

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

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

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

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

ROBERT F. HOLDEN
Chairperson

RAFAEL L. ESPINAL, JR.
Chairperson

COUNCIL MEMBERS: Fernando Cabrera
Margaret S. Chin
Mark Gjonaj
Barry S. Grodenchik
Farah N. Louis
Bill Perkins
Carlina Rivera
Helen K. Rosenthal
Ritchie J. Torres
Diana Ayala
Costa G. Constantinides
Peter A. Koo

Brad S. Lander
Eric A. Ulrich
Kalman Yeger
Justin L. Brannan
Karen Koslowitz
Keith Powers

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

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

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

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

Christina Zhang, Co-Chair, Knickerbocker Village Tenant Association

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

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

Josh Steinbauer, New York City Loft Tenant

Fabian Rogers

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

Anita Booker, Atlantic Plaza Towers Resident

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

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

Sky Devine, Rethink Link NYC

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

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

Daniel Schwartz, New Yorker Civil Liberties Union

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

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

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

1 residential tenants. New York City has seen an
2 increased use of Facial Recognition Technology in
3 residential buildings and businesses. This game
4 changing technology has the ability to improve
5 security, yet affects privacy. Unlike other
6 biometric identifiers like fingerprints, facial
7 recognition technology can operate at a distance and
8 without anyone's knowledge or consent. In New York
9 City cameras are everywhere as we know in retail
10 stores, restaurants, on street corners, attached to
11 buildings of vehicle and more. In the private
12 section facial recognition technology can identify
13 customers, prevent shoplifting and strengthen
14 security among others. However, there is a little to
15 no knowledge—there is little to no—little or no
16 knowledge of how data generated from facial
17 recognition technology is collected, stored and
18 shared. With this technology there is a potential
19 for data breaches that could result in grave
20 consequences for those affected. After all, if a
21 password gets hacked it can easily be changed.
22 However, one's face is unique and irreplaceable.
23 Today we will focus on the implementation of facial
24 recognition technology in the private sector, and how
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2 to balance the benefits of this technology. Even with
3 strengthened security and improved consumer
4 experiences the risk of data breaches and invasions
5 of privacy pose serious concerns. We look forward to
6 gain a better understanding of facial recognition
7 technology and its uses in our city. We hope to work
8 together with the Administration in mitigating any
9 negative impacts on our communities and finding
10 solutions. Today we will hear testimony from the
11 Administration, industry experts and community
12 advocates. I'd like to recognize my colleagues
13 Councilman Lander, Council Member Koo, Council Member
14 Ayala-Ayala is here? Yes. Council Member Yeger.
15 I'm looking at you. Okay. Alright Council Member
16 Powers, Council Member Cabrera. Did I say Council
17 Member Richards and Grodenchik, Council Member
18 Grodenchik and okay. [background comments] Oh,
19 Council Member Louis. Sorry. I would like to
20 acknowledge the staff of the Committee on Technology
21 Counsel Irene Byhovsky, Policy Analyst Charles Kim
22 and Finance Analyst Sebastian Bacchi. I'd also like
23 to thank my own staff Daniel Kurzyna, and
24 Communications Director Ryan Kelly for their value-
25 valuable assistance in preparation for today's

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

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

6 CHAIRPERSON HOLDEN: Yes. sir.

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

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

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

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

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

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

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

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

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

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

1 had been installed by his landlord. He literally
2 could not get into his home. This tenant along with
3 his neighbors actually won a court settlement in
4 which the judge required that landlord to give keys
5 to all the tenants in the building, and in many ways
6 it's the advocacy both of the Atlantic Plaza tenants
7 and that courageous tenant that is behind the bill
8 we're calling the Keys Act, Keep Entry to Your Homes
9 Surveillance Free. While I support legislation that
10 would even go further and ban the use of intrusive
11 facial recognition and other surveillance
12 technologies, the Keys Act is in part an elegant
13 solution for making sure that everyone has a way of
14 getting into their home that does not require them to
15 subject themselves to surveillance. So, the bill
16 would require that landlords give their tenants a
17 physical key, a traditional key to the entry door to
18 the apartment building, and also to your apartment
19 itself, and would prohibit landlords and building
20 owners from requiring that tenants subject themselves
21 to facial recognition, biometric tracking or other
22 keyless technologies that have the potential for
23 tracking. We think this act would go a long way to
24 putting New York at the forefront of protecting
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2 tenants, protecting people of color, protecting all
3 of us from the harms that intrusive surveillance pose
4 to our rights and our privacy. I look forward to
5 hearing the testimony from the Administration, from
6 tenants, from advocates today. We've got a lot to
7 learn about this issue as well. I want to thank
8 Genan Zilkha for her helping drafting the bill, and
9 Steph Zokowski and Naomi Dann Formathis (sp?) Thank
10 you.

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

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

18 MALE: I do.

19 FEMALE: I do.

20 FEMALE: I do.

21 LEGAL COUNSEL: Thank you.

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

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

1 outreach and work of our Offices of Financial
2 Empowerment and Labor Policy and Standards, DCWP
3 empowers consumers and working families by providing
4 tools and resources they need to be educated
5 consumers and to achieve financial health and
6 work/life balance. In today's marketplace the use of
7 technology to connect to the services and products we
8 utilize is ubiquitous. Advances in technology now
9 make it possible for consumers to use their biometric
10 information for purposes of identification or
11 authentication on networking platforms, devices and
12 more. Increasingly, biometric information is
13 replacing traditional forms of access control such as
14 passwords and pins. At the same time, we are becoming
15 aware of the unique challenges presented by the
16 embedding of this technology into our everyday
17 devices and how it facilitates the collection of
18 biometric information by businesses and third
19 parties. For example, multi-national companies have
20 long applied their the access to consumer photos and
21 videos to develop facial recognition technology.
22 What once innocuous and convenient has now raised
23 legitimate questions of the need of consumer consent
24 and control over the collection, use and sharing of
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1 biometric information. This is even more salient
2 with the potential for large scale breaches of
3 databases containing consumer biometric information.
4 Due to these concerns we have seen states across the
5 country such as Montana, Florida, and even New York
6 State develop legislation to prohibit the collection
7 of biometric data without consumer consent. Consumer
8 protection is at the heart of DCWP's mission and a
9 myriad of laws guide our work toward the fundamental
10 principle that an educated consumer is best
11 positioned to make informed decisions in the
12 marketplace. Naturally, a part of consumer education
13 includes requiring businesses to post conspicuous
14 notices and disclosures. DCWP requires signage
15 related to price posting, refund policies and
16 consumer rights pursuant to various city and state
17 laws depending on the business. To promote
18 compliance DCWP regularly educates individual
19 businesses and trade associations about their legal
20 obligations. Intro 1170 requires commercial
21 establishments defined as "Any premises exercising
22 trade, business, profession, vocation, commercial or
23 charitable activity" across the city to conspicuously
24 post signage alerting consumers that the
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1 establishment is collecting their biometric
2 information. This information could include right
3 now a iris scan, fingerprints, voice prints, hand
4 scan or face geometry. Additionally, these
5 establishments would have to make available online a
6 description of the type of information they are
7 collecting, how long it's been collected for, who
8 they share the information with and the
9 establishment's overall privacy policy governing the
10 collection of this information. DCWP supports the
11 intent of this legislation, but has concerns with
12 enforcement of its provisions as currently drafted.
13 First, the scope of biometric identifier information
14 is unclear. For example, does a security camera
15 capture an individual's face geometry? If so, does
16 it matter whether the footage was "collected" to
17 identify an individual? Absent guidance, the scope
18 of conduct covered by this bill is ambiguous.
19 Second, DCWP's typical enforcement practice with
20 respect to signage requirements is for inspectors to
21 conduct on-site inspections to verify that the
22 signage has been posted, but before issuing the
23 violation, DCWP would need reason to believe that an
24 establishment is collecting, retaining, converting,
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2 sorting or sharing this information. Inspectors in
3 the field will be unable in most circumstances to
4 determine whether a business is capturing biometric
5 information especially if a business is doing so
6 surreptitiously, and DCWP does not have the
7 investigative expertise to assess whether a business
8 is for example collecting retina or iris scans.
9 Third, Intro 1170's definition a commercial
10 establishment appears to implicate nearly every brick
11 and mortar business or premise conducting charitable
12 activity in New York City. Determining how those
13 establishments are collection biometric information,
14 and then conducting it on-site inspection and online
15 audit for each establishment poses extraordinary
16 operational challenges. For the above reasons I've
17 outlined, DCWP supports the intent of this
18 legislation and would like to work with the Council
19 and hear from today's panelist about how best to
20 address these enforcement concerns. As I said
21 earlier, DCWP believes that businesses and consumers
22 alike reap the benefits of a fair and transparent
23 workplace-marketplace. The agency welcomes a frank
24 and thorough discussion about the scope of biometric
25 information collection, its prevalence citywide and

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

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

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

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

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

1 today. My name is Sarah Mallory and I am the
2 Executive Director of Government Affairs with the New
3 York City Department of Housing, Preservation and
4 Development. Thank you for the opportunity to
5 testify on the Keys Act sponsored by Council Member
6 Lander. This bill proposes the modification in the
7 Housing Maintenance and Buildings Codes to clarify
8 that building owners must provide mechanical key to
9 residents and cannot require the use only electronic
10 keyless entry methods. The de Blasio Administration
11 has made protecting tenants a core part of its
12 strategy to confront the affordable housing crisis.
13 The Administration has worked in partnership with the
14 City Council and various branches of government to
15 tackle the issue with a comprehensive, multi-pronged
16 approach. As a city we are focused on keeping people
17 in their homes and neighborhoods as successfully
18 advocating with many members of the Council to close
19 loopholes in rent regulation laws at the state level
20 creating and preserving historic numbers of
21 affordable homes, empowering tenants with more
22 resources, aggressively enforcing city codes and
23 utilizing all of our partnerships to create data
24 driven innovative tools targeted at stopping
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1 harassment before it starts. Physical security is an
2 important part of ensuring that residents still face
3 in their homes. Currently, HPD can and does issue
4 violations for building entrance doors, and
5 individual unit doors without lock sets in rental
6 buildings or those with only electronic entry
7 mechanisms. Electronic keyless entry methods without
8 the option for mechanical keys are concerning for two
9 reasons. One, dangers posed by the being locked out
10 or locked in or not being able to lock the door at
11 all as the energy source for the building becomes
12 unavailable, and two, the potential for
13 electronically tracking the movement of residents. We
14 support maintaining the requirements for manual
15 locking key sets until electronic methods of entry
16 can be proven to not pose safety or privacy concerns,
17 and thank Council Member Lander for his leadership on
18 this issue. Thank you again for the invitation to
19 testify and for this hearing on this bill today. I
20 look forward to answering any questions.

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

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FEMALE SPEAKER: He'll be here.

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

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question—some questions of the Department of

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Buildings. How many buildings have keyless entry

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technologies? Do you know? Are you keeping track of

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that in the city?

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SARAH MALLORY: Sure. So I am with HPD.

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

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

12

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

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sure that we give violations in any instance where we

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see that somebody does not have a mechanical key in

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place.

16

CHAIRPERSON HOLDEN: Okay, do you know

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what it costs to install the keyless entry

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technology?

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SARAH MALLORY: Uh, so we don't actually

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track the private market kind of rates on this, but

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along the way we have heard that they can be

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expensive to replace.

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CHAIRPERSON HOLDEN: And what about in a

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power outage, does a keyless entry work?

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

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

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

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

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

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

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

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

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

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

1
2 CHAIRPERSON HOLDEN: What steps should be
3 taken to protect privacy? I mean do you—do you have
4 any ideas on that?

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

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

1
2 ASSISTANT COMMISSIONER LEVINE: You know,
3 I can only really speak for DOITT so, no, I do not.

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

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

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

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

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

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

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

1
2 to our specific agencies about what our uses are of
3 that technology. Actually, Council Member just to
4 respond to a question that you had addressed to my
5 colleague Robin earlier in terms of what agencies may
6 be collecting biometric information for example I can
7 speak for DCWP in that we collect fingerprinting as
8 well as photographs for a handful of our license
9 categories. That's pursuant to city and state law.
10 Of course, those individuals that are subject to that
11 consent to it, but I did want to just jump in and
12 also answer your question just on behalf of my
13 agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ASSISTANT COMMISSIONER LEVINE: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

5 STEVEN ETTANNANI: Right we were-

6 COUNCIL MEMBER RICHARDS: --who are?

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

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

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

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

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

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

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

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

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

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

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

17 STEVEN ETTANNANI: We have not.

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

20 STEVEN ETTANNANI: We have not.

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

23 STEVEN ETTANNANI: I have not.

24 COUNCIL MEMBER RICHARDS: Okay, okay.

25 Maybe they just don't know who to complain to. So,

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

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

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

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

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

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

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

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

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

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

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COUNCIL MEMBER LANDER: And I mean as

we're--so that I think you're right that it's a

complex conversation and--and moves in different

directions. I wonder internally, you know, is there

and Administration working group on these issues?

It's great to have a hearing. We'll hear from the

tenants. We can keep the conversations going, we

could pass these bills, but, you know, how--how is

that? Is there a, you know, what's the process for

working through, you know, what are challenging

issues, but that we really want to try to make some--

make some quick policy on?

ASSISTANT COMMISSIONER LEVINE: Sure. I

don't want to speak on behalf of all the city

agencies but, you know, each of us do have a Chief

Investment Officer, that Technology Officers who were

working on this in concentration with other folks

across each of the agencies, and again, those central

folks in the Mayor's Office as well. So, it is--I

wouldn't say if I know it's as formal as a working

group, it might be, but I just don't know it today,

but it's definitely ongoing and something that we're

talking about every single day especially when it

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

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

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

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

24 ASSISTANT COMMISSIONER LEVINE: Yes,
25 absolutely.

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

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

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

9 ASSISTANT COMMISSIONER LEVINE: I hear
10 you.

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

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Definitely part of the conversation.

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COUNCIL MEMBER LANDER: But that's

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

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

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York.

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ASSISTANT COMMISSIONER LEVINE: As far as

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

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perfectly that federal and state laws here, but

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definitely something that we're looking at further.

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COUNCIL MEMBER LANDER: And I'm not—this

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is not for the purpose of interrogating

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ASSISTANT COMMISSIONER LEVINE: It sure

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is.

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COUNCIL MEMBER LANDER: It's for the

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purpose of just making sure we understand the

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

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move forward out of this oversight hearing. And then,

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um, facial recognition just adds a whole additional

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

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

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couple of times, facial recognition has been shown to

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be particularly faulty for people of color and makes

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mismatches, you know, but then everyone who comes and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ASSISTANT COMMISSIONER LEVINE: Thank
5 you.

6 SARAH MALLORY: Thank you.

7 STEVEN ETTANNANI: Thank you.

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

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

1 work. Like you're doing this dance. You look at the
2 camera to recognize, and people-and then like also,
3 you know, people just like follow other people in if
4 they-if the cameras don't work, and then other
5 tenants have complained that the cameras at the
6 courtyards are especially problematic because, you
7 know, the sunlight hitting the lenses doesn't cause-
8 doesn't make them work properly, and the guards
9 usually end up like buzzing people in. They don't
10 verify like whether they're tenants or not. People
11 go in and out. Other tenants have mentioned that
12 these cameras don't work late at night so the-there
13 is no security guard in there and they're just stuck
14 waiting or they have to like, you know, walk around
15 that block to get in through the front gates, and-and
16 then at one point when we had meetings with the
17 manager, they mentioned that, you know, they need
18 the-the company to come in like on a weekly basis
19 just to like fix the cameras or to, you know, update
20 the system, and it's like, you know, what at what
21 cause, like what cost? We're in an affordable
22 housing complex. Like why do we need this expensive
23 system, and-and then, you know, I've read many news
24 articles about the facial recognition systems and
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2 they mention how it's biased against people of color,
3 against women. Knickerbocker Village is about 70%
4 Asian. Actually, one of my cousins was able to get
5 into my building and she is not a tenant. So, it
6 matched her with like someone who lives there, and
7 I'm also worried that, you know, like how is this
8 data being used? Like, you know, there's been
9 conversations about that. Like how is it being
10 stored like is management selling the information
11 like, you know, to private investigators? Are they
12 working with NYPD? Are they working with ICE? And
13 management insists that the cameras were installed
14 for safety, but how is it making it safe when people
15 can just follow other people in, and like, you know,
16 I—we just don't understand like what this technology
17 is like Orwellian. So, that's my testimony. Thank
18 you.

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

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

1 we know that this Administration has included
2 loopholes in city privacy law, in Intros 1557 and
3 1588 from 2017 to specifically exempt the NYPD from
4 information sharing restrictions to allow them to
5 share information with the federal government, and
6 with the technology that we're talking about here in
7 the residential setting with facial recognition in
8 homes in our very hallways. They kept telling us why
9 we can't do it, why it's too hard, why it's too much
10 of a challenge. Well, I put to you that if other
11 cities around this country can ban facial
12 recognition, if they can take a stance against the
13 biometric dragnet, if they can have bills that go
14 far-further than what we are considering here today,
15 then there is absolutely no reason why the City of
16 New York cannot take these first steps, and have
17 these modest requirements simply to let New Yorkers
18 know when they're subject to biometric surveillance.
19 I think perhaps most telling of all was the
20 Administration claimed that there hasn't been a
21 single complaint about the use of biometric
22 surveillance in commercial settings. Well, I don't
23 know who they've been talking to, but I get those
24 complaints on a near-daily basis, and I am sure many
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2 of you do, too, and if they have not been getting
3 many complaints, I can tell you part of the reason
4 why is because we don't have the requirement to post
5 the very sort of notice we are demanding here today
6 because many New Yorkers have no idea that simply
7 commuting to the office their face is constantly
8 being recorded, fed into databases, analyzed,
9 scrutinized, recorded indefinitely to be used by who
10 knows who for whatever purpose they want and they
11 have absolutely no right to stop it. We need to
12 enact these reforms, but we also need to go further
13 and that's why I want to close by once again calling
14 on the City Council to move forward with the only
15 bill that would comprehensively reform our own city's
16 data collection, and use of facial recognition and
17 other biometric surveillance, the Post Act. Twenty-
18 eight council members have signed on already, and I
19 urge the Public Safety Committee to give us a hearing
20 and I urge this Council to vote and enact the Post
21 Act into law. Thank you.

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

1 Vanessa Berganzoli. I am member of the Tenants'
2 Association at 240 Broadway in Brooklyn, New York,
3 the place, the building I call home. I have
4 volunteered to attend this meeting and offer
5 testimony out of great concern for potential
6 violations that the electron key fob system poses to
7 the right to privacy. The building where I have
8 lived for almost a decade was sold earlier this year
9 and a little over a month ago, my neighbors and I
10 received a letter from Livingston Management, the
11 management agent for the new owner and landlord of
12 the building indicating their plan to switch over
13 from a traditional key to a fob system. I am
14 providing a copy of their letter as part of my
15 testimony. The owner Via Management asked for
16 invasive information including a photograph of myself
17 as well as the names, permanent addresses and
18 photographs of people in connection with my unit who
19 would be receiving an addition fob to enter the
20 building. I do not see why I should have to supply
21 third-party private information to my landlord in
22 order to gain access to the building for those who
23 need to enter my home. That is a violation of their
24 privacy and forcing me to provide it, I am made
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2 complicit in that violation by the owner and
3 management. The letter from management stated that
4 their reasons for the change from key to fob was an
5 effort to improve quote, excuse me "an effort to
6 improve security in the building, and protect the
7 building and its residents." Meanwhile the owner is
8 currently engaged in proceedings to evict many and
9 eventually possibly all of the residents at 240
10 Broadway, making their claims about the improvements
11 of security simply bogus. It's hard to believe they
12 desire to make the building safe for the very
13 residents they want to evict. A fob itself may seem
14 harmless, but put the fob together with the
15 surveillance cameras that have now been installed in
16 the building, photographs of residents and their
17 guests and with the right technology software, it all
18 turn into a facial recognition system used to track
19 the details of tenants' private-privates life-private
20 life. Why should landlords have access to this level
21 of data on tenants especially under the guise of
22 collecting such information to improve security when
23 in reality this same technology may also be used as a
24 tool to monitor and potentially harass tenants. I
25 was offered no choice. I was offered no information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1

2

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

4

5

CHRISTINA ZHANG: No.

6

CHAIRPERSON HOLDEN: There's no sign?

7

CHRISTINA ZHANG: No.

8

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

9

10

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

11

12

13

14

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

15

16

CHRISTINA ZHANG: Exactly.

17

CHAIRPERSON HOLDEN: Okay.

18

CHRISTINA ZHANG: We had no choice.

19

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

20

21

22

23

24

ALBERT CAHN: Right, exactly. So, if I

25

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

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

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

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

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

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

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

15 ALBERT CAHN: No.

16 CHAIRPERSON HOLDEN: Okay.

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

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

22 ALBERT CAHN: We just got back in--

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

1
2 ALBERT CAHN: --so there hasn't been a
3 power failure, yet but...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ALBERT CAHN: I would say-

25

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

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

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

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

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

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

2 Couldn't the same be said of cameras?

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

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

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

8 ALBERT CAHN: So, we saw--

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

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

13 COUNCIL MEMBER TORRES: Yeah.

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

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

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

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

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

10 ALBERT CAHN: Uh-hm.

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

16 ALBERT CAHN: Of ICE obtaining that?

17 COUNCIL MEMBER TORRES: Yes.

18 ALBERT CAHN: Well, we know--

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

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

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

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

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

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

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

9 COUNCIL MEMBER TORRES: Yes.

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

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

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

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

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

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

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

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

10 FEMALE SPEAKER: [off mic]

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

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

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

21 FABIAN ROGERS: Oh, good.

22 CHAIRPERSON HOLDEN: Thank you.

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

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

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

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

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

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

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

9 CHAIRPERSON HOLDEN: Thank you. Okay.

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

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

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

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

5 CHAIRPERSON HOLDEN: Thank you.

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

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

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

24 CHAIRPERSON HOLDEN: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2 CHAIRPERSON CORNEGY: Yes. So, it's just
3 a—a basic question to the entire panel. I'm not sure
4 whether there's opposition to the technology or
5 opposition to the use of the technology and how it
6 could disproportionately negatively impact
7 communities of color. Because as—as—as part of, you
8 know, a responsibility it is to adapt to and compete
9 globally on a world stage, I'm just wondering if
10 it's—if it's the technology that is obviously scary
11 as we go into the technology or is it the use of the
12 technology in a way that disproportionately negative—
13 could negatively impact in particular communities of
14 color and tenants of color and black women.

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

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

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

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

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

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

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

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

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

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

15 CHAIRPERSON HOLDEN: Council Member
16 Lander.

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

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

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

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

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

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

9 SUMMER CATIGNANI: Thank you.

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

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

1 of this bill that you should preserve with future
2 legislation. First, you avoided the narrow framing
3 of only facial recognition and discussed biometric
4 recognition in general. This is important since the
5 industry often retreats to narrowly excluding facial
6 recognition. While this is among many forms of
7 recognition that we've heard about also, and not even
8 the most reliable, among others are gate recognition,
9 voice recognition, smell recognition or recent patent
10 files was about butt recognition. Second you avoid
11 the framing of markers that immediately are connected
12 to individuals and define the technology around what
13 it's capable of identifying a person. Many times the
14 local company or collector will not know the person,
15 but can collect the markers and then pass it onto
16 other companies, which do the matching without any
17 transparency that it's happening at all. The local
18 organization can confidently say we don't identify
19 individuals all the while passing biometric data to
20 third parties and targeting them or profiling them in
21 other ways. I'm here to request that you pass this
22 legislation, and also pass further legislation that
23 is more aggressive in the following ways: First,
24 that you expand identifying technology to include
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1 consumer products and objects like key fobs that have
2 not been established with local permission on
3 premises. Our personal phones are tracked as we walk
4 down the street with WiFi and Bluetooth technology.
5 RFIDs are embedded in retail items to track during
6 shipping from clothing to children's toys. However,
7 they mostly stay on beyond purchase and can often
8 track your person as you walk around in the public
9 spaces, and people are doing this. There are patents
10 that that have been filed from the '90s onward to do
11 this. Secondly that, that you expand the law to New
12 York City furniture, i.e. Link NYC kiosks. One
13 organization that has committed both sins that I
14 mentioned above is Sidewalk Labs, partners with
15 DOITT. Their current "privacy policy" if you could
16 call it that, excludes facial recognition, but
17 doesn't say they are avoiding any other biometric
18 markers as we walk down the street. As an example,
19 while there are several paragraphs about what they
20 collect for video, and I don't know why they should
21 be collecting any video whatsoever in the first
22 place, but they include audio as ambient noise in the
23 category, which they can share indiscriminately with
24 third-parties and store indefinitely. New Yorkers
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1 should be secure in our public space, and we the
2 people should set the terms for our identity being
3 tracked rather than let the companies write their own
4 loopholes. One last thing I wanted to discuss that
5 the Council has asked some other folks testifying
6 today besides the possible harms that have already
7 been brought about our credit scores, loan approvals,
8 and advertisements for opportunities. These have
9 been used based on, for instance your Facebook
10 friends have changed what loan approvals or credit
11 scores or whatever, and they could just as easily use
12 who I walk down the street with, who visits me in my
13 apartment with, you know, my key fob or somebody
14 else, and we shouldn't wait until, you know, that
15 becomes public. It's probably already happening in
16 some ways. Thank you.

18 CHAIRPERSON HOLDEN: Thank you.

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

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

1 human life in our society. With those promise come
2 perils. Technology itself does not inevitably foster
3 progress. It is simply a tool that can be wielded for
4 many different purposes including harmful ends. The
5 hands in which those tools are held often determines
6 how those harms are felt and who bears the burden—the
7 disproportionate burden of them. Experience tells
8 that the consequences of facial recognition
9 technology clearly outweigh its benefits. That
10 experience is largely informed by an understanding
11 that Black and Latins and poor and working class New
12 Yorkers will inevitably bear all the most extreme
13 burdens if New York City continues to permit the use
14 of facial recognition technologies in the manner
15 contemplated by the proposed legislation. We come to
16 our position for three principal reasons. First, as
17 detailed in the written submission, technologies need
18 to increase surveillance of communities of color,
19 which are already the disproportionate targets of
20 unjustified law enforcement surveillance. Second
21 because of that potential an in many ways inevitable
22 misuse of surveillance tech data. There are already
23 many well documented who are associated with facial
24 recognition technology across the world from the
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1 United States to China including NYPD's documented
2 abuse of facial recognition technology against
3 children over the last four years and China's use of
4 it to engage in racial profiling. One can easily
5 imagine tools such as these or the data that they
6 produce being turned over to the state and federal
7 law enforcement agencies particularly in our current
8 political climate where efforts are undertaken to
9 identify and root out those among us who the
10 government insists do not belong. To really trust HUD
11 and ICE and any other federal government agency in
12 this current legal regime to do what is right and
13 moral and defensible vis-à-vis of this technology or
14 even landlords for that matter. Third, because
15 facial recognition is unique—excuse me. Because
16 facial recognition technologies are broken, there are
17 racial discriminations baked into the algorithms and
18 data sets that drive their operation. The pervasive
19 nature of racism and gender bias in this world means
20 that the raw materials used to build these tools and
21 the technologists to build them simply do not and
22 cannot fully account for race and gender. We are
23 training datasets or missing entire swaths of the
24 population and, therefore, producing faulty results.
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2 The very definition of garbage in and garbage out. In
3 the residential context, the introduction of this
4 technology creates a two-tiered race-based system of
5 egress and access to one's home, a system in which
6 white people encounter few hurdles to accessing their
7 buildings using facial recognition technologies while
8 black or brown people are often left to grapple with
9 the race-based flaw endemic to the technology itself.
10 While it raises concerns and encourage improvements
11 to the design of these technologies, but rather to
12 highlight another way in which facial recognition
13 technologies foster racial inequality and why New
14 York City should ban them. While I support the
15 proposed legislation and respectfully—respectfully
16 submit that while well intended, it's a retail
17 solution to a wholesale problem. We detail our
18 concerns with the proposed provisions in our written
19 testimony so I will not belabor them here. However,
20 the—the basic point is that they all revolve around
21 one simple fact, that the law is insufficient at this
22 point to guard against the abuses that this
23 technology will inevitably foster. Ultimately facial
24 recognition technology is being used to determine who
25 and who does and does not belong. Racial bias is

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

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

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

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

CHAIRPERSON HOLDEN: Thank you.

DANIEL SCHWARTZ: My name is Daniel

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

1 freedoms and exacerbating bias and discrimination.
2 This year San Francisco, Oakland and Summerville,
3 Massachusetts all recognized what you uses threats
4 (sic) and passed bans on government use of face
5 surveillance. As is evidenced, New York City despite
6 its immense population and resources falls far behind
7 in ensuring its public policy meets the threats of
8 surveillance. While these bills are a positive step
9 that this Council recognizes the need for legislation
10 in the face of this new technology, none of them go
11 far enough. First, the NYCLU takes the position of
12 qualified support on Intro 1170. As currently
13 drafted, the legislation defines biometric
14 identifiers narrowly. For example, as drafted the
15 information excluded several biometric identifiers
16 such as scape (sic) and your recognition board of
17 which ae already in use. We urge the Council to
18 define biometric identifiers broadly and in a tech
19 exhaustive (sic) way. Second, the bill should be
20 amended to cover not only situations where the system
21 ties the aggregated data to a particular individual's
22 names, but also to situations where the system
23 profiles an individual student on the mezzanine. We
24 further urge the sponsor to amend the legislation to
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1 include other uses of biometric recognition an
2 analytics that create data on people including gender
3 and age estimation, automatic labeling or
4 classification, a motion recognition and behavior
5 detection. Finally, given the highly sensitive
6 information, additional security duties should be
7 placed on commercial entities operating surveillance
8 systems. Biometric recognition should not be
9 deployed without serious considerations for
10 individuals' private data, and help to safeguard
11 them. The NYCLU opposed Intro 1672 because it would
12 entrench face surveillance and other biometric
13 recognition tools in housing, an area of already
14 highly imbalanced power relationship between tenants
15 and landlords. The imposition of a biometric
16 identification access system conditions entry into
17 one's home, the place where constituents' rights are
18 most robust on the provision of one's most sensitive
19 biological data, and because facial recognition
20 systems are notoriously inaccurate when it comes to
21 women, children and people of color entrenched in
22 biometric identification access system render these
23 groups particularly vulnerable, thus will not only
24 reduce systems, undermine tenants' privacy rights but
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1 these systems also undermine their rights to access
2 housing on equal and non-discriminatory terms. The
3 NYCLU supports Preconsidered Introduction T2019-4579.
4 We are encouraged by the Council Member taking up the
5 issues to protect the privacy rights of tenants in
6 their homes and offer our support for the enactment
7 of the bill. However, despite its good intentions,
8 the bill does not sufficiently protect tenants from
9 all invasive access control technologies.

10 Consequently, this bill should be amended to include
11 the many safeguards described in our written response
12 to Intro 1672 when landlords do choose to impose
13 automatic technologies, and the Council should
14 consider whether particularly invasive biometric
15 technologies are ever appropriate in the housing
16 context. Finally, pass the Public Oversight, Over-
17 surveillance Technology Act or POST Act Intro 487-
18 2018. As we have outlined and as the measures
19 before the committees today recognize, the use of
20 face surveillance and other forms of biometric
21 recognition technology present serious threats to the
22 privacy rights of New Yorkers in their homes and in
23 places of business. Beyond these specific threats,
24 however, if the threat is opposed to the Fourth
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2 Amendment rights of New Yorkers should law
3 enforcement seek access to the vast amounts of data
4 that these technologies generate. Landlords and
5 business owners who deploy biometric recognition
6 technology may inadvertently be creating databases
7 that present enticing targets of the NYPD to access.
8 The POST Act would bring much needed transparency and
9 oversight to the NYPD's use of invasive surveillance
10 technologies, and the ways in which the NYPD amasses
11 and shares surveillance data with out public and
12 private entities. Thank you.

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

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C E R T I F I C A T E

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



Date October 12, 2019