone footage, yes, that is possible. And then
5 again, it would be deleted after 30 days.

6 COUNCIL MEMBER OSSÉ: Even if it is a
7 building collapse or a flood, that footage is deleted
8 after 30 days?

9 DEPUTY COMMISSIONER GERBER: So, that's a
10 good question. I actually don't-- the question is
11 would that video be otherwise retained for some
12 reason.

13 COUNCIL MEMBER OSSÉ: Right.

14 DEPUTY COMMISSIONER GERBER: I actually
15 don't know the answer to that question.

16 COUNCIL MEMBER OSSÉ: And then is if a
17 bystander is captured within that footage, is that
18 documented and kept within a certain data file or
19 cloud?

20 DEPUTY COMMISSIONER GERBER: So, I-- we
21 don't know the answer to that question. Why don't--
22 we will get back to you on that [inaudible].

23 COUNCIL MEMBER OSSÉ: Maybe let's say in
24 14 days we could get a response to the Chair--

25

2 DEPUTY COMMISSIONER GERBER: [interposing]

3 Yes.

4 COUNCIL MEMBER OSSÉ: and maybe my email
5 as well about an answer to that question.

6 DEPUTY COMMISSIONER GERBER: That's fine.

7 COUNCIL MEMBER OSSÉ: Thank you very
8 much. Thank you, Chairs.

9 CHAIRPERSON SALAAM: Thank you as well.

10 We are now going to hear from Council Member
11 Paladino.

12 COUNCIL MEMBER PALADINO: Good afternoon
13 and thank you very much. You know, I got up and I
14 got upset before, because I will explain myself.
15 This is not a courtroom, okay. And when you are being
16 prosecuted as such, as criminals, I get a little
17 upset because the Chairmen and Chairwomen of these
18 committees have a responsibility. They certainly do
19 take their freedom of that responsibility with me
20 whenever I need to say something that goes against
21 the grain of the dominating body in this room. So,
22 with that being said, let me ask you this. You've
23 made great strides in technology. You've made great
24 strides in everything, and yet, we're looking to tie
25 you up again. I want to ask you just a quick one

2 question, because there's just-- I'm not being
3 critical. Are the criticisms that the NYPD is not
4 transparent enough under the POST Act justified?
5 Let's keep it simple.

6 DEPUTY COMMISSIONER GERBER: I think we
7 go to great lengths to be transparent. We have tried
8 very, very, very hard to fulfill our obligations
9 under the law. I do think that DOI sometimes
10 identifies errors in our IUPs.

11 COUNCIL MEMBER PALADINO: Of course.

12 DEPUTY COMMISSIONER GERBER: They do
13 these audits. I wish they found nothing, but no, they
14 do find things. They do a deep dive. It's
15 incredibly thorough. It's actually very helpful to
16 us. It's very valuable. We learn from those
17 reports. They identify things where we need more
18 information or there's ambiguity or we're missing
19 something, and then-- and then we fix it. So, that--
20 you know, that's a good thing and a healthy thing.
21 Do I think at-large we are fulfilling our obligations
22 under the act, I do. Do I think we are working very
23 hard in good faith to be transparent with the public,
24 yes?

2 COUNCIL MEMBER PALADINO: The other
3 question is simple as well. I heard discussions about
4 ICE here in this room. Quite clearly it has been
5 made very clear over the last week that's been
6 publicized that ICE will now have an area of Rikers
7 Island whereas they will be able to figure out
8 exactly who the criminals are. I want to just clear
9 for the record, that we are not knocking on people's
10 doors. ICE is not knocking on people's doors taking
11 innocent people out of their homes, out of their
12 schools or anything like that. You're going and
13 going to cooperate strictly for the criminal element,
14 is that correct?

15 DEPUTY COMMISSIONER GERBER: We are
16 engaged in criminal law enforcement.

17 COUNCIL MEMBER PALADINO: That is
18 correct.

19 DEPUTY COMMISSIONER GERBER: that is what
20 we are doing. That's what we've done--

21 COUNCIL MEMBER PALADINO: [interposing] I
22 want to clarify because, you know--

23 DEPUTY COMMISSIONER GERBER: [interposing]
24 There should be no confusion on this.

25 COUNCIL MEMBER PALADINO: That's right.

2 DEPUTY COMMISSIONER GERBER: And again,
3 the Police Commissioner has been crystal clear.

4 COUNCIL MEMBER PALADINO: Clear, correct.

5 DEPUTY COMMISSIONER GERBER: We do
6 criminal law enforcement. We've done it in the past.
7 We do it now. We will do it in the future. It's
8 incredibly important. It's what the NYPD does every
9 day and we do it with our federal partners every day,
10 and it's incredibly important and we're very devoted
11 to that work. It's a very important work.

12 COUNCIL MEMBER PALADINO: Because there
13 are communities that are being very hard hit by the
14 migrant crime in every-- that's been going on. Now,
15 I would think that most people would be appreciative
16 of the fact that we are going to help get to the
17 bottom of the crime element that's going on in this
18 city right now. It's taken over our city. So, just
19 to be clear once again, ICE is not going after
20 innocent people. ICE is going over-- going after
21 strictly the worst of the worst in the criminal
22 element.

23 DEPUTY COMMISSIONER GERBER: We are doing
24 criminal enforcement.

25 COUNCIL MEMBER PALADINO: Thank you.

2 DEPUTY COMMISSIONER GERBER: Criminal
3 enforcement, it's what we do every day.

4 COUNCIL MEMBER PALADINO: Okay, good.
5 Thank you, sir. Appreciate it.

6 CHAIRPERSON SALAAM: Thank you. We will
7 now hear from Council Member Ayala.

8 COUNCIL MEMBER AYALA: Yeah, I have a
9 question, but I just want to piggyback off of Council
10 Member Paladino's statement. Many years when I was a
11 staffer on the City Council before we moved ICE out
12 of Rikers, I had an incident that was very personal.
13 I had a neighbor of mine whose son turned 18 years
14 old. She brought him here when he was three years
15 old. He was not a documented citizen. He was a good
16 kid. Went to school. He gets picked up for a
17 murder. He's a suspect in a murder case. He goes to
18 Rikers Island. They realize a couple of months later
19 that the kid was not involved in any, you know, any
20 incident. It was-- he was not the person. He wasn't
21 there. He wasn't affiliated with anyone, and so they
22 release him, and they release him to ICE. He didn't
23 commit a crime. And so we need to be very clear that
24 when we are fighting, we're saying if a person has
25 not been convicted of a crime, they are not therefore

2 a "criminal" and that's the concern is that people
3 will get sucked up because they're simply at Rikers
4 at the time. Not that they committed a crime that
5 they were convicted of. So let's just get that very,
6 very clear, because I keep hearing it over and over
7 again, and it really, really bothers me. There's a
8 distinction between, you know, having been committed
9 and not. My question, however, is on the DNA.

10 According to media reports, the NYPD's DNA database
11 contains as many as 82,473 genetic profiles,
12 including samples obtained from children. Why is the
13 DNA database not listed in the report, and how does
14 the NYPD obtain DNA samples?

15 DEPUTY COMMISSIONER GERBER: Right, so--
16 you mean why is not in the IUPs.

17 COUNCIL MEMBER AYALA: Yeah.

18 DEPUTY COMMISSIONER GERBER: Because it's
19 OCME's database. It's not ours. It's an OCME
20 database. So-- it's not-- it's not an oversight or
21 anything. It just-- it's because it's maintained by
22 OCME and not by the NYPD. It doesn't fall within the
23 scope of the POST Act. And then in terms of the
24 data, I also don't have the data here. I can't
25 really speak to the data you were citing.

2 COUNCIL MEMBER AYALA: Regarding the
3 number.

4 DEPUTY COMMISSIONER GERBER: The numbers,
5 I just don't have that here with me.

6 COUNCIL MEMBER AYALA: Okay, but do you
7 know how the NYPD goes about obtaining DNA samples?

8 DEPUTY COMMISSIONER GERBER: I mean,
9 there are various ways we do that. Sometimes it can
10 be by consent. Sometimes it can be an abandonment
11 sample. Sometimes it can be by court order. Those I
12 guess are the three, the three ways.

13 COUNCIL MEMBER AYALA: Abandoned property
14 one--

15 DEPUTY COMMISSIONER GERBER: [interposing]
16 Right, an abandonment can be in a variety of
17 contexts. It could be-- sometimes it could be
18 abandoned, frankly, at a crime scene, right? There
19 are times when at a crime scene we'll be able to
20 identify something that has-- that may have DNA, and
21 that it does have DNA, that could be an incredibly
22 valuable investigative tool. There also could be an
23 abandonment sample where someone is at a precinct and
24 leaves behind DNA in a cup, for example, and then
25 that can be used to get potentially a DNA exemplar.

2 So, I would say, yeah, consent, abandonment, court
3 order. Those are the three-- the three basic
4 categories.

5 COUNCIL MEMBER AYALA: Is it really
6 abandonment if I don't know that I'm abandoning it
7 and you're going to collect it for DNA? I mean, like
8 is there-- do you disclose that information to folks?

9 DEPUTY COMMISSIONER GERBER: No, and I
10 think the idea of abandonment, you can abandon
11 something without knowing you're abandoning it, sure.
12 You-- the person who unintentionally--

13 COUNCIL MEMBER AYALA: [interposing]
14 Entrapment to me.

15 DEPUTY COMMISSIONER GERBER: The person
16 who unintentionally leaves evidence behind at a crime
17 scene, for example, right?

18 COUNCIL MEMBER AYALA: That's fair game.

19 DEPUTY COMMISSIONER GERBER: That's fair
20 game, right.

21 COUNCIL MEMBER AYALA: Yeah.

22 DEPUTY COMMISSIONER GERBER: Someone does
23 that in the precinct, legally that's fair game, too.

24 COUNCIL MEMBER AYALA: Well, I don't
25 think so, because if I'm hanging out with let's say

2 Natasha here. Natasha commits a crime and now I'm
3 brought in for interrogation and I happen to have a
4 cup of coffee and I leave my cup of coffee there, I
5 didn't commit a crime. You don't have any evidence
6 that I committed a crime, because otherwise you would
7 have arrested me. Why would I not know that you
8 would be collecting my DNA? Why would my DNA be in
9 any type of database?

10 DEPUTY COMMISSIONER GERBER: I want to be
11 clear, the fact-- I mean, the scenario you're
12 describing where someone is coming in, they're just--
13 you know, you just happen to be at that place, you're
14 a witness, whatever it may be, the idea that we're
15 just surreptitiously taking your DNA, that's not my
16 understanding of what happens at all.

17 COUNCIL MEMBER AYALA: Okay, so that's
18 what I want to understand.

19 DEPUTY COMMISSIONER GERBER: But what
20 about a different scenario in which you're a suspect--
21 -

22 COUNCIL MEMBER AYALA: [interposing] Yes.

23 DEPUTY COMMISSIONER GERBER: You're not a
24 witness of the crime, you're a suspect of a crime.
25 You've come in to talk to the NYPD. You're talking to

2 us, you then leave your DNA behind in, you know,
3 something you ate or you drank, whatever. In that
4 scenario-- I understand the policy consideration's
5 you're talking about it, I get it, I do. But just as
6 a legal matter, right?

7 COUNCIL MEMBER AYALA: I don't have a
8 problem with you collecting the DNA.

9 DEPUTY COMMISSIONER GERBER: Yeah.

10 COUNCIL MEMBER AYALA: It's the way that
11 you collect the DNA that I have the problem with.
12 Because if a person is a suspect in a crime, you have
13 every right to, you know, to investigate and do what
14 you have to do, but why couldn't you get a warrant,
15 you know, get a court permission to obtain the DNA
16 sample? Why miss-- you know, because to me it's very
17 misleading, and it almost seems like entrapment. And
18 God knows how many people are on that database that
19 have committed no crime or haven't been found guilty
20 of committing any crime.

21 DEPUTY COMMISSIONER GERBER: So, as a
22 legal matter, you know, I-- I don't think it's-- it's
23 not entrapment. I think certainly there are
24 situations where we go get court orders for DNA.

25 COUNCIL MEMBER AYALA: Yes.

2 DEPUTY COMMISSIONER GERBER: There also
3 are situations where we could be investigating an
4 incredibly serious crime. We don't yet have enough
5 to get a warrant, right, but we have an opportunity
6 because someone in whatever context left DNA behind,
7 and that may be-- that may be the lynchpin in being
8 able to charge that person or exonerate that person,
9 right? It cuts both ways, right? The DNA may be
10 incredibly powerful proof that someone is guilty. It
11 also may be incredibly powerful proof that someone is
12 innocent, and I think-- and we have examples of both
13 of those, I think. So I understand what you're
14 saying, of course, and I understand kind of the sort
15 of policy questions. I do think what I'm describing
16 is legally permissible and appropriate.

17 DIRECTOR LEVIN: Deputy Speaker, I just
18 wanted to add one thing, right. You're talking about
19 the local DNA database, just something I discovered
20 recently when we were talking about this, and I'm
21 going to double-check the exact number, but 60 to 70
22 percent-- I think it's actually a little higher than
23 70 percent-- already have a conviction and their
24 DNA's been collected pursuant to state law and is in
25 the state database already.

2 COUNCIL MEMBER AYALA: Okay.

3 DIRECTOR LEVIN: Already. Because you
4 said God knows how many people are on that who never
5 did nothing. I hear you.

6 COUNCIL MEMBER AYALA: But we know it's a
7 potential 30 percent of the 82,000.

8 DIRECTOR LEVIN: Well, all I'm saying is
9 they've already been convicted under and are on the
10 state database. That's all I know, okay?

11 COUNCIL MEMBER AYALA: Okay. I know that
12 we have an upcoming hearing on this, so I hope that
13 you come prepared with all of the data, and thank
14 you.

15 CHAIRPERSON SALAAM: We're going to hear
16 from Council Member Farías.

17 COUNCIL MEMBER FARÍAS: Thank you,
18 Chairs. I'm very simple today. I appreciate the
19 support generally on the bill and working together to
20 get to a place where you feel comfortable with
21 timelines. If it's not a recorder, that it seems
22 like based off of DOI's reporting on the POST Act is
23 quarterly, which I think we tried to mirror here.
24 What would be a timeframe if you folks have a
25 timeframe at all?

2 DEPUTY COMMISSIONER GERBER: Well, my
3 thinking was this: the DOI's report is annual, so I
4 think it could be either we do it once a year or, you
5 know, if that-- if-- I do want to make sure DOI has
6 what it needs when it needs it. I certainly think if
7 it was twice a year, that would be sufficient, and if
8 you timed it such that, you know, it's every-- if
9 they're getting the data, you know, six months before
10 they're doing the report, and then you know, six
11 months after and then six months-- so I think from
12 where I'm sitting I think that would give them more
13 than enough time. It's not obvious to me given that
14 it's an annual audit, why you would need it
15 quarterly, you see what I mean? That just seems like
16 its additional work without really much of a payoff
17 in terms of the work they're doing.

18 COUNCIL MEMBER FARIAS: DOI seems to be
19 doing quarterly reports already. I mean, they do have
20 their big annual, but in terms of what gets reported
21 to us and what's publicly reported on their website,
22 it seems to be somewhat quarterly. It doesn't look
23 as regular quarterly, but I think that's why we
24 initially drafted the language the way we did, but I

2 understand your line of thinking of their larger
3 audited report reflective of analysis is annual.

4 DEPUTY COMMISSIONER GERBER: Yeah, I can
5 say I can't speak to what-- I can't speak to what DOI
6 communicates to the City Council, obviously, but in
7 terms of the reports, there was one-- there was a
8 report for 2022, and then I think this is correct, I
9 think the 2023 report got delayed until May of 2024.
10 Then there was another report in December of 2024,
11 but I think it is roughly on an annual schedule. If
12 I'm wrong about that--

13 COUNCIL MEMBER FARIÁS: [interposing]

14 [inaudible]

15 DEPUTY COMMISSIONER GERBER: someone will
16 tell me, but I'm pretty sure that's right.

17 COUNCIL MEMBER FARIÁS: We just went
18 through the OIG-NYPD reporting and scheduling. We
19 just did a quick-- I just did a quick POST Act
20 search, and it seemed to be like December, May--
21 there was like a couple months. Regardless of it, I
22 just wanted to hear your thoughts on-- yeah.

23 DEPUTY COMMISSIONER GERBER: Yeah.

24

25

2 COUNCIL MEMBER FARIÁS: On where you
3 folks would be open-- where do you see the time
4 framing.

5 DEPUTY COMMISSIONER GERBER: Yeah, if it
6 were twice a year, I'd have-- we'd have no objection.

7 COUNCIL MEMBER FARIÁS: Okay. And I'd
8 love to just talk offline just to make sure we're all
9 in alignment.

10 DEPUTY COMMISSIONER GERBER: Yeah.

11 COUNCIL MEMBER FARIÁS: Okay, cool.

12 Thank you.

13 CHAIRPERSON SALAAM: Going to hear from
14 Council Member Holden.

15 COUNCIL MEMBER HOLDEN: Thank you, Chair.
16 And thank you, Deputy Commissioner. Nice to see you
17 again.

18 DEPUTY COMMISSIONER GERBER: Good to see
19 you, sir.

20 COUNCIL MEMBER HOLDEN: Thanks for your
21 testimony and answering the tough questions.
22 Regarding cooperation with the federal authorities
23 and whatever agency is involved, you mentioned about
24 criminal activity. Let's say human trafficking, drug
25 activity, smuggling, gang activity, kidnapping,

2 murder investigations, you cooperate with federal
3 authorities regularly.

4 DEPUTY COMMISSIONER GERBER: We do in
5 criminal matters of a wide variety. The list you
6 just gave and then many more. We have a variety of
7 federal taskforces we are--

8 COUNCIL MEMBER HOLDEN: [interposing] And
9 that's paramount. That's solving and getting
10 information. You'll share information with federal
11 authorities in an investigation--

12 DEPUTY COMMISSIONER GERBER: [interposing]
13 In connection with criminal investigations,
14 absolutely. And by the way, that's not new. I mean,
15 we are putting-- we've put additional resources into
16 that, because it is so important. We have put
17 additional detectives into a number of the federal
18 taskforces. We're proud of that work, but it's not
19 new. We've been working with federal criminal--
20 federal agencies as part of federal taskforces for
21 many, many years.

22 COUNCIL MEMBER HOLDEN: And that makes
23 everyone safer. Certainly, do you share-- and vice
24 versa-- do you share technology with federal
25 authorities and--

2 DEPUTY COMMISSIONER GERBER: Well, just
3 to be clear, it's not so much-- it's not about direct
4 access, but as I said before, when we think about
5 partnering with another law enforcement agency, maybe
6 it's FBI or maybe it's DEA or whoever it may be, you
7 know, that's a partnership. The expectation is that
8 they're going to share with us and we're going to
9 share with them. That's what it means to work
10 collaboratively, and quite frankly-- quite frankly,
11 if multiple law enforcement agencies were working on
12 an investigation together and they were not sharing
13 information, that would be a disaster. It would be a
14 disaster for the investigation, and frankly in some
15 ways it actually could be dangerous. So we don't
16 break that down by surveillance technology, right?
17 If you have a-- you know, we think about a taskforce
18 where an NYPD detective is working shoulder to
19 shoulder with an FBI agent, right, and that's a great
20 model for so many different reasons in terms of
21 solving crimes, you know, they're working
22 collaboratively. They're sharing information in a
23 fluid way. It's not broken down by different types of
24 surveillance technologies. It's, you know, what do we
25 have, what do we need, what do we get?

2 COUNCIL MEMBER HOLDEN: Right, right. So
3 you're not-- yeah, you're not going to actually
4 nitpick certain things. Oh, this was done this way
5 or that way. But just based on-- you're not worried
6 about somebody immigration status when they're part
7 of a gang let's say that are kidnapping or murdering
8 people. You don't care about that. You care about
9 crime.

10 DEPUTY COMMISSIONER GERBER: That is
11 correct. It is--

12 COUNCIL MEMBER HOLDEN: [interposing]
13 Right.

14 DEPUTY COMMISSIONER GERBER: If you are
15 committing crimes, federal crimes, state crimes,
16 local crimes, however it may be, you're committing
17 crimes, we don't care if you are a citizen, if you
18 are not a citizen. Whatever your immigration status
19 is, that is all irrelevant. We are here to fight
20 crime, to solve crimes, to keep people safe. One very
21 important way we do that is by working with our
22 federal partners.

23 COUNCIL MEMBER HOLDEN: And just one
24 question on facial recognition technology. That's
25 improved over the years tremendously, right? Since--

2 because I know we keep hearing the same old stories
3 maybe that are 10 years old already at this point.

4 Can you tell me how it is improved and what
5 percentage-- I don't know if you know this, but what
6 percentage of crimes are solved maybe because of that
7 little photo recognition of somebody? Let's say on
8 the subway we have-- now we have cameras on the
9 subway.

10 DEPUTY COMMISSIONER GERBER: So, it's--
11 and I want to come back to what some folks said here
12 before. I think it's important. So first, yeah, I
13 do think technology has gotten a lot better. And
14 again, you know, Chair Salaam mentioned this, you
15 know, in the early days of facial rec certain study
16 or studies about racial disparities, obviously a very
17 serious matter. I do think technology has gotten
18 much better, but again, it's never-- by definition
19 it's never that photo match alone, right? Because--
20 that's the whole point. It's only a lead.

21 COUNCIL MEMBER HOLDEN: No, that's an
22 important point that we learned.

23 DEPUTY COMMISSIONER GERBER: it's really
24 important, because on the one hand it's an incredibly
25 valuable tool, right? And I don't know for now, but

2 we can come up with lots of examples of cases where
3 that match made a difference in terms of being able
4 to ultimately get to probable cause and make the
5 arrest. At the same time I don't want to say that
6 was the sole reason, because by definition, as Chief
7 Savino said, there always has to be that human
8 element--

9 COUNCIL MEMBER HOLDEN: [interposing] But
10 essentially it's one tool--

11 DEPUTY COMMISSIONER GERBER: [interposing]
12 Right, it's a tool, a valuable tool.

13 COUNCIL MEMBER HOLDEN: [interposing] in
14 the tool box.

15 DEPUTY COMMISSIONER GERBER: But only a
16 tool.

17 COUNCIL MEMBER HOLDEN: So, it's not-- it
18 doesn't-- nobody says and nobody implied that it's
19 just-- the photo is it and that's the guy. No, you
20 have to have a human element--

21 DEPUTY COMMISSIONER GERBER:
22 [interposing] Not how this works.

23 COUNCIL MEMBER HOLDEN: And because I've
24 been through that. I've seen it, and I even, you
25 know, tried to pick out somebody in a lineup, and it

2 was computer-generated, and I couldn't, because the
3 people-- you know, the guy in the six or the five
4 photos look like the same person.

5 DEPUTY COMMISSIONER GERBER: We have very
6 strict rules about photo arrays.

7 COUNCIL MEMBER HOLDEN: So there has to
8 be the human element.

9 DEPUTY COMMISSIONER GERBER: Yes, yes.

10 COUNCIL MEMBER HOLDEN: Thank you. Thank
11 you.

12 CHAIRPERSON SALAAM: Thank you. We're
13 going to go back to Chair Brewer.

14 CHAIRPERSON BREWER: Back to the data
15 issue. So, I think Council Member Gutiérrez asked if
16 the Police Department buys data and you said no
17 correctly. So my question is do you sell data or do
18 you have agreements with vendors that allow any use
19 of data for other purposes.

20 DEPUTY COMMISSIONER GERBER: Generally
21 not to my knowledge. Selling data, you mean like to
22 third parties, I'm certainly aware of no such thing.
23 Our vendor agreements, like I said, have standard
24 language that would flat out prohibit that. They
25 can't do that. Again, we share with other law

2 enforcement agencies. That's a very different
3 matter. But if you're talking about selling our data
4 to commercial entities, no.

5 CHAIRPERSON BREWER: Okay, that's
6 helpful. Second, on the drone-- back to the drones a
7 little bit. So you have a lot more drones which
8 makes sense, more capacities. Has the Police
9 Department updated its unmanned aircraft systems IUP
10 to reflect the changes of the numbers and how they're
11 going about their business?

12 DEPUTY COMMISSIONER GERBER: Yeah. So, I
13 know exactly what you're getting at which is the
14 latest DOI report in December pointed out a number of
15 deficiencies in our drone IUP.

16 CHAIRPERSON BREWER: Right.

17 DEPUTY COMMISSIONER GERBER: And I think--
18 - I'm not sure if I agree with 100 percent of what
19 they said, but I think a lot of it is totally fair,
20 totally fair. And we haven't given our formal
21 response yet.

22 CHAIRPERSON BREWER: Right.

23 DEPUTY COMMISSIONER GERBER: But I can
24 just tell you now, that we are going to be accepting
25 most if not all of those recommendations, and we're

2 going to be revising the drone IUP in light of that
3 report, because I think they make some very, very
4 fair points about our need to update that IUP to
5 reflect various steps that we've taken.

6 CHAIRPERSON BREWER: Okay, that's
7 helpful. And then final back to my data portal. So,
8 drone data is quarterly reported on the website, as
9 you know, but it's not in the Open Data portal.
10 Don't forget this is a 20-year discussion with Gale
11 Brewer. Because even though it's on your information
12 portal, it's not on the Open Data and it is supposed
13 to. I think there are about 1,400 deployments in the
14 fourth quarter of last year, and so that would have
15 been an example of going on the Open Data portal. So
16 will you make sure that the data that is supposed to
17 go on the Open Data go on the Open Data portal?

18 DEPUTY COMMISSIONER GERBER: Again, I'm
19 not familiar with the Open Data portal. That's on
20 me. Certainly, to the extent-- what was that I'm
21 sorry?

22 UNIDENTIFIED: [inaudible]

23 DEPUTY COMMISSIONER GERBER: No, no, I
24 understand. I understand.

2 CHAIRPERSON BREWER: I spent five years
3 getting the data from PD onto the Open Data portal,
4 and this-- go ahead.

5 DEPUTY COMMISSIONER GERBER: No,
6 understood, Chair. To the extent we have data that
7 we are publicly sharing, but we are required to put
8 on the Open Data portal and we have not been doing
9 that properly, we will get that fixed.

10 CHAIRPERSON BREWER: Thank you very much.
11 I'm done.

12 CHAIRPERSON SALAAM: Thank you. I just
13 have a few follow-up questions. You mentioned that
14 the Department does not use AI for predictive
15 policing. I want to follow up on that to be clear.
16 Does the Department use predictive policing tools or
17 plan to use them?

18 DEPUTY COMMISSIONER GERBER: I'm
19 certainly not aware of any plan right now to use AI
20 as a predictive tool in terms of policing. Is it
21 possible at some point in the future we would explore
22 that, yes, of course that's possible. But is it
23 something that's under consideration right now, now
24 that I'm aware of, no.

2 CHAIRPERSON SALAAM: Did you have any
3 conversations with vendors regarding this?

4 DEPUTY COMMISSIONER GERBER: I certainly
5 have not. Is it possible that someone at the NYPD at
6 some point had a conversation, Chair, that I can't
7 speak to? What I can say in terms of my
8 understanding of our plans from the leadership of the
9 NYPD, we don't at present have plans to use AI as a
10 predictive policing tool. Is it possible that a
11 member of the Department had-- I'm sure there are
12 lots of conversations that are had with lots of
13 people about lots of possibilities. That's a very
14 different thing than the Department undertaking some
15 program or plan, and I am aware of no such thing.

16 CHAIRPERSON SALAAM: Just want to move to
17 electromagnetic weapons detection system. According-
18 - well, first, let me start with this. Where are the
19 electromagnetic weapons detention systems deployed by
20 the NYPD? Which subway stations are equipped with
21 these systems, and how many stations have the? They
22 installed in locations other than subway stations.

23 DEPUTY COMMISSIONER GERBER: So, that was
24 a pilot program, and so-- but we're-- the pilot
25

2 concluded. We have not continued with those systems,
3 so they're not in use at all.

4 CHAIRPERSON SALAAM: Gotcha, gotcha,
5 gotcha, gotcha. According to the Impact and Use
6 Policy, the IUP, the document for electronic magnetic
7 weapons system only Department executive at the rank
8 of Captain or above can designate the transit entry.
9 Well hold one second. So, just the last one before
10 I send it to Council Member-- Chair Gutiérrez.
11 Compliance with the POST Act-- the OIG-NYPD report
12 criticized the NYPD's overly broad grouping of
13 surveillance technologies under existing IUPs. The
14 OIG found that the grouping of technologies like
15 Digidog under existing IUPs was overly expansive. Why
16 does the Department continue to group new
17 technologies under old policies instead of issuing
18 separate detailed IUPs.

19 DEPUTY COMMISSIONER GERBER: Right. So,
20 there's this talk about grouping. It's not a grouping
21 issue, at least not from my vantage point. There is
22 agreement with DOI. Let me explain. A new
23 surveillance technology requires its own IUP.
24 Everyone agrees on that-- it's also clear from the
25 statute. It is in the POST Act that if you have an

2 enhancement to a surveillance technology or you use
3 surveillance technology for a new purpose or in a new
4 manner. You just update the old-- you update the old
5 IUP. You don't do any IUP. So if it's new it gets a
6 separate IUP, but if it's an enhancement or a new
7 propose or a new manner, you use the old IUP. And
8 the question is, right, where do you draw that line
9 between what's new versus what's an enhancement,
10 what's new versus what's a new-- a different purpose
11 or a different manner. The way we've thought about
12 is now a certain surveillance technology, it then
13 gets deployed in different hardware in different
14 forms. It-- for different purposes and in different
15 manners, and that goal all goes within one IUP.

16 That's how we have read the statute. DOI has had and
17 has a different reading of the statute, and its view
18 is that basically at a certain point the hardware is
19 sufficiently different and the sort of deployment is
20 sufficiently different. It requires its own IUP. I
21 think actually both of those are possible readings of
22 the statute, right? I understand what DOI is saying.

23 I think, I mean, DOI has its view. I think they
24 understand what we're saying, too. But that said,
25 you know, we've already committed as the DOI

2 Commissioner said earlier. We've already committed
3 to doing a separate IUP for Digidog. That's about to
4 happen. We've already committed to really rethinking
5 how we do the scope of the IUPs, right? We've
6 already committed to that. Can I say that we're
7 never going to have a disagreement again with DOI
8 about, you know, what's the scope of the surveillance
9 technology, no I can't say that of course. But I
10 think at this point, the gap between how we're going
11 to do this going forward and how DOI is doing this is
12 actually very, very small. We do have some work to
13 do in terms of breaking up some of the IUPs and
14 taking some things and sort of separating them out,
15 and we have to do that. That's going to take some
16 times. It's not going to happen overnight but we've
17 already agreed to do that.

18 CHAIRPERSON SALAAM: The OIG recommended
19 that in the future the NYPD should only group
20 substantially similar technologies together. How will
21 the NYPD assess whether technologies are
22 substantially similar, and will this result in more
23 detail with IUPs with stat technologies.

24 DEPUTY COMMISSIONER GERBER: Right. So, I
25 guess there's two issues, right? There's the level of

2 detail and there are separate IUPs. Those are really
3 separate things. As I said before, you know, in
4 terms of level of detail, DOI sort of you know
5 critiques our IUPs. Often we agree in terms of the
6 level of [inaudible] question. Sometimes we
7 disagree, but often disagree. I think there's going
8 to result in more IUPs, 100 percent. And we are
9 planning. Again, this is not new. This is not new.
10 We've already committed to this, that we're going to
11 be looking at our IUPs and to some extent breaking
12 some of them up. Digidog is one example. It's
13 already referenced in situational awareness IUP. But
14 now it's going to get-- it's on separate IUP, and
15 there are other examples like that. There is by
16 definition-- there's always going to be some line
17 drawn. That is inescapable, right? And there are
18 judgment calls. That is also inescapable. There's
19 no getting away from that entirely, but I do think
20 what you're going to see going forward is I think a
21 much closer alignment, frankly, between how we're
22 viewing this and how DOI is viewing this.

23 CHAIRPERSON SALAAM: Thank you. Going to
24 pass it to Chair Gutiérrez.

2 CHAIRPERSON GUTIÉRREZ: Thank you, Chair.

3 Thank you. I have a couple of questions, but just
4 off of the IUP discussion-- I know that many of the
5 recommendations made by DOI in the Commissioner's
6 testimony were regarding a lack of specificity around
7 data retention. I think for the 2024-- the 2023
8 report, specifically. I don't know if you have her
9 testimony in front of you, but there are-- a number
10 of the recommendations that she shared in her
11 testimony today were regarding not enough-- not
12 sufficient information in procedures related to data
13 retention. Yes. So my question is, how do you all
14 look at the relevance of the specificity of data,
15 specifically that DOI is asking about and how do you--
16 - is this a practice that you all intend on improving
17 for the next reporting or just moving forward.

18 DEPUTY COMMISSIONER GERBER: Right. So I
19 will say I think there are a few places where-- and
20 Commissioner Strauber mentioned this earlier.
21 There's few places we have continued to reject DOI's
22 recommendations, and those are places-- I think this
23 will cover most of it, not all, but most of it is
24 places where DOI acknowledges it's not required by
25 the POST Act, and these are recommendations of things

2 that, you know, basically DOI thinks we should do,
3 but are not statutorily mandated. You know, I think
4 we may well have revisions to the POST Act that are
5 going to mandate additional disclosures in this
6 space. I mean, we're going to abide by that. I
7 certainly think we do describe sort of what are
8 baseline data retention policies for our surveillance
9 technologies. You know, going forward to the extent
10 there are particular technologies where DOI thinks we
11 need more, I mean, consider that on a case by case
12 basis, but again, you know, in my experience a lot of
13 the time, most of the time, when DOI identifies
14 particular gaps in the IUPs, we're usually amenable
15 to changing that. It's not 100 percent, but we often
16 are.

17 CHAIRPERSON GUTIÉRREZ: Okay, thank you.
18 My next question is regarding the contract with
19 Evolve.

20 DEPUTY COMMISSIONER GERBER: Okay.

21 CHAIRPERSON GUTIÉRREZ: So, I know-- I've
22 been-- I know that there's been a little bit of
23 misleading statements around the capability of the
24 technology-- I'm referring to the electromagnetic
25

2 weapons detection system. Evolve is who the vendor
3 is, correct?

4 DEPUTY COMMISSIONER GERBER: Yeah.

5 CHAIRPERSON GUTIÉRREZ: So, just curious
6 because I know that there's been multiple lawsuits
7 and maybe a federal investigation or two. So, my
8 question is, if the NYPD was aware of these
9 investigations prior to establishing the pilot
10 program with Evolve?

11 DEPUTY COMMISSIONER GERBER: I really
12 can't speak to that. I was involved frankly in the
13 IUP part of it.

14 CHAIRPERSON GUTIÉRREZ: Okay.

15 DEPUTY COMMISSIONER GERBER: So, I can
16 speak to the POST Act piece for Evolve, and I can
17 speak also to kind of the Fourth Amendment
18 considerations that went into kind of the program,
19 the special needs exception that we described in the
20 IUP, but in terms of like the con-- you know, the
21 business dealings with Evolve, I really can't speak
22 to that. I just don't even--

23 CHAIRPERSON GUTIÉRREZ: [interposing] And
24 this-- no. And is the pilot ongoing?

2 DEPUTY COMMISSIONER GERBER: No, no, no.
3 The pilot concluded long ago, many months ago now.

4 CHAIRPERSON GUTIÉRREZ: Okay.

5 DEPUTY COMMISSIONER GERBER: It's not in
6 use at all.

7 CHAIRPERSON GUTIÉRREZ: And considering
8 that some of these investigations are pretty public,
9 are you all looking at ways to improve the vetting
10 process moving forward with some of these technology
11 vendors? I mean, this was like easy Google search,
12 by the way.

13 DEPUTY COMMISSIONER GERBER: Right.
14 Again, I'm actually not involved in that piece. I
15 really can't--

16 CHAIRPERSON GUTIÉRREZ: [interposing] I
17 know, I'm hoping you take it back.

18 DEPUTY COMMISSIONER GERBER: Can't speak
19 to that. We will 100 percent take it back, yes.

20 CHAIRPERSON GUTIÉRREZ: Okay. I'm just
21 going to fast-forward because I know we have limited
22 time to-- contracts, but they're not equipped to
23 answer today. My question is specifically about OTI
24 if you can answer. I know they're not here, but
25 these are questions just in relationship to OTI. Has

2 there been any instance where to your knowledge OTI
3 has denied the Department's request to use specific
4 surveillance technology?

5 DEPUTY COMMISSIONER GERBER: Not that I'm
6 aware of, but I'm also-- I'm not aware of any such
7 circumstance. I'm also not sure about what process
8 kind of you're referring to in terms of their
9 approval or disapproval.

10 CHAIRPERSON GUTIÉRREZ: Well, in many
11 instances Commissioner Fraiser [sp?] and many reps
12 from OTI have said, like, if there's any technology
13 contract with any agency, it goes through-- it goes
14 to through OTI. So that's why I'm-- PD being an
15 agency that's why I'm asking to confirm that.

16 DEPUTY COMMISSIONER GERBER: The answer
17 to that question is I'm not aware of that, but again,
18 I really do want to emphasize, and I'm sorry to be a
19 broken record about this. You have the wrong people
20 here to talk about contracting.

21 CHAIRPERSON GUTIÉRREZ: Say that again.

22 DEPUTY COMMISSIONER GERBER: If you have
23 questions about contracting, like that process--

24 CHAIRPERSON GUTIÉRREZ: [interposing] You
25 have seven binders today.

2 DEPUTY COMMISSIONER GERBER: On many
3 other subjects, many other subjects.

4 CHAIRPERSON GUTIÉRREZ: Boy, okay.

5 DEPUTY COMMISSIONER GERBER: But not
6 that.

7 CHAIRPERSON GUTIÉRREZ: That's fair. Are
8 you aware if PD enters into any demonstration
9 projects?

10 DEPUTY COMMISSIONER GERBER: What do you
11 mean by demonstration projects?

12 CHAIRPERSON GUTIÉRREZ: So, just specific
13 like pilots that are just non-committal to maybe just
14 kind of test of gauge specific technologies.

15 DEPUTY COMMISSIONER GERBER: I mean, we
16 certainly sometimes do pilot programs. We certainly
17 do pilot programs where we're not paying for
18 technology, and we're just using it for a short
19 period of time.

20 CHAIRPERSON GUTIÉRREZ: Can you share any
21 example of that?

22 DEPUTY COMMISSIONER GERBER: I mean, for
23 example, my understanding is that Evolve-- and again,
24 I'm not in the weeds of this, but my understanding is
25 we didn't pay for that. That was just a pilot. It

2 was free. That's my understanding. There may be
3 other examples, I just-- I wouldn't know.

4 CHAIRPERSON GUTIÉRREZ: You don't have
5 another example, okay. Can I ask if to your
6 knowledge the Special Expense Purchase Contracts, or
7 SPECs agreement, does NYPD continue to keep those
8 contracts confidential?

9 DEPUTY COMMISSIONER GERBER: Right. So
10 those contracts, right-- this was referred to
11 earlier. It used to be-- and this was not a secret.
12 It was with the Comptroller and others, right? There
13 was this process for these contracts being non-
14 public. That ended some number of years ago. So,
15 those were non-public contracts at a time when it was
16 permissible for those contracts to be nonpublic,
17 right? I want to be clear about that. It was in a
18 FOIA request for those contracts. There was extended
19 litigation. There was a ruling very recently, I
20 believe it was from the first department, requiring
21 those contracts be disclosed on a rolling basis, and
22 we're going to comply with that court order.

23 CHAIRPERSON GUTIÉRREZ: Okay, thank you.
24 I have just one more question, and this is regarding
25 My City. Do your best here. This is just specific

2 to information that My City, which is the city's one-
3 stop shop administered by DoITT or OTI-- at a
4 previous hearing they had shared that the data
5 sharing is mostly governed by the identifying
6 information writer. And so my question is-- they
7 share that if PD needs some of this data information,
8 obviously they make the request to the agency. My
9 question is what is the process for NYPD to request
10 data to this particular vendor whose information--
11 whose data was collected through the My City Portal?
12 Are you familiar with the My City Portal?

13 DEPUTY COMMISSIONER GERBER: I'm not.

14 CHAIRPERSON GUTIÉRREZ: Okay. Okay. I
15 mean, it was launched like a year and a half ago.
16 It's essentially-- right now, it's mainly like for
17 people looking for childcare options, looking to
18 apply for a 3K spot, but there is personal
19 information that is collected on that site.

20 DEPUTY COMMISSIONER GERBER: Yeah.

21 CHAIRPERSON GUTIÉRREZ: And so part of
22 our concern obviously is what does the City do with
23 this data that's collected. There's also a portion
24 of it for like small businesses which is a little
25

2 wonky, but that is like the purpose of the site. But
3 it's-- this administration's like big thing.

4 DEPUTY COMMISSIONER GERBER: Right. Is
5 your question basically whether and if so how the
6 Department, like, requests data from this site? Is
7 that the--

8 CHAIRPERSON GUTIÉRREZ: [interposing]
9 Yes, if they need to request-- if they're requesting
10 information or data from OTI from the My City Portal.

11 DEPUTY COMMISSIONER GERBER: Yeah. So, I
12 don't know the answer to that, but we can get back to
13 you on that.

14 CHAIRPERSON GUTIÉRREZ: Okay. Okay, we
15 can follow up. I think I'm all-- think I'm all done.
16 Thank you.

17 CHAIRPERSON SALAAM: Alright, thank you.
18 We'll now move to public testimony. So thank you.
19 I'm now going to open up the hearing for public
20 testimony. I remind the members of the public that
21 this is a government proceeding and that decorum
22 shall be observed at all times. As such, members of
23 the public shall remain silent at all times. The
24 witness table is reserved for people who wish to
25 testify. No video recording or photography is

2 allowed from the witness table. Further, members of
3 the public may not present audio or video recordings
4 as testimony, but they may submit transcripts of such
5 recordings to the Sergeant at Arms for inclusion in
6 the hearing record. If you wish to speak today,
7 please fill out an appearance card with the Sergeant
8 at Arms and wait to be recognized. When recognized
9 you will have-- you have three minutes to speak on
10 today's oversight hearing topic, the NYPD POST Act or
11 Introductions 168, 233, 480, and 978. If you have a
12 written statement or additional written testimony you
13 wish to submit for the record, please provide a copy
14 of that testimony to the Sergeant at Arms. You may
15 also email written testimony to
16 testimony@council.nyc.gov within 72 hours of the
17 close of this hearing. Audio and video recordings
18 will not be accepted. For in-person panelists,
19 please come up to the table once your name has been
20 called. So, we'll call the Brooklyn Defender
21 Services Talia Kamran, Jerome Greco from the Legal
22 Aid, Cynthia Conti-Cook, Servants [sic] Research
23 Resistance Lab, and David Siffert from STOP.
24 Alright, perfect. You all may start in any order
25 that you would like.

2 JEROME GRECO: We try. Good morning.

3 Good afternoon. I'm Jerome Greco. I'm the Digital
4 Forensics Director at the Legal Aid Society. Thank
5 you for holding this hearing and for allowing us to
6 speak here. I had prepared testimony, oral
7 testimony, but I think I better spend my time
8 replying to some of the things the NYPD said,
9 particularly things that I know to either not be true
10 or not be the full picture. Regarding drones and the
11 drones as a first responder program, we are aware of
12 cases in which the DA's offices have told us that
13 deployment report forms were not completed, that the
14 video was not preserved, and the only way we actually
15 were-- learned that a drone was used was over the
16 radio run and the ICAD report mentioning drones, and
17 we had to actually provide that information to the
18 prosecutors for the prosecutor to even be made aware
19 that drone was used in their case. Related to facial
20 recognition, we're aware of at least one case in
21 which the FDNY provided facial recognition results to
22 the NYPD and not only did they do that, but they used
23 a program or a company that the NYPD prohibits its
24 own officers from using which is Clear View AI. If
25 you read the NYPD's IUP, it prohibits them from using

2 a software or program that compares against anything
3 outside of the NYPD's database. Clear View AI is
4 pulling its data from social media internet scraping.
5 The NYPD had actually trial-- had done a trial with
6 tem many years ago and had not continued that, but
7 we're at least aware of one situation in which that
8 happens which would seem to me to be a violation of
9 the NYPD's own policies. Also, very confusing here
10 that how willing they were to get around the idea of
11 how many false positives, false negatives, and false
12 arrests. They very clearly said false convictions,
13 we're not aware of any false convictions. That's not
14 the question. As any of us will know, if you've been
15 falsely arrested, that still upturns your life, and
16 I'm aware of cases in which that has happened.
17 Unfortunately, because my clients do not want their
18 names on the front page of the New York Times are
19 choosing not to come forward with it, and I have to
20 comply with that, but the NYPD is aware of that as
21 well. I'd also like to talk about the way they
22 actually do facial recognition because they're very
23 cagey about that. I do my best to be as fast as
24 possible. A detective gets a still photo and sends
25 it to their FIS, facial identification section. They

2 actually photoshop that photo to make it more likely
3 to get a result. They then get up to 250 possible
4 candidates that are ranked in order for what the
5 system believes most looks like the photo that they
6 submitted to it. Then a detective from FIS looks at
7 it, and says, well, I think this one is the one that
8 looks most like it. Doesn't matter if it's number
9 one, number 50, number 200. They then present that
10 to the supervisor and say do you agree. Oh, I forgot
11 a step. They also will check to see if that person
12 was incarcerated, is still living, was hospitalized
13 at the time in order to make sure that oh, we can't
14 be wrong here. They then provide that to the
15 supervisor who says oh, yeah, they look alike. The
16 next step that is most frequently happening now is
17 they will find the officer, an officer who previously
18 arrested that person, and they will send the photo or
19 video to that person, to that officer and say do you
20 recognize who this is? Do you recognize who this
21 photo depicts? Often they will say yes. The problem
22 with that is that it's highly prejudicial. It is an
23 improper ID procedure, because that officer has
24 nothing to do with the case. So he knows the only
25 reason you are reaching out to him to see if he knows

2 who this person is, because you already assume that
3 he does. So he thinks about--

4 CHAIRPERSON SALAAM: [interposing] Thank
5 you. If you can-- if you can wrap?

6 JEROME GRECO: who do I know who looks
7 like this? Right? Who have I previously arrested
8 who looks like this or interrogated who looks like
9 this? Oh, that's who this is, the person I think
10 most looks like it. They consider that enough for
11 probable cause, and then they make the arrest. So
12 this whole thing about oh, we use all these different
13 tools. That's how the process actually works.

14 CHAIRPERSON SALAAM: Thank you. If you
15 can wrap up, that'd be perfect.

16 JAMES GRECO: So I support these bills to
17 at least update the POST Act to make it better, and
18 on behalf of Legal Aid Society to do that. Sorry for
19 taking up too much time. Thank you.

20 CHAIRPERSON SALAAM: Thank you.

21 CYNTHIA CONTI-COOK: Good afternoon.
22 Thank you for all the members of the committee for
23 holding this important hearing. My name is Cynthia
24 Conti-Cook. I'm the director of research and policy
25 at the surveillance resistance lab. I present this

2 testimony jointly today on behalf of both the Lab and
3 the Street Vendor Project. We testify jointly today
4 to bring attention to the technologies that are used
5 by the NYPD, as was referenced several times in the
6 hearing today, jointly with other agencies through
7 taskforces and other coordinated efforts that include
8 data and other personnel sharing. And the questions
9 that this raises around additional unreported
10 surveillance technologies that exist in the city in
11 addition to the types that was just referenced, in
12 addition to unlawful profiling and what is an
13 obviously dangerous effort to map immigrant
14 communities. This rhymes with what may Black and
15 Latino New Yorkers have experienced from decades of
16 intense broken windows policing and stop and frisk,
17 while for many years we thought that those quality of
18 life initiatives were about racist and systemic
19 terrorizing of neighborhoods by oppressive policing,
20 and it was. What we learned in hindsight was that it
21 was also-- that physical traumatizing incident was
22 the tip of the iceberg and what lurked beneath the
23 surface of the quality of life policing goals was
24 also data collection and community mapping by police.
25 A similar iceberg lurks beneath the surface today

2 with street vendor policing and the mapping of
3 immigrant communities. In spite of the POST Act, the
4 NYPD fails to report on many of the mechanism through
5 which it collects information about New Yorkers,
6 especially low-income or disabled New Yorkers from
7 immigrant, Black, and other communities of color who
8 rely on city services, as well as those who survive
9 financially as street vendors. We ask that the City
10 Council mandate the NYPD to report the full breadth
11 of technologies that it uses to surveil, including
12 technologies and data it has access to through other
13 agencies and city and state taskforces so that they
14 may also be publicly debated. This is increasingly
15 critical as cross-agency efforts to police city rules
16 and regs escalate and become more police-controlled,
17 using Peace Officers operating within traditionally
18 civilian agencies, for example, operations that
19 target street vendors across the city by policing
20 arms of Sanitation and Parks Department. We testify
21 to call attention to the data sharing practice across
22 these multiple agencies, and as we heard today,
23 multiple MOUs allow data to become accessible to all
24 members of such taskforces, including the NYPD.
25 While the NYPD may not collect data for federal,

2 civil, immigration policing as it testified today, it
3 is absolutely collecting data on immigrants for civil
4 city rules and regulations through street vendor
5 policing taskforces. As an example, the NYPD's
6 Operator Restore Roosevelt was launched in October
7 2024 through the Community Link initiative which has
8 been described as a multiagency response to quality
9 of life issues. It promises to address the complex
10 issues through a multi-agency response, but in
11 January 2025 the outcomes of this operation were
12 arrests, summonses, and seizure of property, In other
13 words, operation Restore Roosevelt relied on
14 resources from 20 various city agencies to carry out
15 a policing project. It's policing but with a
16 different name. Not surprisingly, the operation has
17 not improved the quality of life equitably for
18 diverse communities that call Jackson Heights home.

19 CHAIRPERSON SALAAM: Thank you.

20 CYNTHIA CONTI-COOK: I'll end by just
21 saying that the purpose and extent of data sharing
22 between police and all other agencies through
23 initiatives like Community Link, but also through Ed
24 Tech, through benefits portals like My City, the
25 Sanitation Trash Dash, and citywide data sharing

2 systems like Worker Connect should also be publicly
3 reported and debated. Thank you.

4 CHAIRPERSON SALAAM: Thank you. Just
5 want to remind for public testimony that we have
6 three minutes. I don't like to cut people off, but
7 we will have to, but we want to definitely make sure
8 that we try to wrap as soon as possible after you
9 hear the tone. Thank you.

10 DAVID SIFFERT: Thank you, Chair Salaam,
11 Chair Gutiérrez, Chair Brewer, Council Member Cabán,
12 and thank you to the members of the Committee Staff
13 who worked hard to make this hearing happen. I sent
14 around-- handed out written testimony which goes
15 through detail of the history of the POST Act and
16 these bills and how they're potentially going to be
17 amended in a way that hopefully everybody will be
18 happy with. I won't repeat all that here. I want to
19 say a couple things. First thing I want to say is,
20 you might have heard from OIG that the engagement
21 they're getting from NYPD has been better recently
22 which is reassuring. That may also be reflected in
23 our ability to have worked out potential amendments
24 to these bills. However, I will still note that the
25 IUPs have not been updated to separate out the

2 different surveillance technologies. New technology
3 is still being deployed and added to existing IUPs
4 before they're being announced publicly. I will also
5 say that, you know, the Department will change their
6 behavior over time, but it's very important to have
7 laws in place to make sure that when things are at
8 their worst, we have laws that protect transparency.
9 The other thing I want to say is that all of this
10 surveillance is happening in the context of the very
11 grim reality in the federal system, and also across
12 the United States. You have people being targeted
13 for seeking reproductive healthcare, people being
14 targeted for seeking gender affirming healthcare.
15 You have immigrants being targeted. You have
16 protestors being targeted. This is happening very
17 explicitly. And the more data that's collected, the
18 more likely it's going to wind up in the hands of
19 people who are going to use it against vulnerable
20 people. And when New Yorkers don't know what data is
21 being collected about them or how it's being
22 collected about them, it puts them in a really
23 precarious situation, and I think people are already
24 quite scared. The ability of people to understand
25 how they're being surveilled is critical in letting

2 people navigate the next four years and beyond. I
3 also want to talk about some specific things. One is
4 facial recognition. I won't repeat everything that
5 my friend Jerome Greco recently said, but I will say
6 that there was a comment by NYPD that these
7 technologies don't see race which is I think silly.
8 There's a lot of data that these technologies are
9 extremely racially biased. The error rates depend
10 very directly on the color of your skin, whether
11 that's because it sees the color of the skin or it
12 has to do with other facial features is irrelevant.
13 The fact of the matter is that the people being
14 wrongfully arrested are by in large black, and that's
15 not a coincidence. That is a problem. The reason
16 that we take no position on Intro 243 as opposed to
17 the other two POST Act bills that we support is that
18 we don't believe that law enforcement should be using
19 facial recognition at all. We take no position,
20 because we think they're, you know, adopting policies
21 won't be actively harmful, but we would urge passage
22 of legislation to ban facial recognition in its
23 entirety, but especially Intros 217 and 425 which are
24 already before the Council which would ban it in
25 public accommodations and residences. And one very

2 short last-- hopefully short last point. There was a
3 dialogue that Chair Gutiérrez brought out about data
4 sharing with taskforces and how this might wind up in
5 the hands of ICE which is true. And I think what
6 Deputy Commissioner Gerber said is also true, is that
7 currently there's a carve-out in the law that allows
8 them to share data with these taskforces for criminal
9 purposes, and that that data might then wind up in
10 the hands of ICE for civil enforcement purposes. This
11 is not inevitable. There are ways potentially around
12 this. The Council could pass laws that for example
13 don't allow NYPD to participate in taskforces unless
14 an MOU says that data can't be used for civil
15 immigration purposes, or handed over to ICE, or even
16 more narrowly, can't hand over data the NYPD thinks
17 has any likelihood of being used for civil
18 immigration purposes without similar MOU. So there
19 are things the Council can do to restrict this.
20 Right now, these taskforce and fusion centers are a
21 big loophole in our sanctuary rules.

22 CHAIRPERSON SALAAM: Thank you.

23 TALIA KAMRAN: Thank you. Good afternoon.

24 Thank you. My name is Talia Kamran. I'm a Staff
25 Attorney at Brooklyn Defender Services Seizure and

2 Surveillance Defense Project which is a specialized
3 unit in our criminal defense practice that monitors
4 how device and data seizures impact prosecution and
5 the general surveillance of our client's community.
6 The POST Act was meant to give New Yorkers
7 transparency into how they're being watched, but the
8 NYPD has been manipulating its requirements and
9 ignoring recommendations from the OIG to avoid real
10 accountability. So, I'd like to note on what my
11 colleagues shared about facial recognition since it
12 came up, that our office, Brooklyn Defenders, has
13 also seen cases where facial recognition has been the
14 basis for probable cause for arrest. So while that
15 may not be the policy that's written that the NYPD
16 has, that's what's happening in practices and should
17 also be tracked and reported. And on that note, our
18 office-- one of our office's greatest concerns is
19 that OIG has repeatedly encouraged NYPD to report on
20 the disparate impact of its surveillance tools on
21 protected groups as those tools are actually being
22 used. Yet, the NYPD has continued to only report on
23 the potential impact of its written policies. So the
24 disparate impact reporting requirement within the
25 POST Act must be clarified and needs to be codified.

2 The people that Brooklyn Defenders represent are
3 primarily low income New Yorkers of color who live in
4 neighborhoods that are bearing the brunt of NYPD
5 surveillance and policing. They like all New Yorkers
6 deserve to know whether they are being
7 disproportionately surveilled. ShotSpotter is a
8 clear example of why we need better disparate impact
9 reporting. So nearly all ShotSpotter sensors are
10 placed in Black and Latino neighborhoods, and that
11 the NYPD claims that they don't choose this, this is
12 just based on data and not based on race. But even
13 then, the data that they're using from ShotSpotter is
14 deeply flawed. ShotSpotter is wrong, doesn't detect
15 gunshots 84 percent of time, and over 99 percent of
16 its alerts do not lead to gun recovery or suspect
17 identification. So, it's not having a meaningful
18 effect on public safety. What it is doing is driving
19 police officers into these communities on high-alert,
20 guns drawn, looking for suspects, stopping people,
21 questioning and frisking them in the same
22 neighborhoods that they already over-police. Beyond
23 that, while the POST Act and its reporting
24 requirements provide one important tool for stemming
25 unregulated surveillance, we also need additional

2 safeguards, particularly in the form of court
3 oversight. So the NYPD currently takes phones
4 primarily from young Black men, the group most likely
5 to be stopped, frisked, and arrested for low-level
6 offenses as has been documented for over a decade by
7 the Floyd [sic] Monitor. And once they have these
8 phones, they often coerce people into unlocking them,
9 and then they keep them and they perform extractions
10 on them, right? So what this does is create a very
11 dangerous feedback loop where the majority of the
12 data that NYPD is getting from phones that are seized
13 is from these young people, their friends, their
14 communities and families, right? So, the only data
15 coming in is from Black communities and the only data
16 being used. So then that same biased pool of data is
17 fed into precision policing systems and is being used
18 to create a surveillance system that is as racially
19 biased as the cops policing itself. So, we need
20 clear requirements around this so that they can't
21 keep phones indefinitely for any-- any and all
22 purposes. Finally, we commend City Council for
23 considering these introductions 168, 233, and 480,
24 and on the topic of surveillance we'd also like to
25 urge the Council to consider Intro 963 about the

2 Department of Corrections mass surveillance of city
3 jail phone calls under this umbrella of surveillance.

4 So, thank you for having me today.

5 CHAIRPERSON SALAAM: Thank you as well.

6 I'd like to pass it to Council Member Cabán for
7 questions.

8 COUNCIL MEMBER CABÁN: And I just want to
9 thank all the people on this panel for the work that
10 you do, especially the former colleagues. Before I
11 ask a question to you, Mr. Greco, I just also want to
12 like-- I mean, does this sound right to you? you
13 spoke about Operation Roosevelt which is not far from
14 where I represent, and you know, we're in a moment
15 where I think collectively there are a lot of people
16 in government saying that we want to protect the fact
17 that we are a sanctuary city, that we want to protect
18 families and individuals from deportation, and then
19 there is this Operation Roosevelt that's taking
20 place, using this kind of technology, and is it fair
21 to say or correct that the folks that are most
22 impacted by this are undocumented street vendors and
23 undocumented survival sex workers?

24 CYNTHIA CONTI-COOK: Yeah,--

2 COUNCIL MEMBER CABÁN: [interposing]

3 Migrant survival sex workers.

4 CYNTHIA CONTI-COOK: From my

5 understanding, yes, absolutely. The people that are
6 most impacted by not just the police productivity
7 goals that were reported in that January 2025 report,
8 like arrests, summonses, and seizure of property.

9 That's not the only kind of police activity that's
10 happening. Every time they stop someone, every time
11 that they have an interaction with someone they are
12 taking information from that person. What we know
13 from the decades of stop and frisk is that the impact
14 of that kind of constant interaction and the heavy
15 amount, the flooding of an area with policing goals
16 leads to police who have collected a great deal of
17 information about who people are and where they go
18 and who they are in contact with, their networks, and
19 whatever else-- whatever other kind of activities
20 that they are reporting. It's a great deal of
21 information collection about a very specific type of
22 community.

23 COUNCIL MEMBER CABÁN: And it's also true

24 that a person is deportable without being convicted
25 of a crime. So, for example, if somebody is a sex

2 worker or has had a history of sex work, that is an
3 automatic deportable offense activity even without a
4 criminal conviction, right?

5 CYNTHIA CONTI-COOK: It can be. It can
6 be.

7 COUNCIL MEMBER CABÁN: And the same for
8 other activities related to like unlicensed vending
9 or something like that because it's considered a
10 crime of moral turpitude, right?

11 CYNTHIA CONTI-COOK: That's right. So
12 there's a great deal of potential punitive outcomes
13 that could result from this policing even if it is
14 not criminal.

15 COUNCIL MEMBER CABÁN: Right. Thank you.
16 I just want to make that distinction, because they
17 spent a lot of time talking about oh, we don't do it.
18 It's not criminal-- it's civil versus this, and yeah.

19 CYNTHIA CONTI-COOK: That's right. And
20 may I add one other thing, that even when it's not
21 for the purposes of an actual punitive result like a
22 deportation or prosecution, it is also often
23 leveraged to force people to be witnesses against
24 each other, to force people to do whatever it is that
25 they want, and it creates an incredible amount of

2 leverage within the policing apparatus for many
3 different types of purposes beyond criminal
4 prosecution in particular.

5 COUNCIL MEMBER CABÁN: Thank you. And
6 Mr. Greco, I just wanted to ask you-- could you tell
7 me about the status of Aspects [sic] budget records?

8 JEROME GRECO: Sure. So, you know, Legal
9 Aid strongly believes in transparency, and that's
10 part of the reason why we supported the POST Act.
11 When the POST Act first went into place, both us and
12 STOP separately and then later kind of jointly has
13 filed requests to the Comptroller for these
14 contracts, surveillance contracts, that had been
15 hiding from the public for over a decade. We both
16 received heavily-redacted contracts, including some
17 of them don't even say the vendor name or how much
18 they spent, and so we also submitted a request to the
19 NYPD, and it has taken over four years of litigation
20 to finally get a ruling from the first department
21 that's going to now require them to turn it over. And
22 so when they talk about oh, everybody knew these--
23 you know, we weren't really hiding these, that's
24 absolutely false. They were hiding these from
25 everyone and they fought us tooth and nail even after

2 the POST Act passed to prevent us from getting copies
3 just to even know what vendors they were using and
4 how much money they were spending. And it seemed
5 like the baseline level for the general public should
6 be transparency. They should know how the money's
7 being spent, right? And as Council Members, that's
8 part of your responsibilities, too, and so they were
9 deceiving you as well, because they have not been
10 providing these fully un-redacted copies. In fact,
11 they intentionally kept them so they wouldn't be
12 digitized and they couldn't be electronic, and their
13 excuse for doing-- approximately 165,000 pages of
14 expenses and budgets-- that because it was so
15 sensitive and confidential. Yet, they digitized
16 homicide records, rape records, confidential
17 informants. All those things are not more sensitive
18 than these contracts that they wanted to hide from
19 everyone. And big shout out to the Open Data Portal.
20 A big fan, Council Member Brewer. So I support your
21 wish to get more stuff from the NYPD on there.

22 COUNCIL MEMBER CABÁN: [off mic]

23 [inaudible]

24 JEROME GRECO: Right.

2 COUNCIL MEMBER CABÁN: [off mic]

3 [inaudible]

4 JEROME GRECO: Yeah, there was apparently
5 a large filing cabinet where all of it was kept
6 inside the NYPD and that they were not electronic and
7 they were off the NYPD's network which also made it
8 very difficult for anybody to actually have any sort
9 of real oversight over it.

10 CHAIRPERSON BREWER: I just want to say,
11 we should do a follow-up letter on that, and we can
12 also do a follow-up letter on facial recognition,
13 because you said something very different than what
14 PD said. If that's okay with our co-chairs. Thank
15 you.

16 CHAIRPERSON GUTIÉRREZ: Can I-- are you
17 guys-- can I just ask a question? Thank y'all so
18 much for testifying and congrats on the legal
19 victory. Good to see everybody again. Could you all
20 share with me if you have received any of the
21 documents that you requested from PD?

22 JEROME GRECO: Related to the SPECS [sic]
23 budget? So we have not received them from the NYPD
24 yet. I will say the notice of entry just went in
25 last week. It was my first time hearing today that

2 they were not going to appeal. They still had time
3 to decide whether or not they were going to appeal.
4 So we have not received any records from the NYPD
5 related to that in over four years.

6 CHAIRPERSON GUTIÉRREZ: Thank you.

7 CHAIRPERSON SALAAM: So, I just have a
8 few question for you all as well. Advocates often
9 call for greater transparency in the NYPD's use of
10 surveillance technology. What specific steps do you
11 believe are essential for the NYPD to take in order
12 to increase this transparency?

13 DAVID SIFFERT: I have a couple thoughts.
14 One is just regular good faith-- I think it's
15 probably not an accident depending on personnel, for
16 example. You might find that conversations with NYPD
17 can have a very large range of outcomes. For
18 example, in negotiating a potential amendment to this
19 bill, we had a very good faith set of negotiations
20 that were successful. I've had a lot of
21 conversations with NYPD that was not the case, where
22 it felt like all the negotiations were not in good
23 faith. I think this often happens in the freedom of
24 information context, especially where we get bath
25 faith responses, bad faith litigation, and I think an

2 internal commitment of the Department to engage with
3 transparency and good faith consistently across the
4 Department and over time is going to be important,
5 because you can't legislate good faith, particularly
6 effectively, and I think that's one thing we saw with
7 this POST Act where that first set of IUPs was not a
8 good faith set of IUPs. And the reason that we're
9 here and negotiating new legislation is because we
10 need NYPD to be more restrictive in what they can do
11 and not take advantage of any potential language or
12 try to squirm out of things. I do think that there's
13 legislation that can be passed to clarify NYPD's
14 obligations, potentially on what gets posted to
15 portals, potentially on staffing requirements for
16 FOIA departments. There's all sorts of types of
17 legislation you can pass. Part of it also requires
18 NYPD internally to make decisions to do things in
19 good faith.

20 TALIA KAMRAN: Just something short, you
21 know, like the use of the word criminal investigation
22 is-- or the phrase criminal investigation is often
23 used to kind of act as a band aid over explaining
24 things, being transparently about things. So for
25 example, on data retention NYPD was discussing how we

2 don't actually retain very much data. The places
3 that we retain data is in criminal investigations and
4 prosecution, and while that may be completely
5 legitimate, what we don't know is what happens to
6 that data then after a criminal investigation is
7 over, after a criminal case is over. So it's that
8 kind of specificity and transparency that's I think
9 really important.

10 CYNTHIA CONTI-COOK: I'll just add that
11 as the-- for example, NYPD announces that Deputy
12 Inspector Timothy Wilson will be assigned to the
13 Parks Department as we know that many of these
14 Community Link-like city taskforces involve the NYPD
15 in the plans and in the operations of more city
16 agencies, we have to understand that they are being
17 able to circumvent much of the mandatory reporting,
18 transparency and accountability mechanisms that this
19 City Council has constructed in order to constrain
20 the way that the NYPD surveils, polices, and harms a
21 lot of communities in this city. so, as the NYPD
22 shape-shifts into different types of agencies and
23 becomes a larger and has a larger role in more
24 agencies policing operations of city rules and regs
25 also must be mandatory reporting transparency and

2 accountability mechanisms that this City Council has
3 placed on the NYPD must also shape-shift in order to
4 make sure that the concerns about how NYPD operates
5 in this city continue to be publicly debated and
6 clearly capable of being questioned and seen for what
7 the capacities they have are.

8 CHAIRPERSON SALAAM: I'd like to ask
9 about augmented reality. What issues do you see
10 related to this tool? Do you have any privacy
11 concerns?

12 DAVID SIFFERT: I'm certainly not an
13 expert in NYPD's augmented reality tool. My
14 understanding of the tool is it's basically a data
15 visualization method as opposed to any additional
16 data or additional data analysis. Now, there are
17 still potential concerns, for example, if NYPD is
18 holding up a camera in order to access to certain
19 data, you could imagine that what is seen on that
20 camera might be recorded or used in certain ways.
21 You could also imagine that simply being able to
22 access mass amounts of data in certain ways could
23 present privacy risks. I think we've seen that with
24 the way the Domain Awareness System aggregates data
25 in specific ways that can be dangerous, but to me, I

2 think the focus shouldn't be so much on how it's
3 visualized, but more on what is collected and how
4 it's aggregated.

5 CHAIRPERSON SALAAM: This is specifically
6 for the Brooklyn Defenders. In your December 2023
7 testimony, you mentioned a DNA database, could you
8 please elaborate on the issues associated with it?

9 TALIA KAMRAN: On the issues of the DNA
10 Database, my specialty isn't in DNA, so I can take
11 that question back to my team and then get back to
12 your office about it, if that's alright.

13 CHAIRPERSON SALAAM: Got you. Thank you.
14 Also, there are several articles and reports
15 questioning the effectiveness of ShotSpotter. Could
16 you explain how DAS uses ShotSpotter and its impact
17 on criminal convictions or plea bargaining?

18 TALIA KAMRAN: I'm happy to answer, and
19 if you guys want to-- if you want to share at all.
20 But ShotSpotter is often used, you know, to call the
21 police into an area in order to effectuate an arrest
22 or to look for like potential suspects. So, it is
23 being used at times to arrest people. Whether that's
24 accurate enough to be probable cause for that arrest
25 is highly questionable. ShotSpotter is often not

2 used by prosecutors, by DAs when cases go forward.

3 It's interesting to think about why that is. we know
4 that from the data it's not actually very effective
5 or reliable which kind of speaks to why it's perhaps
6 not used in prosecution, but it is definitely used
7 for probable cause for arrest.

8 JEROME GRECO: So, I think it's important
9 to point out that, you know, when the officers get a
10 ShotSpotter alert, they're essentially being told
11 that somebody has fired a gun, right, in this area.
12 And so they're going into that neighborhood expecting
13 the worst, right, expecting themselves at risk and
14 other people at risk and they're on high alert,
15 probably have their weapons drawn, and people in that
16 neighborhood are-- all become suspects immediately,
17 and it just causes such chaos and tension for people
18 who just happen to be living there or happen to be
19 working there or walking by. And then to find out
20 how often it is wrong is disturbing.

21 DAVID SIFFERT: And just very briefly,
22 taking up on that last point. A lot of the
23 surveillance technologies the NYPD uses are just not
24 very good. ShotSpotter is a very good example of a
25 technology that just makes mistakes all the time.

2 Facial recognition is another example. The Evolve
3 metal detectors or the "weapons detectors" which
4 really just detect like metal tubes like umbrellas.
5 And there's a reason that the NYPD dropped the Evolve
6 pilot, because it wasn't working and it was wasting a
7 lot of their time, but there's a lot of technology
8 they're still employing that also does not work.

9 CHAIRPERSON SALAAM: And just have one
10 last-- as advocates, how do you assess the
11 effectiveness of recent legislation such as the POST
12 Act and other laws related to surveillance technology
13 in creating meaningful oversight?

14 JEROME GRECO: So, for all the POST Act's
15 flaws, you know, one of them is that it doesn't ban
16 the use of certain technologies. You know, I
17 understand there are legal and political, you know,
18 limitations for everyone, right, but it has been very
19 helpful from the public defense side of being able to
20 one, understand what is actually being used in a
21 case, that the technology exists, some basics about
22 it, and to be able to point the courts to that as
23 well instead of just saying oh, I know this from my
24 experience on an assortment of cases. I can actually
25 point to something for the court. And so, the POST

2 Act is still very important and I think the updates
3 that are being proposed will make it better for us.
4 So, again, not perfect, but definitely an improvement
5 from the status quo before it was passed.

6 TALIA KAMRAN: Yeah, if I could add to
7 that on the issue of like court education. These
8 technologies and the rates at which NYPD is picking
9 up new contracts and deploying new technologies that
10 have been maybe tested in a limited capacity move so
11 much faster than the courts actually move, that any
12 information that our offices can have, right, to
13 educate the courts as we go into this completely new
14 and difficult terrain of policing and prosecution is
15 indispensable. So the POST Act is completely
16 indispensable.

17 CYNTHIA CONTI-COOK: Thank you. Thank
18 you. in the context of individual cases, for example,
19 the kinds of cases that my colleagues here fight
20 every day and need to understand how a case was
21 investigated, for example, it's a very difficult
22 thing to try to find out in the context of any single
23 individuals' case, because of parallel construction
24 which is the use by police of alternative
25 investigation routes in order-- for example, often

2 reliant on surveillance technology they're not trying
3 to make public, and then constructing an alternative
4 sort of court-based theory of the case that we
5 interact with. Sorry, when I say we I mean
6 defenders, formerly. And so when a case comes
7 through arraignment and you're only finding out from
8 the court paperwork or from, you know, the experience
9 that your client had, what kind of police
10 investigation techniques were used, it really limits
11 your ability to learn about them, to find out about
12 them, to find out about how it was used, how it was
13 supposed to be used, and if anything was done
14 improperly. And then it's also very difficult in the
15 context of individual criminal cases to be able to
16 fight back against those technologies, and also the
17 kinds of corporate entanglement that is happening
18 within those contracts often allows, for example,
19 trade secrets to be invoked, either to discourage the
20 Police Department from telling people or telling the
21 courts what has been used. It's also been invoked in
22 criminal courts themselves, and so something that
23 happened when I was at the Legal Aid Society was we
24 began to hear more private law firms come in to a
25 criminal court room and make the argument that they

2 could not square information with the defense because
3 of trade secrets. This created a problem because, as
4 you know, the court system is an adversarial process
5 through which we have to learn about things in order
6 to be able to adversarially [sic] test them. the
7 idea that there are private companies who walk into
8 criminal court rooms and say that their three years
9 of research and development are worth more than the
10 potential lifetime of prison that someone is going to
11 spend is a conflict of interest between how public
12 interest in transparency and accountability and
13 oversight works versus how corporate values of
14 secrecy tend to operate. And I think that what we
15 have to appreciate about bills like this is that it
16 pushes back and makes very clear with any technology
17 vendors who are operating in New York City that their
18 technology should be expected to be public and that
19 is a very important service indeed, but and also
20 understanding how the contract process and
21 understanding how the procurement of those
22 technologies happen is equally important, and yet
23 there is a great deal of opacity around that process.
24 And if the POST Act could be expanded in any other
25 way in addition to not being confined to NYPD itself,

2 I would say to open up the information around how
3 this technology is procured, contracted and
4 monitored.

5 CHAIRPERSON SALAAM: Thank you for your
6 testimony. We're going to now move to the next
7 panel. I just want to remind members of the public
8 that this is a government proceeding. Decorum shall
9 be observed at all times. As such, members of the
10 public shall remain silent at all times. The witness
11 table is reserved for people who wish to testify. No
12 video recording or photography is allowed from the
13 witness table. Furthermore, members of the public
14 may not present audio or video recordings as
15 testimony, but they may submit transcripts of such
16 recordings to the Sergeant at Arms for inclusion in
17 the hearing record. If you wish to speak at today's
18 hearing, I remind you to please fill out an
19 appearance card with the Sergeant at Arms and wait to
20 be recognized. When recognized you'll have three
21 minutes to speak on today's oversight hearing topic.
22 The hearing topic, as I remind you, is the NYPD POST
23 Act or Introductions 168, Introductions 233, Intro
24 480 and 978. If you have any written testimony or
25 additional testimony you wish to submit for the

2 record, please provide a copy of that to the Sergeant
3 at Arms, and you may also email written testimony to
4 testimony@council.nyc.gov 72 hours of the close of
5 this hearing. Audio and video recordings will not be
6 accepted. For the next internal [sic] panelists,
7 please come up to the table after your name has been
8 called. So, I'd like to call Sharon Brown, Alex
9 Stein, and Christopher Leon Johnson. And thank you,
10 you may begin after you fully seat in whichever order
11 you would like.

12 SHARON BROWN: Hello, my name is Sharon
13 Brown. Remember Israel. Defend Israel. Release the
14 hostages. Let Yahweh's people go. Okay, the facial
15 recognition is not guaranteed to be accurate, so I
16 don't think that it should be used the way that it's
17 used. If someone is using the facial recognition and
18 then they use it to indict someone and then they get
19 arrested or get convicted, it is not proper. If
20 someone had to identify them by a bunch of people
21 going around even in the Police Department saying
22 this is the person, we think this is the person.
23 It's not even generated in the computer that it
24 matches someone else. So I think that system is very
25 flawed. I think we need to focus on the things that

2 are happening today as far as public safety is
3 concerned. We have an Islamic concern. If we're
4 going to use facial recognition or any kind of
5 recognition, we need to try to make sure that we're
6 safe from the Islamic community that is targeting us.
7 The convictions and things that are happening is
8 under the auspices of Islam versus a Judeo Christian
9 nation, a Judeo Christian state. Judeo Christianity
10 has ruled ever since we made this a nation, and
11 that's what we're going to use here. If we're going
12 to look at different communities, we're not going to
13 go into the inner cities, we're going to be looking
14 at communities who really are problematic to us. So
15 if we understand that terrorism is a situation that
16 is on the rise at this time, that's what we should be
17 using our technology for, and we need to broaden our
18 technology. We need to look around the world and see
19 the things that they have. We need to be competitive
20 with the things that we're making, and we need to
21 find people like myself that can make technology that
22 will outdo what we have out there and be accurate.
23 If we're going to use facial recognition, the
24 computer itself should say this is a match. It
25 shouldn't be-- and not to impugn the NYPD, because

2 they're doing the best that they can do under the
3 circumstances and with the technology that they have.
4 So if they do have the technology and they're going
5 to use it, then they're going to-- they say 86
6 percent that is usually wrong. Well, it would be
7 that way, because that's the technology that we have.
8 so either we're going to do some kind of oversight
9 and say you can't use it to be something definitive
10 in a case, but we can use facial recognition-- sorry.
11 We can use facial recognition to get a general idea,
12 but we can't use it to actually indict someone. That
13 would--

14 CHAIRPERSON SALAAM: [interposing] Thank
15 you. If you can please wrap, that'd be great.

16 SHARON BROWN: Yes, that's it.

17 CHAIRPERSON SALAAM: Thank you.

18 SHARON BROWN: And just remember Israel.

19 ALEX STEIN: Thank you guys. I just want
20 to say thank you to the committee for having this
21 meeting about public safety, because this is an issue
22 that is very bad in New York, especially for me. I'm
23 a person that comes here for work, and if you watch
24 on television and you see what happens on a New York
25 subway like people being lit on fire and cops not

2 doing anything to put them out and you see this
3 police force that is basically hamstrung-- you know,
4 they're at a crossroads-- on how can they police this
5 city, because we have illegal immigrants here from
6 Venezuela that are part of the Tren De Aragua cartel,
7 and those people are sex trafficking and human
8 trafficking. So it makes their jobs tough when these
9 people get to have a free hotel room in Manhattan at
10 what would be considered nearly a four-star hotel.
11 When I come here, I have to pay \$400 basically to
12 stay in Manhattan at a three-star hotel. So, it's
13 kind of frustrating as a person that wants to come
14 here. The public safety is terrible, because these
15 Venezuelan gang members have no-- you know, we have
16 no idea what their criminal history is, so we
17 literally have rapists here. We have murders here.
18 We have some of the worst people in the world, and we
19 need to use this facial recognition software to
20 actually-- he's watching me on his phone right there.
21 No worries.

22 CHAIRPERSON SALAAM: I hear some
23 feedback.

24 ALEX STEIN: He's watching it on his
25 phone.

2 CHAIRPERSON SALAAM: Oh, okay, no
3 problem.

4 ALEX STEIN: I like this guy. My point
5 is-- my point is in this city we got all these dang
6 illegal immigrants and this police force, they want
7 to use facial recognition, and I don't want to live
8 in dystopian China where you guys can just watch me
9 and I have to have a social credit score, but when it
10 comes to illegal immigrants, I think we should use it
11 to kick them out. But I saw Jennifer Gutiérrez just
12 left. I wanted to speak to her, because I feel like
13 all illegals should be deported in New York City
14 except for the big booty Latinas. If you're a nine,
15 you're fine. You should not be subject to
16 deportation.

17 CHAIRPERSON SALAAM: Try to just keep it
18 on topic as the POST Act.

19 ALEX STEIN: you don't think--

20 CHAIRPERSON SALAAM: [interposing] It's
21 not for--

22 ALEX STEIN: an illegal immigrant has
23 something to do with public safety? I know--

24 CHAIRPERSON SALAAM: [interposing]
25 [inaudible]

2 ALEX STEIN: It's funny because she was
3 just talking about sex workers.

4 CHAIRPERSON SALAAM: Sir, sir--

5 ALEX STEIN: [interposing] But do you
6 remember how she was talking about sex workers?

7 CHAIRPERSON SALAAM: Sir? Sir?

8 ALEX STEIN: Yes.

9 CHAIRPERSON SALAAM: Describing a
10 person's body is totally, totally disrespectful.

11 ALEX STEIN: what do you mean, I can't
12 describe somebody's head? You can't describe
13 somebody's body?

14 CHAIRPERSON SALAAM: I wouldn't describe
15 your head.

16 ALEX STEIN: Okay. I wouldn't describe
17 yours either, but I'm just saying--

18 CHAIRPERSON SALAAM: [interposing] To
19 describe a person's body in ways--

20 ALEX STEIN: [interposing] You're allowed
21 to describe--

22 CHAIRPERSON SALAAM: [interposing] Sir,
23 sir?

24 ALEX STEIN: I'm allowed to be descript.

25 CHAIRPERSON SALAAM: Sir? Sir?

2 ALEX STEIN: Yeah. Yes?

3 CHAIRPERSON SALAAM: To disrespect
4 anyone--

5 ALEX STEIN: [interposing] How is that
6 disrespectful?

7 CHAIRPERSON SALAAM: Sir.

8 ALEX STEIN: How is that disrespectful?

9 CHAIRPERSON SALAAM: Sir, we have already
10 established the rules.

11 ALEX STEIN: I don't understand how
12 that's disrespectful.

13 CHAIRPERSON SALAAM: staying on topic and
14 being--

15 ALEX STEIN: [interposing] Okay, well,--

16 CHAIRPERSON SALAAM: respectful in a
17 government--

18 ALEX STEIN: [interposing] You just had a
19 councilwoman talking about sex workers, did you not?
20 About how this software is going to be used to
21 recognize their face and deport sex workers.

22 CHAIRPERSON SALAAM: Sir, as long as you
23 stay on topic, you'll be fine.

24 ALEX STEIN: I know, but I'm saying, I--
25 so she can talk about sex work, but I can't say big

2 booty Latina. I'm confused how that's not the same
3 thing. I know. But explain to me, because you don't
4 know the first amendment, and you don't understand.
5 I'm not being crude.

6 CHAIRPERSON SALAAM: Sir, I'm not
7 denying--

8 ALEX STEIN: [interposing] I'm saying it
9 as a compliment--

10 CHAIRPERSON SALAAM: you of your first
11 amendment rights. I'm just telling you to stay on
12 topic.

13 ALEX STEIN: I'm trying to stay on topic,
14 but you-- he's playing the dang meeting on his phone
15 distracting me. You're getting mad because I'm
16 trying to protect big booty Latinas. We can deport
17 them all, but--

18 CHAIRPERSON SALAAM: [interposing] Thank
19 you for your testimony, sir.

20 ALEX STEIN: big booty Latinas get to
21 stay. If you're a nine you're fine.

22 CHAIRPERSON SALAAM: Thank you for your
23 testimony.

24 ALEX STEIN: Thank you for having me.
25

2 CHRISTOPHER LEON JOHNSON: Hello. My
3 name is Christopher Leon Johnson. I love your stuff,
4 Alex. You're a funny guy. You're a funny person.
5 Especially the-- the Gutiérrez video, you're right
6 about that. Okay, so I want to speak against the
7 POST Act. I'm going to explain why. Because look, if
8 this was like 2018, okay, we'd be for it, but this is
9 2025, and he's right. You got a lot of illegal
10 immigrants-- and that's what they are, because Trump
11 is saying it-- in this city that commit a lot of
12 crimes, and we need this technology to know who these
13 people are, because if we get facial recognition, we
14 could probably find out who the people are. It's--
15 this is just a new time right now. This is not 2018.
16 This is not 2017, and we need this-- we need this
17 technology. One thing I'm really concerned about a
18 lot is this thing about ShotSpotter which y'all guys
19 want to get rid of ShotSpotter. All this is about
20 with the City Council is getting rid of all these
21 software, these tech software programs, defund the
22 NYPD, defund the police, and give it to these corrupt
23 nonprofits. Give these corrupt NGOs that keep you
24 guys, including you Mr. Salaam, into office. And I
25 know that you're running your boy Raymond Santana,

2 and he's trying to get in the City Council in the
3 eighth district, and you trying to-- and this is all
4 it's about. You want to defund the NYPD so you can
5 take that money and give it to these--

6 CHAIRPERSON SALAAM: [interposing] Just
7 like to remind you to stay on topic, sir.

8 CHRISTOPHER LEON JOHNSON: I am staying
9 on topic.

10 CHAIRPERSON SALAAM: That's not the topic.

11 CHRISTOPHER LEON JOHNSON: Why you-- it
12 is on topic, dude. It is on topic--

13 CHAIRPERSON SALAAM: [interposing]
14 Everybody in this room knows--

15 CHRISTOPHER LEON JOHNSON: man. It's on
16 topic--

17 SERGEANT AT ARMS: that that's not on
18 topic.

19 CHRISTOPHER LEON JOHNSON: It's on topic,
20 bro. It is on topic. ShotSpotter is part of the
21 POST Act, bro. It's part of the POST Act.

22 CHAIRPERSON SALAAM: Sir?

23 CHRISTOPHER LEON JOHNSON: Sir?

24 CHAIRPERSON SALAAM: Sir?

25 CHRISTOPHER LEON JOHNSON: Sir.

2 CHAIRPERSON SALAAM: Don't play with me.

3 CHRISTOPHER LEON JOHNSON: Sir. It's
4 America, babe. It's America.

5 CHAIRPERSON SALAAM: I got you. I got
6 you.

7 CHRISTOPHER LEON JOHNSON: I got you,
8 too.

9 CHAIRPERSON SALAAM: Your testimony is
10 over.

11 CHRISTOPHER LEON JOHNSON: No. You're
12 wrong. You're a clown, man.

13 CHAIRPERSON SALAAM: Show the man out of
14 the room.

15 CHRISTOPHER LEON JOHNSON: You're a
16 clown, bro. You a clown.

17 CHAIRPERSON SALAAM: Thank you for your
18 testimony.

19 [background speaking]

20 CHAIRPERSON SALAAM: I'd also like to
21 remind you that video recording will not be allowed
22 from the witness table.

23 ALEX STEIN: I don't want to get beat up.
24 I don't want to get beat up.

25

2 CHAIRPERSON SALAAM: You're still
3 recording video, sir.

4 ALEX STEIN: You don't remember--

5 CHAIRPERSON SALAAM: [interposing] You are
6 still recording video.

7 ALEX STEIN: No, I'm leaving. I'm not
8 getting kicked out. I'm leaving so don't touch me.

9 I'm leaving. Don't touch me, alright? Gosh

10 almighty, I'm leaving. You don't touch me. I'm

11 going to-- I've already sued your ass. I'm going to

12 sue your ass again. [inaudible] Gosh almighty. I

13 don't know what y'all-- [inaudible] running. This is

14 [inaudible] Do not touch me. Do not touch me. Gosh

15 almighty.

16 CHAIRPERSON SALAAM: So, I know that

17 there is requirements to make sure that there is no

18 video recording from the witness table. I do see

19 people in the audience recording video as well. So I

20 don't know you're a part of the team, or part of

21 trying to get the fact of us making sure that New

22 York City remains the best city in the world. So

23 with that, I'd like to call the next panel. And I'm

24 also going to re-read the instructions. We've already

25 established protocol, but it seems that we have to

2 continue to establish protocol. I remind the members
3 of the public that this is a government proceeding
4 and that decorum-- decorum shall be observed at all
5 times. As such, members of the public shall remain
6 silent at all times. The witness table is reserves
7 only for those who wish to testify. No video
8 recording or photography will be allowed from the
9 witness table. Further, members of the public may
10 not present audio or video recordings. Testimony
11 that they have may be submitted to the Sergeant at
12 Arms if it is video or audio recording for inclusion
13 in their transcripts. If you wish to speak at
14 today's hearing, please fill out an appearance card
15 with the Sergeant at Arms and wait to be
16 acknowledged. When recognized you will have three
17 minutes to speak on today's topic. Today's topic, I
18 remind you, is the NYPD POST Act or Introductions
19 168, 233, 480, and 978. If you have any written
20 statement or additional written testimony that you
21 wish to submit for the record, please provide a copy
22 of that testimony to the Sergeant at Arms. You may
23 also email written testimony to
24 testimony@council.nyc.gov within 72 hours after the
25 close of this hearing. Audio and video recordings

2 will not be accepted. I'd like to call up the next
3 panel. Ivey Dyson, Sergio De La Pava and Quincy
4 Blair. And you may go in whichever order you choose.

5 IVEY DYSON: I can start. Good
6 afternoon, Chair Brewer, Chair Salaam. Thank you
7 both, and Chair Gutiérrez for holding this hearing
8 and for your patience and public service. I'm Ivey
9 Dyson. I'm Counsel on the Liberty and National
10 Security Program, the Brennan Center for Justice, and
11 as part of our focus on government oversight and
12 accountability, we advocated for the passage of the
13 POST Act in 2020. As you all know, unfortunately,
14 the NYPD has consistently evaded the Act's disclosure
15 requirements while continuing to expand its arsenal
16 of surveillance technology. Members of the City
17 Council have introduced bills that aim to strengthen
18 the POST Act. They're additional common-sense
19 changes the Council should make to ensure better
20 checks on NYPD's surveillance. As David Siffert from
21 STOP mentioned earlier, there are changes that can be
22 made to the POST Act, in addition to the ones in the
23 bills now, that would incorporate other
24 recommendations that the IG made in its first POST
25 Act report. These changes have been negotiated with

2 the NYPD and are agreed upon by a coalition of civil
3 society members interested in advocating around
4 police surveillance issues. So, first, as you know,
5 the NYPD uses generic language in its POST Act
6 disclosures to explain how it share surveillance data
7 with outside actors like federal immigration
8 authorities, city housing authorities, and as put
9 forth by the IG in their POST Act report, the police
10 should be required to maintain an internal tracking
11 system recording circumstances in which the
12 Department provides an external agency with
13 surveillance data. Additionally, the NYPD should be
14 required to document how external agencies access its
15 surveillance data and whether there are restrictions
16 on how the data is used, how long the data can be
17 kept, whether it can be copied, and if any other
18 entities can access surveillance data the police have
19 transferred to external agencies. Additionally, City
20 Council should require the NYPD to provide meaningful
21 information on the potential safety hazards of its
22 technologies. In one of its POST Act audits, the
23 NYPD IG found that Digidog's safety documentation
24 from the company itself showed that the technology
25 could cause injury, including injury and potentially

2 death which was not included in the NYPD's own IUP on
3 that technology. Additionally, we are grateful that
4 Intro 480 asks the police to disclose information
5 about the disparate impacts of its surveillance
6 technologies. As you know they have-- the police
7 have a history of discriminatory surveillance, and as
8 others mentioned earlier, the Department continues to
9 use facial recognition technology, that has led to
10 wrongful arrests of Black Americans across the
11 country based on racialized errors. The public needs
12 to know what steps the NYPD is taking to address
13 disparate impacts and whether there are any
14 variations in the accuracy of its technologies based
15 on a characteristic protected by New York City human
16 rights laws such as race or religion. Thank you so
17 much. We appreciate your time.

18 CHAIRPERSON SALAAM: Thank you.

19 QUINCY BLAIR: Good afternoon Chairs and
20 members of the Council. My name is Quincy Blair and
21 I'm an attorney here on behalf of the Policing
22 Project and NYU School of Law, a nonpartisan
23 organization dedicated to supporting more effective
24 and equitable policing. [inaudible] opportunity to
25 testify in support today. First, we want to offer

2 our support for 168 today as it enhances the intent
3 [inaudible]

4 CHAIRPERSON SALAAM: [interposing] I'm
5 sorry, is that mic on?

6 QUINCY BLAIR: Is it on now?

7 CHAIRPERSON SALAAM: It is.

8 QUINCY BLAIR: Should I start from the
9 beginning or continue? Okay. Good afternoon Chairs
10 and Members of the Council. My name is Quincy Blair
11 and I'm an attorney here on behalf of the Policing
12 Project at NYU School of Law, a nonpartisan
13 organization dedicated to supporting more effective
14 and equitable policing. Thank you for your
15 opportunity to testify in support today. First, we
16 offer support for 168 today as it enhances the intent
17 of the original transparency provisions of the POST
18 Act. Since the Act's passage, the NYPD has evaded
19 its obligations by publishing incomplete and Impact
20 and Use Policies. 168 addresses this by requiring an
21 itemized list of all surveillance technologies
22 including their capabilities, collected data, and
23 responsible units going beyond the POST Act's
24 original mandate. It also requires quarterly updates
25 on newly acquired or discontinued technologies,

2 providing sufficient information for both the public
3 and offices like OIG to assess NYPD's compliance with
4 the Act. We also offer support for 233, the mandate
5 for substantive facial recognition or FRT use
6 policies. While the POST Act required an Impact and
7 Use Policy for facial recognition, the NYPD's version
8 lacked meaningful details on use, data sharing, and
9 retention, undermining transparency. 233 improves
10 this mandate by requiring more disclosure to those
11 provision, and lastly, we offer support for 480 by
12 bringing much-needed clarity to the POST Act. While
13 the POST Act required NYPD to disclose third-party
14 data sharing, its policies were so vague that
15 continues to remain unaware of which entities access
16 their data or whether it's being used responsibly.
17 480 addresses this by requiring the NYPD to name the
18 entity it shares data with, a critical step towards
19 transparency and ensuring responsible and accountable
20 use of sensitive data. Thank you.

21 CHAIRPERSON SALAAM: Thank you.

22 SERGIO DE LA PAVA: Good afternoon.

23 Thank you for this opportunity to be heard. I am
24 Sergio De La Pava, Legal Director of New York County
25 Defender Services. Sitting here all morning and

2 early afternoon listening to this testimony, it's
3 abundantly clear to me that we now live in a
4 surveillance state of the kind envisioned not too
5 long ago by like dystopian science fiction. This is
6 an inalterable fact, and I think what most signifies
7 now is how entities like this one are going to
8 respond to that. Importance of transparency and
9 accountability are extreme at this particular moment
10 in our history, but what we get from the NYPD
11 repeatedly, especially today, is the desire for more
12 secrecy. And we know what secrecy gives rise to, the
13 potential for abuse. We've submitted extensive
14 written testimony. I want to highlight one aspect
15 where it's not about potential abuse, it's about
16 actual abuse of these technologies. Our client was
17 an individual by the name of Derek Ingraham [sp?],
18 activist who was attending in a leadership capacity a
19 Black Lives Matter protest. NYPD was there, members
20 of the force apparently. Everything was being
21 recorded, and the protest ended and Mr. Ingraham was
22 not arrested for any conduct at that protest, but at
23 some point the NYPD decided that they wanted to
24 arrest him for supposedly yelling into a bullhorn too
25 closely to a member of the NYPD. They used facial

2 recognition. I've heard the testimony today that they
3 claim facial recognition is not used to constitute
4 probable cause. So I'm not sure what else they did,
5 but they fixated on Mr. Ingraham and decided that
6 they were going to arrest him. The way they went
7 about this is to descend on his home. They know his
8 address now. About 24 vehicles closed off the
9 street. A helicopter was used, drones, and they lied
10 to him and told him that they had a warrant for his
11 arrest. They did not. The police rarely have an
12 arrest warrant for an individuals because an arrest
13 warrant requires going to a judge and demonstrating
14 to that judge that there's probable cause to believe
15 this person has committed a crime. They did not want
16 to do this here because they would have had to
17 disclose to a judge exactly what led them to conclude
18 that Mr. Ingraham had yelled too loudly into a
19 bullhorn. They forsook that entire procedure, and
20 instead as I said, 24 vehicles, tactical gear being
21 employed by officers, they surround his home. They
22 lie to him, say we have an arrest warrant, please
23 step out of your apartment. He doesn't step out of
24 his apartment. He speaks to a lawyer who tells him in
25 New York they cannot arrest you in your home without

2 an arrest warrant. If they truly had an arrest
3 warrant, they would arrest you in your apartment.
4 They must not have one. This went on for hours until
5 it was called off. And you know, tellingly, when
6 asked about the heavy-handedness of this and the just
7 kind of offensive nature of all this, both the Mayor
8 and Commissioner of the NYPD said this was kind of
9 done without our knowledge. This was all organized
10 without us knowing about it, and we don't approve of
11 it. So, when we talk about the potential for abuse,
12 I think this case is a perfect example of that. Now,
13 it result in a criminal case, we represent them.
14 There's discovery statutes went into effect. The
15 police really refused to kind of give us any insight
16 into what was done in this case. The discovery
17 statutes were not complied with, ultimately resulting
18 in dismissal of the case. To this day, we're not
19 sure exactly what technology was used, what
20 technology was not used. And I tell you the--

21 CHAIRPERSON SALAAM: [interposing] If you
22 can-- if you can just wrap up.

23 SERGIO DE LA PAVA: part, that was almost
24 five years ago. As we know, in the use of
25 technology, five years is a lifetime. So I applaud

2 the POST Act. I applaud these introductions and these
3 proposed beefing up of the Act, but I urge this body
4 to remain vigilant. We don't know what we don't
5 know, and to constantly be fighting for greater
6 transparency in this. Thank you.

7 CHAIRPERSON SALAAM: Thank you.

8 CHAIRPERSON GUTIÉRREZ: Thank y'all.

9 Thank you, Chairs. Good to see you guys.

10 [interposing] to see you. Is there any other--

11 [background conversation]

12 CHAIRPERSON GUTIÉRREZ: surveillance
13 technologies used by PD that they-- to your knowledge
14 that they have not disclosed? I think there's
15 someone on Zoom.

16 CHAIRPERSON SALAAM: Zoom, we can hear
17 you.

18 CHAIRPERSON GUTIÉRREZ: We'll get it.
19 Does anyone have a response to that?

20 SERGIO DE LA PAVA: Well, I assume the
21 POST Act is being complied with, but at its core, we
22 just don't know what we don't know.

23 CHAIRPERSON GUTIÉRREZ: Right.

24 SERGIO DE LA PAVA: There's a perfect
25 example that this was a criminal case that had

2 discovery statute in effect, and so we know some, but
3 they-- it seems to me that they prefer dismissal to
4 having to talk about how exactly it came to center on
5 our client, and that's what we find a lot. For
6 example, the testimony this morning, like, facial
7 recognition's only used to build up probable cause.
8 That's because if they said facial recognition was
9 the reason for probable cause, for example, at a pre-
10 trial suppression hearing where there's testimony
11 under oath, they would have to detail and, you know,-
12 - under oath what exact-- what steps were used by a
13 facial recognition. So it's-- they want credit for
14 saying that they're not using it for probable cause,
15 but it's like everything else. It's an end run
16 around disclosure. It's a way of them not having to
17 talk about how they do facial recognition. One of
18 the things we know is that, you know, photoshop is
19 being used and ultimately there's a great potential
20 there for abuse. It's not-- I think one of the-- it's
21 not a situation where a computer has taken the
22 element of error out. On the contrary, and we see
23 that with the data showing that it has racial bias
24 built into it.

2 CHAIRPERSON GUTIÉRREZ: And then my last
3 question is if you can share any concerns that you
4 have about the use of predictive policing software
5 and whether-- and how it's being used by the Police
6 Department? Okay. Thank you.

7 SERGIO DE LA PAVA: I think predictive
8 policing would be even more offensive than the things
9 we've been talking about. I talked about like
10 dystopian science fiction. That's Minority Report.
11 That's like predicting who, you know, who's going to
12 commit a crime or who's going to, you know, run afoul
13 of what the NYPD wants on a given situation. Yeah,
14 not knowing--

15 CHAIRPERSON GUTIÉRREZ: Yeah. Thank you.
16 Thank you, Chairs.

17 CHAIRPERSON SALAAM: Thank you.

18 CHAIRPERSON BREWER: Thank you. For the--
19 - I'm sorry, I didn't get your name-- at the Brennan
20 Center. I am a big fan of the Brennan Center. My
21 question is the data, this constant refrain that I
22 have. Are you looking at something that would say
23 what should happen to data? In other words, we all
24 hear 30 days, but then we heard also from your
25 colleagues it's not clear if there's a case what

2 happens with that data afterwards, and data to me is
3 everything. So I just didn't know if that's
4 something that Brennan has looked at.

5 IVEY DYSON: Right. I think something
6 that we have talked to the NYPD about in negotiating
7 potential language on amendments to the POST Act, and
8 addition would be to have the NYPD have internal
9 policies in place, like quite specific policies in
10 place about their intergovernmental data sharing.
11 Again, because as you say, you know, there's this
12 mass amount of information, data that is being
13 collected by these surveillance technologies. And
14 so, you know, as far as we're aware, we don't know
15 what those policies are. The idea is that NYPD would
16 then be forced to create policies on their data
17 sharing with other government agencies, and then that
18 information could then be used to help them provide,
19 like, more fulsome reporting under the POST Act
20 related to their gathering and sharing of data with
21 external entities.

22 CHAIRPERSON BREWER: So you feel at this
23 point that that has not been done, that kind of
24 scenario that you have outlined.

25 IVEY DYSON: Yes, correct.

2 CHAIRPERSON BREWER: Okay. And I know
3 your client. He's terrific by the way.

4 CHAIRPERSON SALAAM: Thank you. And just
5 to reiterate, I remind the members of the public that
6 this is a government proceeding and decorum shall be
7 observed at all times. As such, members of the
8 public shall remain silent at all times. The witness
9 table is reserved for people who wish to testify. No
10 video recording or photography is allowed from the
11 witness table. Furthermore, members of the public
12 may not present audio or video recordings as
13 testimony, but they may submit transcripts of such
14 recordings to the Sergeant of Arms in the hearing
15 room-- in the hearing record. If you wish to speak at
16 today's hearing, please fill out an appearance card
17 with the Sergeant at Arms and wait to be recognized.
18 When recognized you will have three minutes to speak
19 on today's oversight hearing topic which is the NYPD
20 POST Act or Introductions 168, 233, 480, and 978. If
21 you have written testimony or additional written
22 testimony that you wish to submit for the record.
23 Please provide a copy of that testimony to the
24 Sergeant at Arms, and you may also email written
25 testimony to testimony@council.nyc.gov within 72

2 hours of the close of this hearing today. Audio and
3 video recordings will not be accepted. I'll now like
4 to call Pastor-- I'm not able to read the-- it looks
5 like Adle-- okay, perfect. Golin Buckingham? Not
6 sure if I got that name correct. Michele
7 Blondmonville. Perfect. You may start in which ever
8 order you would like.

9 MICHELE BLONDMONVILLE: thank you so
10 much. I'd like to acknowledge the Council and
11 gratitude for this meeting. My name is Michele Anne
12 Blondmonville. I'm a health educator for 40 years,
13 adjunct lecturer at NYU for the Sports and fitness
14 Department, and trainer for the American Red Cross.
15 I'd like to thank you for your servitude in difficult
16 times. You're speaking on behalf of everyday people
17 who are Havana Syndrome or anonymous [sic] health
18 incident victims, knowingly and unknowingly-- others
19 who are unknowingly, sorry. With the glaring
20 awareness of the benefits afforded to our diplomat
21 council parts, we certainly hold fast to the nation
22 that one day we too will be recognized, free from
23 torture, pain and invisibility. Everyday people,
24 Havana Syndrome victims is compromised-- comprised,
25 sorry, of diagnosed Havana Syndrome victims who have

2 been unlawfully experimented on and included on non-
3 investigative lists and subsequently targeted in
4 various nefarious manners. These heinous crimes
5 include but are not limited to organized stalking--
6 such as the lawyer that just previously spoke,
7 explained his client-- smear campaigns, noise
8 harassment, electronic assaults from directed energy
9 weapons, nonconsensual human experimentation with
10 various technologies as B2K, blue eye [sic]
11 technology and AI. We are assaulted 24 hours every
12 day and are remotely monitored. We support your
13 bills to have the NYPD provide information as to the
14 technologies they are using, and request also that
15 their policies are made for them to help citizens who
16 are being targeted in this way. we also would like
17 other bills that protect our neuro rights such as the
18 Colorado bill 241058 and the California bill SB1223
19 that investigate these covert technologies by
20 attaining our brain signature and biometrics. Thank
21 you for your interest, support and commitment to
22 justice. Thank you.

23 CHAIRPERSON SALAAM: Thank you as well.

24 COLIN BUCKINGHAM: Hi, my name's Colin
25 Buckingham. There we go. Hi, my name's Colin

2 Buckingham. I work in disability advocacy and
3 activism and that way. I want to express support for
4 the bill and resolutions passed today. I wished
5 there had been more expansive questioning when the
6 NYPD was testifying on what they classify as criminal
7 acts that they are able to use these facial
8 recognition on and the discernment between false
9 identities and false arrests versus false
10 convictions. Especially with the Mayor meeting with
11 the current President and affirming his support to
12 support ICE and including placing them on Rikers
13 Island, I think more accountability is going to be
14 needed not just for the NYPD but their collaboration
15 with federal agencies in general, and especially with
16 what has been alleged as a quid pro quo agreement
17 that Eric Adams has reached with the Border Czar. I
18 also want to stress that the disabled population of
19 New York is facing increased risk with this potential
20 collaboration-- or further collaboration, and the
21 groundwork has been laid for this with hostile
22 architecture being implemented, involuntary
23 hospitalization, and the NYPD being documented having
24 blocked emergency exits whether through them or
25 through outside security forces that the MTA or city

2 officials have hired under the guise of wanting to
3 curb illegal turnstile jumping. Also, on that topic,
4 we are aware of the incident of the NYPD firing shots
5 in a crowded subway station, injuring many people,
6 including permanently disabling more than one person,
7 and this was under the guise of allegedly thinking
8 that someone had jumped the turnstile, and meanwhile
9 the subway shooter last year had to turn himself into
10 the NYPD, and they were not able to find this person.
11 Fifty percent of people killed by cops are disabled
12 and further oversight and safety procedures such as
13 the ones introduced today and even going further I
14 feel like are needed. I also want to urge the City
15 Council to do more to increase accountability for the
16 NYPD. We all see their emblazoned logos which is
17 protect and serve, and yet, they're not legally
18 required by any statute of state or federal
19 proceedings to protect citizens. I would like to
20 propose that the Council and any legislative body
21 introduce bills that would make this a legal
22 requirement, and if non-compliance with either any of
23 these accountability proceedings, including this
24 proposed one is something that happens, then the NYPD
25 would be required to remove that slogan and

2 potentially have misconduct lawsuits of which more
3 than \$205 million of taxpayer money was paid out to
4 the NYPD last year. that would have to come out-- I
5 want to propose that the Council propose something
6 that would make that come out of the pensions of the
7 officers that arraigned in that scenario. Thank you.

8 CHAIRPERSON SALAAM: Thank you.

9 PASTOR ADLERETTE KEBREAU: Good evening
10 everybody. My name is Pastor Adlerette Kebreau. I am
11 thankful that at least few of you are left, because I
12 was wondering if anyone was going to hear my
13 testimony today. So, thank you. I'm here, although
14 that-- you know, my sister been here before, and we
15 here, you know, talking to testify that there are
16 other technologies that are used and that we don't
17 hear that they are, you know, spoken about here. And
18 one of the technologies that has been used and has
19 been on for quite sometimes now, and we here because
20 we would like the Council to ban those technologies,
21 and one of them is direct energy weapon, or microwave
22 radiations. And it's been around for quite some time
23 now. I will send testimony to the website or the
24 email address to the Chair or the Chairs about this
25 technology, and that has been used that nobody is

2 spoken about. And this is a technology, direct
3 energy weapon or microwave radiations, that now we
4 are even hearing that honorable Robert John Kennedy
5 is going to investigate which is-- I'm happy about.
6 He's doing it in the federal level, and I would like
7 the Council to look into this technology that has
8 been used, you know, everything, destroying lives of
9 people that you are not able to see that technology.
10 It's invisible, but while it is invisible it's
11 afflicting people. It's destroying people. It's
12 attacking people. They call it Havana Syndrome or
13 anonymous [sic] incident, you know, act, either one
14 of them. But I'm here to say we would like for you
15 to investigate this technology and for you to ban
16 this technology, and for you to also have technology
17 to detect that type of technology, because it's
18 invisible. Nobody can see it. so we need the
19 technology that can be used to detect that
20 technology, because we have millions of Americans
21 that are affecting-- affected by direct energy
22 weapons that, you know, Robert Kennedy says it's been
23 out since the 1950s and we now are hearing for it--
24 about it.

2 CHAIRPERSON SALAAM: Thank you for your
3 testimony. We have last-- one last in-person panel.
4 For consistency, I would like to re-read the
5 protocols. I remind members of the public that this
6 is a government proceeding and that decorum shall be
7 observed at all times. As such, members of the
8 public shall remain silent at all times. The witness
9 table is reserved for those who wish to testify. No
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15 the hearing record. If you wish to speak at today's
16 hearing, please fill out an appearance card with the
17 Sergeant at Arms and wait to be recognized. When
18 recognized you will have three minutes to speak on
19 today's oversight hearing topic. The topic again is
20 the NYPD POST Act or Introductions 168, 233, 480, and
21 978. If you have written statements or additional
22 testimony that you wish to submit for the record,
23 please provide a copy of that testimony to the
24 Sergeant at Arms. That is for written, a written
25 statement or additional written testimonies only.

2 You may also email written testimony to
3 testimony@council.nyc.gov within 72 hours of the
4 close of this hearing today. Audio and video
5 recordings will not be accepted. For in-person
6 panelists, please come up to the table once your name
7 has been called. I'd like to call Andrew. You may
8 start when you're ready.

9 ANDREW: Okay, thank you. I came before
10 this committee before asking for an investigation of
11 police for attacking me. Just like the gentleman was
12 saying how law enforcement refused to release
13 documents and body cams, September 4th, 2018 I was
14 brutally assaulted and tossed on sidewalk against my
15 will. And what law enforcement is doing to me now is
16 truly horrible, because they have done it before.
17 What they do is they make people homeless, get people
18 fired from their jobs, and forcing people to live on
19 the streets. This is a court case called Social
20 Workers Project versus the Attorney General right
21 here in New York City. Colin Kapernick [sp?] does
22 not live here, neither does a person named Steve
23 Talley [sp?] who doesn't live here in New York City,
24 but Steve Talley was made homeless, fired. Colin
25 Kapernick also fired. I also lost my job because law

2 enforcement is constantly attacking me each and every
3 day. So I keep asking for an investigation. I came
4 here before. I write the police reports like down
5 through the years from September 18th up to now.
6 They stole my two cell phones. The Department of
7 Labor Police refused to respond. They broke into my
8 car. Police refuse to issue police report. They're
9 constantly attacking me, so I'm asking for an
10 investigation. And now they're forcing me to live on
11 the streets against my will. They block me from
12 getting a job. These people they like to terrorize
13 people throughout America. So it's not just in New
14 York City, but they do this throughout America,
15 terrorizing the American public. Like I have the
16 court case again right here in New York City. This
17 is what they're doing. So, I contacted your office
18 before, but you know, they didn't respond as to what
19 I could do to get law enforcement to stop attacking
20 me. If anybody has any suggestions how to get them
21 to stop attacking me so I could have like a normal
22 life, I would really appreciate it.

23 CHAIRPERSON SALAAM: Thank you. I just
24 have one question for you. When you said you

2 contacted my office before, are you talking about my
3 office or any of the Chairs here? My office?

4 ANDREW: Yours and Mr. Holden.

5 CHAIRPERSON SALAAM: Got you. Got you.
6 Alright, so hopefully we can follow up with your
7 concerns. You said you do have a court case right
8 now in the courts?

9 ANDREW: No, no, no. I was assaulted, but
10 I have no court case. There's a court case called
11 Social Workers Project versus the Attorney General
12 for law enforcement make people homeless by getting
13 them evicted and getting people fired from their
14 jobs. The court case was in New York City, but law
15 enforcement do this throughout America like Colin
16 Kapernick, Steve Talley. So people throughout
17 America, they do this to them, but the court case is
18 in New York City.

19 CHAIRPERSON SALAAM: Got you. What
20 district are you in?

21 ANDREW: I have no district, because
22 again, law enforcement is forcing me to live on the
23 streets because they block me from getting a job. I
24 was going to get a place to live-- I have no place to
25 live, so they're forcing me to live on the street.

2 So, I have no district. They're constantly attacking
3 me every day.

4 CHAIRPERSON SALAAM: Okay, so we're going
5 to get your information and see if we can follow up
6 with you for sure.

7 ANDREW: Okay, thank you.

8 CHAIRPERSON SALAAM: Thank you for your
9 testimony. Thank you for all of the in-person
10 testimony. We will now turn to our virtual
11 panelists. For virtual panelists, once your name is
12 called a member of our staff will unmute you, and the
13 Sergeant at Arms will set the timer and give you the
14 go-ahead to begin. Please wait for the Sergeant at
15 Arms to announce that you may begin before delivering
16 your testimony. Now, I will call the first virtual
17 panelist. I now call Michael Sisitzky.

18 SERGEANT AT ARMS: You may begin.

19 MICHAEL SISITZKY: Thank you. Good
20 afternoon, Chairs. My name is Michael Sisitzky,
21 Assistant Policy Director with the New York Civil
22 Liberties Union. The POST Act was passed in 2020 in
23 response to the NYPD's long documented and troubling
24 history of engaging in surveillance tactics that
25 target political dissent, criminalize communities of

2 color, and jeopardize all New Yorkers' privacy, and
3 it was a recognition of the simple fact that the NYPD
4 could not be trusted to monitor its own use of
5 surveillance technologies, or be allowed to keep the
6 full extent of its surveillance infrastructure
7 [inaudible] from the public and from policy-makers.

8 And those are the same reasons that underlie our
9 strong support now for Intros 480 and 168 to make
10 sure that the POST Act is living up to its original
11 purpose. It's clear that there is further action
12 that's needed by the City Council in order to address
13 the issues that we've heard today raised by advocates
14 as well as the recommendations from the Inspector
15 General and their audits and their reports on POST
16 Act compliance. Without City Council action, New
17 Yorkers are going to continue to be left in the dark
18 when it comes to the details that we need to identify
19 and challenge harmful practices. Among those we've
20 heard discussion of some of the most problematic
21 practices with respect to POST Act compliance, the
22 grouping together of technologies that has the
23 potential to circumvent one of the core purposes of
24 the POST Act was this notice and comment process. As
25 we've heard, the NYPD is only required to go through

2 that process for new technologies, and the point
3 there is that when there is something new that is
4 being contemplated, it should be approached
5 cautiously, deliberatively and in full light of day
6 with meaningful community engagement and input. The
7 overly broad policies that we've seen allowed the
8 NYPD to introduce brand new and distinct tools by
9 updating existing policies that they can shoehorn
10 those new tools into. It's then run around oversight
11 and public engagement, and it's one that we're
12 hopeful that Intro 480 and the dialogue referenced
13 earlier with NYPD about potential amendments can help
14 to remedy going forward. Also, want to note one of
15 the other core areas of concern addressed by Intro
16 480 is the fact that we really need more detailed
17 information on data sharing and safeguards as it
18 relates to the NYPD surveillance practices. The
19 policies that we've seen so far simply suggest that
20 other government agencies may have access to NYPD
21 data without naming those agencies. There's not
22 enough descriptions on the types of information on
23 what data is being actually disclosed, what
24 safeguards or rules or restrictions are being placed
25 on uses of those data. And there's this boiler

2 plate language throughout those policies as they
3 relate to retention, data sharing practices. Not
4 enough to really give us confidence that that data is
5 being safeguarded in any meaningful way. So it's
6 really urgent the City Council take action on these
7 pieces given what we've seen in recent years. We've
8 seen the Adams Administration and their very intense
9 focus on expanding the NYPD's technologic
10 capabilities, and we have real justified concerns
11 about the ways in which the Trump Administration may
12 seek to acquire and weaponized sensitive data either
13 directly obtained from the NYPD or indirectly--

14 SERGEANT AT ARMS: [interposing] Thank you
15 for your testimony. Your time has expired.

16 MICHAEL SISITZKY: Thank you. So just
17 want to reiterate very quickly, strong support for
18 the two pieces, Intro 480 and 168, and just do want
19 to note that these are starting points. We want to
20 emphasize that transparency and oversight are
21 important, but they're important starting points.
22 They need to inform broader conversations around what
23 types of tools are used and are permitted to be used
24 in the first place, and use that as a basis for real
25 reforms to cut off the use of unaccountable

2 discriminatory technologies, things like facial
3 recognition and posing further restrictions that is
4 based on the kind of information we get out of laws
5 like the POST Act. Thank you.

6 CHAIRPERSON SALAAM: Thank you. I'd like
7 to now call Nina Loshkajian.

8 SERGEANT AT ARMS: You may begin.

9 NINA LOSHKAJIAN: Hi, thank you so much.
10 Good afternoon Chair Gutiérrez, Chair Salaam, Chair
11 Brewer and committee members. My name is Nina
12 Loshkajian. I am the Technology and Racial Justice
13 Collaborative Fellow at the Center on Race and
14 Equality in the Law at NYU School of Law. We are
15 here to urge the Council to pass Intros 480 and 168
16 with recommended amendments agreed upon by NYPD and
17 advocacy groups as discussed previously in this
18 hearing, because these bills would ensure that the
19 spirit of transparency and oversight that inspired
20 the passage of the original POST Act endures today.
21 It is critical that all New Yorkers, in particular
22 those from Black and Brown communities, have access
23 to basic information about the technology police use
24 to surveil us. Without requiring NYPD to disclose
25 essential details such as the types of technology

2 procured, the policies adopted regarding their use,
3 and how the large swaths of data collected are
4 shared, this council leaves space for abusive
5 overreach and discriminatory tracking by law
6 enforcement and other government actors. Just as US
7 Congress is charged with checking the President, this
8 council is responsible for ensuring that the Mayor
9 and the NYPD are operating in line with the law,
10 including by not deploying tools they know or should
11 know are discriminatory. Of particular important in
12 the bills in front of the Council today is the
13 requirement in Intro 480 that the NYPD specifically
14 disclose evaluation of potential disparate impact on
15 people of color and other protected groups arising
16 from the use of surveillance technologies. Despite
17 some interesting claims made earlier in this hearing
18 by NYPD representatives, well documented racial bias
19 is present in tools we know are used by NYPD. Yet
20 the current POST Act and IUPs only give blanket
21 statements using nonspecific language addressing
22 concerns of bias, but there's ample evidence showing
23 bias in these technologies. Studies have shown
24 facial recognition has a much higher error rate for
25 Black women, that's whether you want to say that the

2 technology sees color or not, that's just the end
3 result. And we also know this is present in other
4 tools such as the NYPD Gang Database which is
5 comprised of 99 percent Black and Brown New Yorkers.
6 So in closing, I'd like to urge the passage of Intros
7 480 and 168. When it passed in the summer of 2020,
8 the POST Act was always envisioned as a minor but
9 essential first step towards critical oversight of
10 police surveillance activity, and now that it's
11 almost five years since its passage, it is well past
12 time for the next step forward. This is still a
13 minor and hopefully uncontroversial step forward, but
14 a meaningful one. I do think despite a lot of the
15 heated back and forth earlier in this hearing, when
16 you get to the actual language of this bill and the
17 proposals, hopefully they can still be
18 uncontroversial given that the NYPD has expressed
19 willingness to negotiate amendments with advocacy
20 groups. So, I really appreciate the chance to
21 testify and urge strongly the passage of these
22 proposed amendment bills. Thank you.

23 CHAIRPERSON SALAAM: Thank you. I'd like
24 to now call Thomas Gilbert.

25 SERGEANT AT ARMS: You may begin.

2 THOMAS GILBERT: Good afternoon members
3 of the New York City Council. My name is Thomas
4 Gilbert. I am the Founder and CEO of Hortus AI. I'm
5 here representing Hortus' mission to empower local
6 communities to assess and integrate AI technologies
7 on their own terms. So precisely 100 years ago,
8 Robert Moses set up shop at 302 Broadway overlooking
9 City Hall, and through a combination of graft [sic]
10 incentives, cunning and deceit [sic] most of it
11 legal, Moses rebuilt New York City in his own image
12 under the [inaudible] of public safety, and he did
13 largely through surveillance. Opposing Moses, Jay
14 Jacobs [sic] wrote that a street needs three things
15 in order to be safe. First, a street must have a
16 clear separation between public and private. Second,
17 it must have the watchful eyes of storekeepers,
18 residents and those passing by. Third, a sidewalk is
19 needed so that people can use the street regularly,
20 even without cars. In other words, what that history
21 tells us is that streets are not made safe by
22 technology. They're made safe by having certain
23 clearly defined properties, namely as public, as
24 watched, and as regularly used. Moses thought
25 surveillance could make the public safe. Jacobs knew

2 it was the other way around. Today, the Committee on
3 Technology is considering how to more clearly
4 implement public oversight of the Surveillance
5 Technology Act. The pieces of legislation introduced
6 by Council Member Fariás, Crystal Hudson, and Julie
7 Won are not just good ideas, they respectively enact
8 Jacobs' three criteria for safety. 168 would require
9 the NYPD to evaluate and report on department
10 surveillance technologies it uses [inaudible]. 233
11 would require regular written audits of the NYPD's
12 use of facial recognition technology, and to widely
13 share the audit's findings, and 480 would ensure
14 continuous transparency in NYPD's required Impact and
15 Use criteria. These proposals reflect the growing
16 awareness that AI technologies are not safe because
17 they can learn from data or recognize faces or
18 managed by technocrats [sic]. Rather, AI
19 technologies are safe because of their commitments to
20 and from public interest. Emerging forms of AI such
21 as chat bots will require even more intensive forms
22 of oversight and regular audits and substantive
23 transparency. Hortus' work is designed to address
24 this. Alongside our work with the [inaudible]
25 sector, Hortus has outlined what is toxic about AI

2 today, namely prioritizing business objectives over
3 quality of life and its impacts on communities, and
4 how AI could instead be built differently. Hortus
5 solves this by providing tools to government entities
6 to build AI and implement for active citizens in
7 partnership with local institutions. In tandem we
8 propose to [inaudible] algorithmic data integrity.
9 We hope to work with New York City officials and
10 propose more progressive audit frameworks for AI
11 systems from facial recognition to generative AI
12 applications. I invite members of the City Council
13 and my fellow citizens to join in this work to ensure
14 that oversight of AI system is of, by, and or the
15 people. Thank you for your attention.

16 CHAIRPERSON SALAAM: Thank you. We now
17 have heard from everyone who has signed up to
18 testify. If we inadvertently missed anyone who would
19 like to testify in-person, please visit the Sergeant
20 at Arms table and complete a witness slip now. If we
21 inadvertently missed anyone who would like to testify
22 virtually, please use the raise hand function in Zoom
23 and a member of our staff will call on you in the
24 order of hands raised. I will now read the names of
25 those who registered to testify but have not yet

2 filled out witness slips or appeared on Zoom. Seeing
3 no one else, I would like to note again that written
4 testimony which will be reviewed in full by committee
5 staff may be submitted to the record up to 72 hours
6 after the close of the hearing by email. The email
7 address that they can send it to is
8 testimony@council.nyc.gov. Thank you. I now adjourn
9 this hearing.

10 [gavel]

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1 COMMITTEE ON PUBLIC SAFETY WITH COMMITTEE ON TECHNOLOGY
2 AND COMMITTEE ON OVERSIGHT & INVESTIGATIONS 222

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1 COMMITTEE ON PUBLIC SAFETY WITH COMMITTEE ON TECHNOLOGY
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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 February 28, 2025