

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON TECHNOLOGY

----- X

January 22, 2020
Start: 10:09 A.M.
Recess: 12:09 P.M.

F1

HELD AT: 250 Broadway - Committee Rm, 16th

B E F O R E:

ROBERT HOLDEN
Chairperson

COUNCIL MEMBERS:

DIANA AYALA
COSTA CONSTANTINIDES
ERIC A. ULRICH
BRAD LANDER
KALMAN YEGER

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

1
2
3
4 Brittny Saunders
5 Deputy Commissioner for Strategic Initiatives
6 New York City Commission on Human Rights

7 Kelly Jin
8 Chief Analytics Officer/Director
9 New York City/ Mayor's Office of Data Analytics

10 Jeff Thamkittikasm
11 Director
12 Mayor's Office of Operations

13 Rashida Richardson
14 Director of Policy Research
15 AI Now Institute

16 Laura Hecht-Felella
17 Legal Fellow
18 Brennan Center for Justice

19 Daniel Schwarz
20 Privacy and Technology Strategist
21 Policy Department of NY Civil Liberties Union

22 Christopher W. Boyle
23 Director of Data Research and Policy
24 New York County Defender Services

25 Lisa Freeman
Director of Special Litigation and Law Reform
The Legal Aid Society of New York

Emmanuel Midy
Community Lead
RadicalExchange[dot]org

Lindsay Greyerbiehl
Civil Rights Intern
Surveillance Technology Oversight Protection

Marc Canellas
Vice Chair
AI Policy Committee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMITTEE ON TECHNOLOGY

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

Tom Speaker
Policy Analyst
Reinvent Albany

Noel Hidalgo
Executive Director
BetaNYC

CHAIRPERSON HOLDEN: Good morning.

Committee of one right here, so far. Good morning.

I'm Council Member Robert Holden, Chair of the Committee on Technology. I would like to welcome you all to our hearing today. We will focus on the use of automated decision systems or ADS as well as a follow up with the ADS Task Force convened by local law 49 of 2018. An increasing number of cities and states are using ADS to process large amounts of data and make decisions. Among them are Los Angeles, Chicago, Washington D.C., including many other states. In 2016 the Michigan Department of Health and Human Services introduced a matching algorithm system that automatically disqualified individuals for food assistance when they were determined by the matching system to have an outstanding felony warrant. More than 19,000 people were improperly matched by this ADS, automatically disqualifying them from food assistance, even though they did not have an outstanding felony warrant. In New York City ADS is making its way to many sectors from criminal justice and education to public safety and beyond being used and predicted and where... occur... analysis, student placement in public schools, and fire risk

1 assessments, among others. ADS often relies on an
2 analysis of large amounts of data to infer
3 correlations. Human intervention in the decision
4 making may vary, and may even completely be
5 eliminated. ADS is a powerful tool that can vastly
6 service the government by interpreting large amounts
7 of data, at times, helping speed up government
8 operations. While it is undeniable that these tools
9 assist city agencies to operate more efficiently, or
10 effectively and offer residents more targeted
11 impactful service, algorithms are not always perfect.
12 There have been particular situations in which
13 algorithms produced wrong and bias outcomes which I
14 mentioned before. In many instances, the impact of a
15 decision on people can be detrimental. Such decisions
16 can be related to access to public benefits,
17 employment, medical treatment, or judicial sentences.
18 In trusting ADS and making or assisting in making
19 such decisions raises both ethical and legal issues.
20 Therefore, without close examination of such a system
21 the benefits of it can be negated by the risks for
22 individuals and result in discrimination and unfair
23 practices to ensure that NYC ADS is fair and ADS, the
24 ADS task force was established. The task force was
25

1
2 tasked to provide recommendations on the development
3 and implementation of a procedure that may be used by
4 the city to determine whether an agency automated
5 decision system disproportionately impacts people.
6 The task force was asked to investigate how ADS makes
7 decisions based on age, race, creed, color, religion,
8 national origin, gender, disability, marital status,
9 partnership status, caregiver status, sexual
10 orientation, alienage, or citizenship status. New
11 York City was the first city in the United States to
12 convene such a task force. After 18 months a task
13 force issued a report. However, not every member of
14 the task force agrees with the process and
15 recommendation. It is also, it's also remained
16 unclear whether the recommendations were based on
17 actual examination of ADS or just hypothetical
18 examples. To ensure a government transparency and
19 accountability the following bills will be considered
20 today. Intro 1806, sponsored by Council Member Peter
21 Koo, would require city agencies to provide
22 information regarding every automated decision system
23 used by the agency during the prior calendar here to
24 the Mayor's Office of Operation. Such information
25 would include what each automated decision system is

1
2 intended to measure or reveal, and a description of
3 the decisions made or based on such system. Intro
4 1447, sponsored by Speaker Corey Johnson, would
5 require the submission of an annual report by the
6 Director of Office of Data Analytics to the Mayor and
7 the Speaker of the City Council, describing data
8 collected and maintained by city agencies. We look
9 forward to establishing a better understanding of ADS
10 and how it is used in New York City. We hope to work
11 together with the administration on, in mitigating
12 any negative impacts on our communities while working
13 on positives and ensuring that we use tools to make
14 government more effective. We also look forward to
15 hearing the valuable testimonies from the
16 administration, field experts, and community
17 advocates. I'm joined here by Councilman Peter Koo.
18 If you want to say something about your, your bill.
19 Thank you.

20 COUNCIL MEMBER KOO: Thank you, Thank you
21 Chair Holden. And thank you Director Jeff and CUNY
22 and Brittney [sic]. Yeah, thank you for coming. Yeah,
23 I'm Peter Koo, the sponsor of the bill 1806. One of
24 the biggest mysteries in city government is how
25 automated decision systems are used to calculate

1
2 algorithms. These systems are used by city
3 governments on a variety of decision making. From
4 school zoning to resource allocations. We need to
5 gain a greater understanding of how these algorithms
6 and equations are being used to affect, to affect
7 resources, my bill, looks to give legislators and the
8 public a better understanding of how the city use
9 these algorithms. Not only do we need a better
10 understanding of how these equations are calculated.
11 But we should make these resources properly available
12 so that there's a full and transparent accounting of
13 how we process our data. With this goal in mind, the
14 mayor's office operations, established the Automatic
15 Decision Systems Task Force. They has issue a report
16 recently that unfortunately, missed the mark of many
17 of the more specific details about ADS. My bill looks
18 to answer very particular questions. We need to know
19 the guidelines for what each agency considers to be
20 ADS. We need reporting on the names of these systems.
21 We need to know what the systems are supposed to
22 reveal, descriptions or how information collected is
23 used. Details on who develop these systems, and their
24 relationships with the city, We need timelines for
25 their operations. Of course, this list can go on

1 [inaudible 10:20] A true understanding of our
2 automated system is a momentous undertaking. And I
3 fully understand the task before us. But you must be
4 an understanding, we are going to take if we are able
5 to gain a clear understanding of how our computers
6 are, are affecting our daily lives. Thank you, Mr.
7 Chair.

8
9 CHAIRPERSON HOLDEN: Thank you
10 Councilmember Koo. I also want to thank my staff of
11 the Committee on technology. We've been working
12 overtime they had two hearings in a row. So I want to
13 thank the Counsel Irene Wachowski [sp?], Policy
14 Analyst Charles Kim, Finance Analyst Florentine Gabor
15 [sp?], and my Chief of Staff Daniel Casina [sp?] in
16 the doorway there, and the Communications Director
17 Ryan Kelly. Also, I want to introduce the first panel
18 and Brittny Saunders from New York City Commission on
19 Human Rights, Jeff Thamkittikasem, sorry Jeff,
20 Mayor's Office of Operation and Kelly Jin from MODA.
21 You want to swear them, okay.

22 COUNSEL: I'd like to ask you to right
23 your right hand. Do you swear or affirm to tell the
24 truth, and only truth, and answer honestly two
25 council member questions? Thank you. You can start.

1
2 JEFF THAMKITTIKASEM: Good afternoon,
3 Chair Holden and members of the Technology Committee.
4 Councilmember Koo. Thank you to all who are in
5 attendance and thank you to the Council staff. My
6 name is Jeff Thamkittikasem, I am the Director of the
7 Mayor's Office of Operations. I was the chair of the
8 Automated Decision Systems Task Force and today I'm
9 joined by former ADS taskforce co-chairs, Kelly Jin,
10 Director of the Mayor's Office of Data Analytics and
11 Chief Analytics Officer for the City of New York, and
12 Brittny Saunders Deputy Commissioner of Strategic
13 Initiatives at the New York City Commission on Human
14 Rights. We thank you for the opportunity to testify
15 today and to answer your questions. Before I speak
16 about our progress since the April 2019 hearing, I
17 just want to quickly recap some of the facts about
18 the task force to give some context. The law that
19 created our task force, local law 49 of 2018,
20 required us to provide the Mayor and Speaker with a
21 series of recommendations related to city agencies
22 use of automated decision systems, with a particular
23 focus on recommending protocols that could help
24 members of the public obtain information about the
25 tools and systems affecting them, and address any

1
2 complaints or of harm or bias connected with such
3 tools or systems, the full list of mandates can be
4 found on the taskforce website, and also in our
5 report, which was submitted to the Mayor and City
6 Council Speaker in November of 2019. To meet local
7 law 49's requirements, the task force led by three
8 co-chairs and consisting of 17 academics, agency
9 officials, activists, tech professionals, and issue
10 advocates met dozens of times between May 2018 and
11 November of 2019, the administration selection of
12 task force members enabled the coming together of
13 diverse and sometimes divergent perspectives, under a
14 very strong belief that the diversity of opinions
15 from within and from outside the city government
16 would ensure a more robust conversation, resulting in
17 a more balanced and realistic set of recommendations.
18 And I'm very proud to say for the task force of that
19 belief contributed to our success. The ADS task force
20 report was submitted to the Mayor and Speaker. It
21 represents 18 months and countless hours of
22 challenging conversations that touched upon critical
23 issues related to transparency, equity, efficiency,
24 and innovation. Many of those conversations we had to
25 leave unresolved as our report attempts to make very

1 clear. Given the overwhelming stature of the
2 questions that we were tasked with answering or
3 either the previously unseen complexities of issues
4 that were revealed through our deliberations. We are
5 very aware that not everyone believes these
6 recommendations went far enough or deep enough. But
7 nevertheless, these recommendations which were
8 developed with overwhelming consensus among the
9 members of the task force are tangible and
10 actionable, they find agreement and ways forward
11 despite differing opinions, and most importantly
12 these recommendations demonstrate a clear path
13 forward, and a call to action to continue the
14 conversation to ensure the establishing of processes
15 and functions that continue to evolve with a rapidly
16 changing topic which you all recognize in your
17 opening remarks. The report organizes our
18 recommendations into three broad functional areas.
19 First, we provide a series of recommendations related
20 to centralizing and increasing resources for city
21 government that could aid and empower agencies in the
22 fair and equitable use and review of algorithms. Then
23 we put forward a number of critical recommendations
24 to create and boost public education around
25

1 algorithms, something we found very often was a point
2 of conversation within our task force, and to create
3 opportunities for the public to be active in the
4 understanding of government use of algorithms.
5

6 Finally, we recommend key tenants for ongoing agency
7 and citywide management of these tools. I want to
8 take a moment to speak in a bit more detail about the
9 content of the task force recommendations and also
10 the responsive actions that have followed since those
11 recommendations were released. Our very first
12 recommendation proposed the centralization of
13 resources and algorithms management practices to
14 better serve city agencies, and to more effectively
15 inform and engage with the public. The mayor acted
16 swiftly on these recommendations issuing executive
17 order 50, which establishes the role of an algorithms
18 management and policy officer AMPO for short who will
19 be named in the near future and will report to me at
20 the Mayor's Office of Operations. This new role is
21 unique in city government, and is intended to help
22 agencies, manage, and to help the public understand
23 the types of algorithmic tools and systems that
24 agencies use to help make decisions. The AMPO will
25 establish governing principles to guide city agencies

1 in their work, design and implement a framework,
2 including criteria to help agencies identify,
3 prioritize, and assess algorithmic tools and systems,
4 develop a robust ongoing public engagement plan, and
5 create and maintain a public facing platform by which
6 people can provide insights on the systems and their
7 use. These tasks were identified by the task force as
8 key areas for future work around algorithms data
9 policy and decision making. Members believed it was
10 this type of work they would need to be adaptable
11 over time as agencies build capacity and
12 technologies. And as methods mature and as
13 technologies advance. Importantly, the Executive
14 Order, order also created two committees that will
15 support the AMPO in their work, a steering committee
16 composed of city officials, will advise the AMPO and
17 me and will contribute insights relevant to their
18 area of expertise, an advisory committee composed of
19 six members of the public will advise on the
20 protocols and best practices with regards to city use
21 of algorithms and decision making, and it will help
22 to channel public engagement into the work of the
23 AMPO. Three of the members and advisory committee
24 will be selected by the mayor, and three will be
25

1 selected by you, the City Council. The existence of
2 these committees and the information, insights, and
3 expertise they will provide will be crucial to
4 ensuring the AMPO's work does not take place in a
5 vacuum and that the public's insight are continuously
6 heard and considered. I'm very excited about the
7 creation of this new role and I'm thrilled to the
8 officer will work within the Mayor's Office of
9 Operations. And we would not have been able to arrive
10 at the task force recommendations, without creating
11 opportunities to engage with communities to discuss
12 these issues. As you know, at last year's hearing, we
13 heard calls from within and outside the task force to
14 better engage with New Yorkers to hear what they had
15 to say about automated decision making. We took that
16 charge very seriously, and I can't stress that
17 enough. We held a series of public forums and
18 roundtables during the spring and summer of 2019. Our
19 two public forums, open to all, were held at New York
20 law school and featured expert commentary from
21 leading voices on the topic, and we feel the
22 questions and comments from the public at those
23 forums. As well, our roundtables, by contrast, were
24 smaller events where we work directly with elected
25

1
2 leaders and other stakeholders to bring together,
3 specific community members for more targeted
4 conversation in each borough. We want to thank
5 Councilmember Koo and his team again for helping us
6 set up the Queen's Library roundtable. It was of
7 great value to us and a great conversation. These two
8 events, these events all were planned with full input
9 from all task force members, and based on the task
10 force member suggestions for speakers and communities
11 to speak to. Although we did not advertise each
12 roundtable on our website, focusing instead on
13 targeting community outreach all task force members
14 were involved, were encouraged to attend, and to
15 share information as appropriate with their networks.
16 As you know from our last meeting in April 2019, one
17 additional thing our members believed was lacking at
18 the time that they needed to perform their work was a
19 clear sense of how specific agency tools, actually
20 worked. To help close that gap and respond to the
21 request of our task force members we as the chairs,
22 set up for agency presentations, at the request of
23 those task force members from DOE, DOT, FDNY, and
24 NYPD. At these presentations, agency representatives
25 walk members through some specific tools, described

1 the purpose, development, and other key pieces of
2 information on those systems that they thought were
3 relevant. Agencies also answered questions from task
4 force members as part of these presentations. When it
5 was first convened, the task force was the first of
6 its kind in the country, and as such began its work
7 in uncharted territory. As you read in the report
8 this projects was not without its challenges, and we
9 want to accept those challenges. Last year, a number
10 of task force members were dissatisfied with the
11 group's progress, and we feel the tough but fair
12 criticisms from you and members of the public who
13 came to testify at the last hearing or spoke at our
14 forums, we took that criticism very seriously. Based
15 on that feedback, the task force is a whole, adopted,
16 and committed to a more robust process for internal
17 planning, and emphasized the public engagement
18 opportunities I spoke of earlier. Most importantly,
19 as a task force, we came better, we became better at
20 listening to and learning from one another. As
21 mentioned earlier, our task force was composed to
22 people in diverse backgrounds, and we did not always
23 agree on every topic, but overwhelmingly our task
24 force members took seriously the difficult work
25

1 assigned to us by the Council carving out time from
2 their busy schedules to think through these
3 challenging issues. In the interest of transparency,
4 we made our disagreements and unresolved issues,
5 quite clear in the report. But our deliberations
6 throughout the summer and fall were invaluable to
7 promote a meaningful exchange of ideas, and a real
8 collective desire, a collective desire to ensure that
9 our group would not waste the opportunity we had
10 before us to create meaningful, realistic, and
11 implementable recommendations for this city. We are
12 aware that our work would set a precedent for these
13 issues for other governments. And while it should not
14 be taken as the final word on this topic, and instead
15 as an important and necessary first step, our report
16 does reflect overwhelming consensus on a set of
17 issues that were more complex than any of us could
18 have anticipated going in. It's our expectation that
19 the soon to be named AMPO will carry forward the work
20 of this task force and will create a robust
21 framework, by which agencies and offices can manage
22 and report on their algorithms, related policies, and
23 decisions. In the coming weeks, we anticipate the
24 appointment to the Advisory Committee, posting new
25

1
2 personal... personnel vacancies for the AMPO support,
3 and holding a series of public information sessions
4 to better acquaint New Yorkers with this new
5 function. We're also looking forward to working with
6 the Council on intro 1806. But as it written, we have
7 concerns. In its current form this proposed
8 legislation would require each agency to produce
9 individual reports based on potentially differing
10 interpretations of automated decision systems, which
11 was a concern we raised in the prior ADS hearing, and
12 a concern raised within the task force member
13 conversation. We believe in Executive Order 50 is the
14 right solution as we embark upon the work ahead. A
15 key goal of EO 50 is to centralize leadership, to
16 manage and advise city agencies on their use of
17 algorithms and other emerging technologies. We aim
18 with the creation of the AMPO role and with support
19 from the two new communities to streamline efforts
20 around this work, strengthen the related best
21 practices city wide, and support agencies and better
22 understanding algorithms and implementing these
23 practices, while also prioritizing the value in the
24 invaluable input of public engagement and
25 accountability. Transparency and public information,

1
2 are central tenants of the AMPO's work, and we
3 support efforts to ensure New Yorkers have the
4 information they need about how city agencies serve
5 them. We welcome the opportunity to work with you to
6 ensure that our shared goals of transparency are best
7 aligned with agency operations and lessons learned
8 from the very diverse conversations that occurred
9 during the ADS Task Force, as we, as we leave behind
10 the process of the ADS task force we're very excited
11 to enter a new era of innovation and accountability
12 in government use of technology. Again, we thank you
13 for the opportunity to testify today and I welcome
14 any questions you may have. Thank you.

15 CHAIRPERSON HOLDEN: Thank you.

16 KELLY JIN: Good Morning Chair Holden and
17 Councilmember Koo. My name is Kelly Gin and I am the
18 Chief Analytics Officer and Chief Open Platform
19 Officer for the City of New York as well as the
20 Director of Mayor's Office of Data Analytics. Thank
21 you for the opportunity to testify today on
22 introduction 1447 of 2019. the Mayor's Office of Data
23 Analytics, also known as MODA, which was established
24 by Executive Order in 2013 and codified in the city
25 charter in 2018 supports city agencies in applying

1
2 strategic analytical thinking to data in order to
3 deliver services more equitably and effectively, and
4 to increase operational transparency. MODA works in
5 close partnership with her colleagues at the
6 Department of Information Technology and
7 Telecommunications, DoITT, to oversee and implement
8 the city's Open Data program, a testament to the
9 potential of government transparency, New York City's
10 Open Data program is the country's largest municipal
11 source of free public data. At over 2000 data sets
12 published by approximately 90 city agencies, offices,
13 and commissions and nearly 120,000 users per month.
14 To support this mission. Each year MODA and DoITT
15 conduct a robust Open Data compliance recruitment
16 training and reporting process where agency Open Data
17 coordinators collaborate with staff within their
18 agencies to identify new data sets, highlight data
19 sets in need of updates or revision, update metadata
20 and data set documentation, and prioritize Open Data
21 work for the next year. Tomorrow, January 23, we will
22 actually be kicking off the year by convening Open
23 Data coordinators to review this year's upcoming key
24 milestones. City agencies, city council advocates,
25 and the public are key partners in continuing to

1
2 advance New York City as a national leader in open
3 data, and our vision for open data for all. Since the
4 passage of the original Open Data law, local law 11
5 of 2012, eight more pieces of legislation have made
6 important contributions to this world class program
7 and its implementation. Thanks to the city council's
8 passage of local law 8 of 2016, which introduced the
9 examination and verification requirement, also known
10 as E&V, MODA carried out further steps to review
11 agency compliance with the existing Open Data law.
12 Through the E&V process we assisted nine agencies
13 over three years, with an internal data set review
14 process with the mission to identify public data
15 sets. The implementation of this law led to, led to
16 the identification of 57 additional data sets for
17 publication on NYC open data. Because of the success
18 of the E&V process in our December 2019 E&V report we
19 committed to adopting elements of the process into
20 our annual Open Data program, and compliance cycle.
21 Through E&V MODA has already seen the benefits of
22 furthering guidance to augment and streamline the
23 identification of data sets. With introduction 1447
24 we appreciate city councils forethinking efforts to
25 update and expand data set identification and

1 cataloging for New York City. The proposed
2 introduction 1447 aligns with open data program's
3 mission to engage New Yorkers through increasing
4 transparency in the information that is produced and
5 used by city government. From an implementation
6 perspective we seek to ensure that introduction 1447
7 does not duplicate or misalign with elements of the
8 existing annual compliance process and incorporates
9 the best practices and lessons learned through the
10 past decade of open data collaboration, and the E&V
11 process. We would like to continue to work with both
12 the council and advocates to build on all of our past
13 efforts and ultimately share a holistic view of New
14 York City's data. We recognize that New York City
15 data sets are as dynamic as New York City itself and
16 are constantly striving to improve the program. I
17 invite Chair Holden and all council members to join
18 us at any event during the city's fourth annual Open
19 Data Week Festival, which we will co-host and
20 partnership with beta NYC from February 28th through
21 March 7th, 2020, get an extra day because the leap
22 year this year, one of the nation's largest public
23 data celebrations. NYC Open Data week 2020 will
24 encompass dozens of events and engage thousands of
25

1
2 New Yorkers. Thank you again for the opportunity to
3 testify today. We look forward to working with
4 council to continue the important work of the Open
5 Data program.

6 CHAIRPERSON HOLDEN: Well thank you for
7 your testimony though it was quite interesting and
8 you were, and I, when we spoke, I think last year,
9 this was a daunting task you guys were facing. We
10 understand though, there was a number of meetings
11 and... But can you just go over some of the risks and
12 benefits of using ADS, Jeff, anybody?

13 JEFF THAMKITTIKASEM: Sure, I, I think
14 that from at least the taskforce perspective there
15 were... You know, as we took a look at kind of what was
16 going on within the city government having a broad
17 conversation. One of the key risks was obviously a
18 lot of efforts around algorithms and other things. We
19 were simply taking existing processes and trying to
20 enable more efficient and effective ways of doing it.
21 So that was using as much data as they could collect
22 and trying to develop rules that were just modeled
23 after everyday transactions that they were already
24 performing by hand. And a lot of the things that we
25 discovered as a taskforce was just kind of the

1
2 inconsistency in the type of capacity and
3 capabilities across all different agencies, a
4 recognition that there weren't any particular
5 guidelines or criteria on how to look at them or how
6 to recognize them, and also kind of this you know
7 awareness that it was all pretty new and moving
8 pretty quickly and a part of the risk is just that a
9 lot of people in New York government are just trying
10 to serve kind of their communities and doing the best
11 they can. Some of them they don't have as much
12 information as they would like. There were a lot of
13 concerns around privacy rules and other kind of
14 security issues about sharing data across different
15 agencies that might help. There's a lot of
16 understanding that there's data that's being
17 collected out in the field by interactions between
18 individuals but it's not always documented in a good
19 way. So there was a kind of a broad mix of kind of
20 risks and kind of concerns people might have because
21 there isn't a lot of that guidance, there isn't a lot
22 of centralized kind of review what that might be,
23 there wasn't a lot of criteria that people could use
24 in a more concrete way, and there's a lot, not a lot
25 of consistent training across different agencies. At

1
2 the same time obviously there are a lot of benefits
3 as people recognized within the conversations about
4 how such things can advance can make sure we can be
5 broader in our reach to do things faster and to
6 enable kind of more processes to occur. And those
7 were all things that the task force were trying to
8 balance within their conversations.

9 CHAIRPERSON HOLDEN: Great. As to the
10 report, who drafted the report?

11 JEFF THAMKITTIKASEM: So the task force
12 members kind of engaged. I want to step back a little
13 bit and just kind of recognize once again something I
14 said within the, my opening testimony. I think that
15 we understand as a taskforce that there were a lot of
16 concerns, up front with the kind of process that we
17 were going through a lot of dissatisfaction about the
18 conversation sometimes people felt that a lot of the
19 conversations were a bit circular because we kept
20 kind of running into the same questions about what
21 does it mean what are the kind of constraints that we
22 have and we took that very seriously and, while at
23 the same time, again, openly accepting that the
24 process was not, was flawed, was not working in the
25 beginning, we focused on redirecting and really

1
2 solidifying the process with the input of the task
3 force members. I say that because ultimately a core
4 value of the task force members all of them was to
5 provide consensus recommendations. They wanted to put
6 out something that they all kind of agreed to. That
7 did not mean that every task force member had to
8 agree with everything. And that was a stated kind of
9 fact within our conversation. We were never going to
10 agree on every piece but we did want to get to
11 consensus. So, as we started to get closer to the end
12 and we started to move towards more concrete
13 recommendations, it was very, it was our process to
14 kind of take what people were saying, documenting
15 down, and provide it back to the task force members
16 to review, there was iteration and review so that
17 everyone can kind of recommend. Ultimately, we took
18 those comments and recommendations and the different
19 versions of those and collapsed them into the task
20 force recommendation. Again, I want to be clear that
21 we were very very particular about trying to have a
22 section that represented the recommendations that
23 were we reached consensus, but also transparent about
24 the areas that which we did not, where we either
25 found that we did not have enough time issues were

1
2 unresolved and we wanted to paint a picture of these
3 are recommendations that the task force kind of
4 recommended through their iteration process, they
5 reviewed the language, they understood and agreed
6 what was going to be put on paper. And also they
7 agreed on the language about areas that where the
8 task force members did not reach consensus, where
9 there were open questions, and where they felt, if we
10 did the work of the initial set of recommendations,
11 you could get to and further the conversation around
12 these other areas.

13 CHAIRPERSON HOLDEN: So it's, it's an
14 ongoing thing... the consensus... Because it says in the
15 report, I believe, there was no consensus was reached
16 among the task force members at one point is that
17 correct or are we just...

18 JEFF THAMKITTIKASEM: Well I... Yeah...

19 KELLY JIN: No, so to clarify...

20 CHAIRPERSON HOLDEN: Yes?

21 KELLY JIN: I mean I think one of the
22 points that's been raised by other folks is that you
23 know they don't believe there was consensus. There
24 was in fact consensus. This was actually something
25 that came out of task force members themselves who

1
2 said we want to present a document that reflects
3 consensus which again to Jeff's point does not mean
4 that everyone agrees on every single point, but it
5 doesn't mean that they did the hard work of not just
6 kind of articulating their preferred perspective, but
7 really digging in together and figuring out where the
8 points of agreement where they can put those forward
9 as kind of a framework for like recommendations for
10 the city. Also just to reinforce kind of Jeff's
11 points around process like we did have a very
12 extensive process of deliberation wherein we took in
13 all the different recommendations and insights that
14 come to us via the community sessions, I'm sorry
15 about that, or via the task force members themselves,
16 or via members of the public, all sorts of sources we
17 put those all in front of the task force members so
18 they all came before us for review. and that was kind
19 of the source matter for the recommendations that we
20 eventually developed. So the content really came out
21 of those conversations amongst the task force
22 members.

23 CHAIRPERSON HOLDEN: So the attendance at
24 these meetings, you had 17, 18 people trying to come
25 up with a solution or a consensus... was that, so

1
2 sometimes these meetings would run on and on? Is that
3 true? How many hours, would they run?

4 JEFF THAMKITTIKASEM: I mean I don't think
5 I have a solid number I think you're absolutely right
6 though. I mean...

7 CHAIRPERSON HOLDEN: Did you ever have
8 like a 12 hour, eight hour meeting or

9 [crosstalk]

10 KELLY JIN: I don't think we had any 12
11 hour meetings...

12 JEFF THAMKITTIKASEM: No, I don't think we
13 got that far...

14 KELLY JIN: No...

15 JEFF THAMKITTIKASEM: I think consensually
16 some of our preps and then into the public forums
17 would last a good four five hours. Internal
18 deliberations would also be kind of three to four
19 hours and you know multiple times a week. So we set
20 up... I mean, look, I think the council and, and the
21 task force members kind of who were on there have
22 diverse careers, and this was all something they were
23 doing on top of their careers. We found time to get
24 them together, obviously, we always preferred in
25 person conversations we relied on email. We relied on

1 conference calls in terms of like how many people
2 would be in a room. I'm not, you know, except for a
3 couple of the kickoffs and some of the ...forums where
4 we have everyone, some of the conversations may have
5 had, you know, eight to 10 people but maybe not the
6 full roster. At the same time, people called in,
7 people provided input on email when they did, and
8 others did not.
9

10 CHAIRPERSON HOLDEN: So was, was that a
11 hurdle in the task force not getting everybody there
12 and then you're kind of spinning your wheels and
13 you're going backwards?

14 KELLY JIN: I wouldn't say...

15 [crosstalk]

16 CHAIRPERSON HOLDEN: ...is there a point
17 where there's too many people on the task force? Is
18 that... would you like to weigh in as an opinion?

19 KELLY JIN: I don't know that I think the
20 number of people on the taskforce was an issue. I
21 think the issue was that these are really challenging
22 questions that we had to grapple with and people came
23 into the room speaking different languages because
24 some of us are folks in government who have expertise
25 on different policy areas. Some of us are folks from,

1
2 you know, advocates from various social justice or
3 racial justice issues, some of us were computer
4 scientists and data scientists. So there was a lot of
5 conversation just to kind of get ourselves on the
6 same page and speak the same language.

7 CHAIRPERSON HOLDEN: Alright, so we know
8 it is reflected in the report that you experienced
9 difficulties, even defining ADS, although ADS is
10 defined in local 49. What is your definition of ADS?
11 This is a basic question and...

12 JEFF THAMKITTIKASEM: Yeah I know.
13 Ultimately we took the definition of the law. We took
14 the definition of the law and then we use that as the
15 basis point to kind of provide recommendations around
16 providing more specific guidance, you know, that
17 might apply to agencies. That's the work of the AMPO
18 is actually to work with the agencies to kind of
19 better delve into particular criteria.

20 CHAIRPERSON HOLDEN: Right but can you,
21 can you just touch upon some of the objections from
22 the task force members in defining ADS, some of the
23 comments that you might have heard?

24 JEFF THAMKITTIKASEM: I mean I think that
25 yeah I think as Brittny kind of recognized...

1
2
3 CHAIRPERSON HOLDEN: I mean, people are
4 coming from different, different areas.

5 JEFF THAMKITTIKASEM: Yeah, and people
6 were coming from different places so some people will
7 kind of like upfront, think about kind of just an
8 Excel file being... or a calculator so we had that you
9 know as the example in our last council hearing,
10 where we mentioned there were some kind of people
11 trying to kind of figure out does it apply as broadly
12 as simply a one time off worksheet that they were
13 using to calculate some formulas or calculator

14 CHAIRPERSON HOLDEN: So is... local law 49
15 does not expressly require the review or examination
16 of ADS, it merely requires recommendations, is that
17 correct?

18 JEFF THAMKITTIKASEM: That's correct.

19 CHAIRPERSON HOLDEN: All right. The
20 examination requirement is implied it is possible to
21 provide, it's impossible to provide a meaningful
22 recommendation without reviewing the subject matter.
23 Did you review any ADS used by New York city
24 agencies.

1
2 JEFF THAMKITTIKASEM: Yeah, I think what
3 we tried to do is as we heard from task force members
4 wanting to kind of get better sense two things we
5 recognized up front that there wasn't a comprehensive
6 kind of place to go to kind of grab rooms and it
7 wasn't kind of practical to do so, so we kind of
8 tried to close the gap by engaging with several of
9 our agency partners to come in and provide
10 presentations and talk about their processes. So, we
11 did in fact have the task force members meet with
12 several agencies review and get presentations and
13 discuss what that meant.

14 CHAIRPERSON HOLDEN: In your interview
15 with tech news, the tech news outlet, The Verge, and
16 in letters to Councilman Peter Koo, former chair of
17 the committee you indicated that you are reviewing
18 examples from DOE and DOT, can you quote some of
19 those are some of the...

20 JEFF THAMKITTIKASEM: I mean I think what
21 we did was we...

22 CHAIRPERSON HOLDEN: ...or can you comment
23 on the process

24 JEFF THAMKITTIKASEM: Yeah, what... you know
25 from a process standpoint what we did was essentially

1
2 we went out to several of the agencies who were
3 either participating in the task force or who were
4 otherwise engaged by providing guidance. We asked for
5 them to kind of provide some examples that they would
6 be able to kind of present to the task force, they
7 would come in, they would have some other people
8 articulate some of the things that they felt were
9 relevant. Again, there was no kind of guiding
10 criteria or guidance, but we just asked them to kind
11 of just give some sense that we could get as a task
12 force a better opportunity to discuss what they felt
13 was relevant what they felt were their challenges. We
14 did that with the DOE, we did that with a DOT, we did
15 that with FDNY. So we brought in several agencies to
16 talk through that.

17 Because remember we were joined by
18 Councilmember Yeger. Councilmember Koo I know you
19 have another committee meeting so do you want to...
20 I'll just... I'm going to come back with some
21 questions.

22 COUNCIL MEMBER KOO: Thank you. Thank you
23 Chair Holden. Do you know what agencies are using at
24 ADS systems, ADS means automated decision making
25

1
2 systems, yeah. Do you know any agencies right now
3 using it?

4 JEFF THAMKITTIKASEM: I think that there
5 are several. I think one of the main goals of the
6 recommendations of the task force is actually to
7 centralize within one, you know body, the AMPO, have
8 the ability to provide better guidance and criteria
9 so that agencies can better and more consistently
10 take a look within their own kind of operations and,
11 and identify which systems are kind of in use and how
12 to better assess them.

13 COUNCIL MEMBER KOO: So did the Mayor's
14 Office of Data Analytics work with the Department of
15 HPD on the poetic preservation initiative system,
16 develop to... definitely identify... buildings.

17 KELLY JIN: Speaking on behalf of the
18 Mayor's Office of Data Analytics not, not
19 particularly familiar with that.

20 COUNCIL MEMBER KOO: Okay. So do you know
21 any agencies that created ADS in house or the..

22 JEFF THAMKITTIKASEM: I think we're aware
23 of it. Several people have, several agencies have
24 developed algorithms, are using it for several
25 systems. I think that one of the key tasks of the

1
2 AMPO is actually to provide better guidelines so
3 we're all talking the same language. I don't think
4 that anyone's denying that several, many, if not all
5 agencies use some algorithms or automated tools to
6 kind of help their in their functions. If anything
7 what we try to do is to provide opportunities for the
8 taskforce members to meet with some of the agencies
9 to talk about them, but also to understand some of
10 the, you know, concerns around not having consistent
11 definitions or consistent criteria to help them guide
12 what a further kind of review could look like.

13 COUNCIL MEMBER KOO: So would you say a
14 majority of agencies utilize ADS by contracting with
15 third parties.

16 JEFF THAMKITTIKASEM: I couldn't speak to
17 that sir. I can, I know that obviously a majority of
18 agencies do use algorithms of some sort, and they use
19 systems to kind of help them in their everyday
20 operations to serve New Yorkers in terms of
21 contracting or in house. I'm not quite sure and I'm
22 not sure, you know, I think that's part of the effort
23 to kind of identify how they.. wherever they think
24 that they may need some outside expertise I think
25 they're looking for it, but I also know that there

1
2 are a lot of capabilities within certain agencies to
3 kind of do their own thing.

4 COUNCIL MEMBER KOO: Thank you. Thank you
5 for your leadership in the...

6 JEFF THAMKITTIKASEM: Thank you. Thank
7 you.

8 CHAIRPERSON HOLDEN: Just to follow up on
9 that. So, some agencies that are using in house ADS..
10 Andrew White spoke about predictive analytics tools
11 used by ACS. And they were created in house. So did
12 you examine that, that particular one? No?

13 JEFF THAMKITTIKASEM: Well I don't think
14 we actually examined any. Andrew was a part of our
15 task force...

16 CHAIRPERSON HOLDEN: Yeah so...

17 JEFF THAMKITTIKASEM: ...he mentioned a
18 couple of things that they were trying...

19 CHAIRPERSON HOLDEN: But you didn't review
20 their their in house creation so that's...

21 JEFF THAMKITTIKASEM: ...we've...

22 CHAIRPERSON HOLDEN: But that's what we're
23 trying to get, you know we're trying to get a lasso
24 around some of these...

1
2 JEFF THAMKITTIKASEM: Oh totally. And I... I
3 guess what I would say is... Obviously several examples
4 were raised. But part of the effort of the task force
5 was to provide recommendations that wouldn't try to
6 stop at any type of point in time kind of
7 examination, but to really build a broader capacity
8 to enable in New York across multiple agencies to do
9 this work going into the future, I think there was a
10 lot of conversation that, yes, there might be
11 agencies who are working on certain algorithms or
12 tools now, but they're going to develop new ones.
13 There are also new technology advancements that are
14 going to happen. We didn't want to stop, add
15 recommendations that said, here are the things you
16 have to do right now but really focus on building a
17 capacity that would ensure, not just one, the ability
18 to kind of provide broader guidelines and consistency
19 across the city, but two, also to build up the
20 capacity to push a culture of reviewing those, and
21 three, to really enable change over time because too
22 static wouldn't help us in this environment at, by
23 any means. All the task force members readily agreed
24 about that.

1
2 CHAIRPERSON HOLDEN: Okay. So, you don't
3 know how, but you don't know what DOE is doing with
4 ADS? Right or, or the Mayor's Office of Criminal
5 Justice... specifically.

6 KELLY JIN: So again, we had a series of...

7 CHAIRPERSON HOLDEN: Well you might, Jeff
8 I... [crosstalk]

9 JEFF THAMKITTIKASEM: I mean I think that,
10 I think there's two parts to that. But I'll give, as
11 an answer, obviously I think that there are all of us
12 who are all working in different parts of government
13 probably have different kind of experiences with
14 different things but from a taskforce we didn't take
15 it as our charge specifically to kind of go into
16 every agency and review because we felt it was more
17 important to kind of build the capacity for how to do
18 it. We were all having discussions for the first six
19 months about just the definition of it so by the time
20 we got to recommendations. We really wanted to focus
21 on what we could do going forward

22 CHAIRPERSON HOLDEN: Right, but there were
23 no recommendations of how certain agencies can use it
24 and use it better, and actually get more information
25

1
2 and and really advanced so, so that, that will come
3 in the next step or in a review or...

4 JEFF THAMKITTIKASEM: Yeah I...

5 CHAIRPERSON HOLDEN: ...with the officer
6 that we're going to create a position for the officer
7 to oversee this?

8 JEFF THAMKITTIKASEM: Yeah I mean I think
9 that...

10 Chair: They will... Do you think they will
11 examine each at each agency or...

12 JEFF THAMKITTIKASEM: If we could break it
13 out I think that... I mean... And to be perfectly honest
14 I think that we focused on an AMPO, and an office
15 with, you know, capacity and capabilities, so that
16 they can start the work of identifying and developing
17 guidelines and criteria, because that was a main
18 tenant of what our conversations were amongst the
19 task force members to have that capacity, not just to
20 kind of jump in there and try to figure things out.
21 Obviously as a part of that their effort is to allow
22 for city agencies to have the guidance criteria to
23 identify which systems are in place, which would be
24 relevant and how to further assess them. That is the
25 goal, but I don't think it was kind of charging it

1
2 and right away start digging through I think it was
3 definitely focused on first building internal
4 capacity consistency across agencies and ensure that
5 they could all do their review and have the AMPO as a
6 body that can support them and guide them.

7 CHAIRPERSON HOLDEN: Yeah just a basic
8 question on the...

9 JEFF THAMKITTIKASEM: Yeah.

10 CHAIRPERSON HOLDEN: ...taskforce because,
11 we probably should know this but were there specific
12 agencies that were invited to join in on the task
13 force city agencies?

14 JEFF THAMKITTIKASEM: Yes.

15 CHAIRPERSON HOLDEN: That you identified?

16 KELLY JIN: So there were several city
17 agencies that participated on the task force,
18 alongside advocates and various faces, and, you know,
19 computer science types data science types so it was
20 you know obviously our agencies DOE, DOT, Mayor's
21 Office of Criminal Justice Coordinator, and ACS, DSS
22 and PD, yeah sorry, It's been a while since I...

23 CHAIRPERSON HOLDEN: I'm sorry the last
24 one?

25 KELLY JIN: PD was the last one.

1
2 CHAIRPERSON HOLDEN: Yeah the Police
3 Department should... yeah that... so there's, there's six
4 then, six agencies that were represented right?

5 KELLY JIN: Yes.

6 CHAIRPERSON HOLDEN: The others invited
7 that...

8 JEFF THAMKITTIKASEM: Aside the... aside
9 from the...

10 KELLY JIN: Yes.

11 JEFF THAMKITTIKASEM: ...three of us.

12 CHAIRPERSON HOLDEN: Alright, okay.

13 JEFF THAMKITTIKASEM: We're in addition to

14 CHAIRPERSON HOLDEN: Alright let... let us
15 just talk about privacy now because that seems to be
16 a concern of many. We understand that the review of
17 some ADS may raise privacy concerns, for example,
18 training data may include personally identifiable
19 information, PII, however local law 49 does not
20 require the review of ADS with personally
21 identifiable information. Also these ADS probably
22 could be reviewed with protective orders. So, in your
23 report the importance of a public education was
24 mentioned. How was that, how did you talk about that
25 in the task force?

1
2 KELLY JIN: You mean like public education
3 efforts... [crosstalk]

4 CHAIRPERSON HOLDEN: Yes, because a lot of
5 people have this fear you know we...

6 KELLY JIN: Yeah...

7 CHAIRPERSON HOLDEN: So that, you have to
8 overcome that. Is there a strategy to overcome that
9 or to get the information out?

10 KELLY JIN: I mean I think that's part of
11 the, the goal of AMPO is to like identify what those
12 conversations need to be by being in kind of
13 communication and contact with members of the
14 community, and I can talk a little bit about how we
15 did that during the task force phase. But I think
16 that's certainly one of the goals is to create a
17 robust public engagement plan that acknowledges some
18 of these, these issues and concerns.

19 CHAIRPERSON HOLDEN: Yeah, because we know
20 when the public doesn't know...

21 JEFF THAMKITTIKASEM: Yeah.

22 CHAIRPERSON HOLDEN: Then the fear goes
23 up...

24 JEFF THAMKITTIKASEM: I think...

1
2 CHAIRPERSON HOLDEN: ...public doesn't have
3 any idea that their, the ADS exists and all of a
4 sudden they find out, and why did something happen..
5 They, so they have more fear obviously they feel like
6 big brothers after them.

7 JEFF THAMKITTIKASEM: You're absolutely
8 right and one of the focuses of the executive order
9 were actually to focus on in three different areas of
10 public engagement. The first obviously was to ensure
11 that one of the responsibilities of the AMPO would be
12 to further public education and engagement. And that
13 comes in two forms. The first is out of the task
14 force we really wanted to make sure that the public
15 was better... better educated. In some of our public
16 forums and small community forums, it was clear
17 people had a lot more questions about what it was,
18 than even kind of its use, you know, just a lot of
19 conversations. And so that public education campaign
20 to say, this might be considered, these are the
21 components, this is how it might be advanced... Those
22 are all part of the recommendation came down the task
23 force. The secondary part is actually then to then
24 engage the public to get better feedback because we
25 know we didn't want to talk about it in a vacuum. We

1
2 already spent some time kind of trying to in the
3 first couple of months where I readily admit the
4 process might have been a little too kind of narrowly
5 focused about internal bubble conversations, and we
6 really wanted to expand that. The other part of it
7 was we created the Advisory Committee, and that
8 advisory committee is supposed to be staffed by both
9 appointees from the council and from there to
10 represent the public to invite further conversations
11 to identify opportunities to go out and talk about
12 these issues and to bring in concerns, especially
13 when there might be some fear and some concern about
14 it, and we don't... You know, people may not want to
15 kind of speak directly and they want to go through
16 these kind of appointees to kind of raise their
17 issues. So, I think that's absolutely right. I want
18 to touch on the other part that you brought up in
19 terms of privacy. One of the big recognitions of the
20 task force and why we were so focused on developing
21 the guidelines, criteria, and policies is because
22 there was a recognition, that privacy kind of
23 implications impact every agency, a bit differently.
24 So it was too hard to have a blanket statement about
25 what privacy would mean. PII when related to kind of

1
2 Human Services, medical services, security, you know,
3 law enforcement, they're all kind of differ slightly.
4 And particularly in terms of sharing data and trying
5 to kind of talk about them in a total didn't work out
6 that way and so we wanted to kind of give that time
7 to kind of develop particular to leverage the fact
8 that the New York already has very strong kind of
9 privacy guidelines, but kind of to develop them and
10 apply them in a more consistent process.

11 CHAIRPERSON HOLDEN: You know the only
12 problem with government is they never get the
13 information out in the right way, or at least often
14 enough to remind people. And that's what we've seen
15 and you know that that's inherent in, in government
16 but just...

17 JEFF THAMKITTIKASEM: Just saw that with
18 the task force.

19 CHAIRPERSON HOLDEN: Yes, we saw it, yeah.
20 And then, and that's... so you... but you do believe that
21 every person affected by ADS should know about it,
22 right?

23 JEFF THAMKITTIKASEM: Yes.

24 CHAIRPERSON HOLDEN: ...certain regard, it
25 should be some kind of information...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JEFF THAMKITTIKASEM: Yes.

CHAIRPERSON HOLDEN: Good. How is it that a person would know they have been affected by an agency's use of an algorithm tool or system? How would that... I mean...

JEFF THAMKITTIKASEM: So I'll break that out into two different parts because I want to give Brittny an opportunity... One of the things that the task force readily recognized is that we wanted to break out two different things. There are decisions that are being made by agencies across New York City that impact New Yorkers. There are already existing structures for how people might challenge or question, those decision makings and we didn't want to create arbitrary processes when things already exist and I'll let Brittny speak a little bit more to that. But secondarily, we certainly understand that beyond individual decisions, algorithms do play a part. And we want to provide guidance and the AMPO is responsible in the executive order 50. they clearly layout that they have to kind of figure out, not just a process by which there's a central place to kind of receive those, but also an ability for them to work with the end to review underlying kind of algorithms

1
2 or systems that might play into those decisions but I
3 do don't want to get too far away and get back to
4 Brittny to kind of talk about the existing structures
5 that already exist.

6 BRITTNY SAUNDERS: Yeah, I was just going
7 to share a little bit about... I think the Commission's
8 interest in this stuff, because you know the
9 Commission has kind of a long standing interest in
10 these questions that dates back to roughly in 2015 so
11 even before my own arrival at the agency so I think
12 we recognize that tools were being marketed for the
13 purpose of assisting in decision making in areas of
14 our jurisdiction and so in order to kind of bolster
15 our own understanding of these issues we began
16 consulting with computer scientists and data
17 scientists and as well as legal experts external to
18 government kind of build our own internal
19 understanding and also help us develop some
20 relationships that ultimately proved useful in the
21 taskforce process. And so what I would say is like we
22 I think, in our view of discrimination it's
23 discrimination, whether it's happening through some
24 sort of paper based process or through the use of an
25

1
2 algorithms. So we definitely encourage folks who were
3 concerned about that, to reach out to us.

4
5 CHAIRPERSON HOLDEN: And it's written in
6 Executive Order 50, well the recommendations of the
7 Steering Committee and Advisory Committee, be
8 available to the public. You know, so you know the,
9 the algorithm... the officer. Will that be available to
10 the public... any, any... you know the... what was it?
11 AMPO, AMPO.

12 JEFF THAMKITTIKASEM: Yeah... shorter.

13 CHAIRPERSON HOLDEN: Yes AMPO. That's
14 better. Yes, would that be that information... You know
15 the recommendations. So again as written in Executive
16 Order 50 will the recommendations of the Steering
17 Committee and Advisory Committee be available to the
18 public? So that's the question.

19 JEFF THAMKITTIKASEM: So I think that
20 there are two parts. One just upfront executive order
21 kind of has a reporting requirement within it so that
22 there can be an annual report out, just one. Two in
23 terms of the conversations I think that their formal
24 recommendations or kind of agreements on things I
25 think those will certainly be kind of public but I

1
2 also believe that the advisor in the Steering
3 Committee will have a role where they're, you know
4 having constant conversations and advising on certain
5 issues that come up as opposed to any formal
6 recommendations. I mostly just to be pretty
7 transparent about I think that the format of it is to
8 be able to kind of have continued internal
9 discussions, some of those may result into the
10 specific recommendations but some of those will just
11 simply be conversations about opportunities to go
12 certain places and talk about certain things in
13 different ways or particular priorities to kind of
14 place but they won't represent any formal
15 recommendation.

16 CHAIRPERSON HOLDEN: All right, we did
17 that already. Yeah, okay. Alright, we talked about
18 intro 1806, we require city agencies provide the
19 mayor's office of operations with information
20 regarding every automated decision system used by the
21 agency during the prior calendar year, including what
22 each automated decision system is intended to measure
23 or reveal and a description of the decisions made or
24 based on ADS the mayor's office of operation would
25 then be required to compile this information and

1
2 report it to the mayor, and the Speaker of the city
3 council every year. And again that, that there's a...
4 Do we know what agencies are using ADS or intend to
5 use it yet? Did you do identify?

6
7 JEFF THAMKITTIKASEM: No sir I think that
8 there...

9 CHAIRPERSON HOLDEN: ...and that, yeah
10 that's the, that's a little bit of a... because we have
11 to know, I mean, don't we, going in?

12 JEFF THAMKITTIKASEM: Yeah, I think that,
13 you know, one of the values of the task force
14 recommendations obviously was transparency, but also
15 to do it in an actual and realistic way. The
16 executive order, very much focuses on providing and
17 building the capacity, the processes, and the
18 guidelines and criteria that were very much discussed
19 by the diverse task force members as things necessary
20 to kind of help agencies to actually do their
21 assessment of what systems are being used or not. So
22 while there is certainly support for kind of the
23 intent, I think there is a lot more focus on trying
24 to build the capacity to do it in a holistic robust
25 way, not just as as a crash course exercise.

1
2 CHAIRPERSON HOLDEN: Okay. Anything else
3 you guys want to add or...

4 BRITTNY SAUNDERS: No, I mean, I think,
5 just to say thank you for having us here and I think
6 we learned quite a bit through the process and
7 excited to continue somewhere.

8 JEFF THAMKITTIKASEM: And I would just
9 say, I mean, one week... As I said in the opening
10 testimony we value the fact that the council kind of
11 raised some really tough question for us it forced us
12 to kind of further down, kind of modify, our process.
13 It was not something that was easy, and, but at the
14 same time at the end, the task force came together
15 and actually put out recommendations that they felt
16 really proud of, I certainly am proud of them. I
17 think that the city should be proud of the fact that
18 there is an opportunity for New York to establish an
19 ongoing process with clear guidelines and criteria
20 that kind of lead to the future and isn't a reactive
21 thing to any one particular issue, which we might see
22 in other municipalities I think the New York is
23 taking a holistic review and process around this as
24 committed to it.

1
2 CHAIRPERSON HOLDEN: I guess we're
3 pioneers in this. Because you guys are the first to
4 do it and New York City is so we thank you for the
5 process and we thank you for your, your efforts and
6 it was very very, it was a complicated ordeal as you
7 described so thank you so much.

8 JEFF THAMKITTIKASEM: Thank you for your
9 support.

10 BRITTNY SAUNDERS: Thanks.

11 CHAIRPERSON HOLDEN: Okay the first... the
12 second panel; Rashida Richardson; AI Now Institute.
13 Laura Hecht-Felella, I'm sorry, it's hard to read
14 this, the Brennan Center. And Daniel Schwarz from the
15 New York Civil Liberties Union. Whoever wants to
16 start. Press the button on the...

17 RASHIDA RICHARDSON: Chairman... ooh, sorry,
18 Chairman Holden, members of the Committee on
19 Technology thank you for the opportunity to speak
20 today. My name is Rashida Richardson and I'm the
21 Director of Policy Research at the AI Now Institute
22 at New York University. AI Now is the first
23 university research institute dedicated to the
24 understanding the social implications of artificial
25 intelligence. Part of my role is researching the

1 increasing use and reliance on data driven
2 technologies including government use of automated
3 decision systems which I'll refer to as ADS, and, and
4 then designing and implementing policy and legal
5 frameworks to address and mitigate problems
6 identified in this research. Nationally state and
7 local governments are increasingly turning to ADS and
8 other data driven processes to aid and supplant human
9 decision making in government procedures in various
10 sensitive social domains. These systems determine
11 where a child will go to school, who will be, who
12 will go to jail before their trial, who will have
13 their food subsidies terminated, how much Medicare
14 benefits the person is entitled to, and who is likely
15 to be a victim of a crime. While these new
16 technologies are often hailed for their time saving
17 and cost cutting and even bias reducing potential of
18 the actual implementation of these technologies
19 demonstrate a very different reality described in
20 detail in my written testimony. These failures have
21 diminished public trust and safety, facilitated
22 discussion, reduce the efficacy of government
23 services, deterred people from government services or
24 benefits they're entitled to, and increased
25

1 government expenditures both from the hidden cost of
2 implementation and subsequent litigation expenses.

3
4 Yet, in spite of these recurring and harmful outcomes
5 government reliance on ADS persists and is likely to
6 drastically increase, particularly in light of policy
7 changes made by the Trump administration that are
8 detailed in my written testimony, and this all
9 demonstrates the need for legislative and regulatory
10 interventions. In November 2019 Mayor de Blasio
11 published the New York City, automated decision
12 systems task force report, which culminated an 18
13 month process that most hoped would result in
14 recommendations on regulatory and policy
15 interventions that the city could implement to
16 address the concerns regarding the city's use of ADS.

17 Yet, after months of no community education and
18 minimal public engagement, we still have no clear
19 understanding of ADS use by city agencies and no
20 clear plan for how New York City could expeditiously
21 and critically address ADS issues. This is why me
22 several other Ad kits, including these people here,
23 researchers and community members published
24 confronting black boxes the shadow report of the New
25 York City automated decision system Task Force. The

1 shadow report not only provides a robust counter
2 narrative to the New York City, automated decision
3 Task Force process, but it includes over 70
4 recommendations with rationales on next steps for a
5 variety of stakeholders in New York City and state,
6 The recommendations range from pre deployment
7 considerations for agencies wishing to acquire or use
8 an ADS, policy and practical changes that can be
9 implemented at an agency level, legislative changes
10 to improve the procurement process, investigatory and
11 oversight actions can be taken by different agency
12 officials, tips for community members and advocates
13 interested in ADS accountability issues. I hope that
14 in addition to considering the legislative proposals
15 before the committee today that the city council will
16 evaluate the policy and interventions proposed in our
17 shadow report and work with other city officials and
18 agencies to implement our recommendations. Due to the
19 brevity of time I cannot cover the entirety of my
20 written testimony, but I would like to end by noting
21 that the full testimony explains why and true 1806 is
22 an important next step in creating greater
23 transparency regarding the city's use of ADS, and
24 that intro 1447 requires several amendments to
25

1
2 effectively create transparency on the role of big
3 data and city agencies. Thank you.

4 CHAIRPERSON HOLDEN: Thank you very much.

5 LAURA HECHT-FELLA: Good morning, members
6 of the Committee on Technology Thank you Chairman
7 Holden for holding this hearing and inviting the
8 front and center to testify. My name is Laura Hecht-
9 Felella. I'm a legal fellow with the Liberty and
10 National Security Program at the Brennan Center for
11 Justice. We are nonpartisan Law and Policy Institute
12 that focuses on promoting government accountability
13 and ensuring that government use of new technologies
14 does not violate fundamental rights. While emerging
15 technologies like automated decision systems, ADS,
16 make it possible for government agencies to work more
17 efficiently they also have the potential to
18 exacerbate inequalities and bias. This is
19 particularly true when it comes to law enforcement,
20 the Brennan Center has advocated for greater
21 oversight of the NYPD surveillance tools including
22 their use of ADS before the New York before the New
23 York City Council and the automated decision systems
24 Task Force. We also contributed to the report
25 published by AI Now in December confronting black

1 boxes. The launch of the ADS Task Force in may 2018
2 position New York City as a leader in the regulation
3 of government use of, eds. Unfortunately, the task
4 force fell short of its mandate. It was unable to
5 produce substantive policy recommendations or
6 meaningfully engage with the public. It also failed
7 to effectively utilize the numerous resources
8 proffered by a coalition of organizations including
9 the Brennan Center. The two bills proposed today
10 Intros 1447 and 1806 are important first steps in
11 remediating some of the taskforce's missed
12 opportunities. Mandating an annual inventory of
13 engines... of agency data and requiring reporting on
14 agency use of ADS are essential. Oversight, as
15 Chairman Holden you spoke earlier, it's impossible
16 without an understanding of what, how, why, and when
17 ADS are being used by city agencies. As the city
18 council engages in efforts to regulate ADS it's
19 important that it does not carve out an exception for
20 the NYPD. Based on the limited public information
21 available we believe the NYPD employs ADS in its use
22 of automated license plate readers facial recognition
23 predictive policing and social media monitoring among
24 others. However, it's likely there are many other ADS
25

1 the public and city council simply do not know about.
2 For example, my organization has difficulty in
3 obtaining basic information about the NYPD's
4 predictive policing model underscores why it's so
5 important for ADS transparency bills to include law
6 enforcement. After three years of Freedom of
7 Information Act litigation we receive heavily
8 redacted documents that does provide key details like
9 what data is inputted into their predictive policing
10 model or how their results are used. By design their
11 systems does not store inputs or outputs, making it
12 difficult to assess the algorithms effectiveness, or
13 potential for bias. ADS have wide ranging
14 consequences when used by law enforcement because
15 they can perpetuate and exacerbate bias and policing
16 practices. An algorithm is only as good as its data
17 and a flawed and racially discriminatory data is
18 being inputted into the NYPD's ADS models. It is
19 likely the resulting outcomes will reinforce and
20 replicate the same prejudices. The recommendations
21 made in confronting black boxes, report are our
22 starting point in addressing these issues. The NYPD
23 should be required to maintain a public updated list
24 of the ADS technology it uses and provide a simple
25

1 description of how each system works. It should
2 conduct a systematic... systemic examination of how
3 different racial and ethnic groups will be affected
4 by each ADS and provide an opportunity for meaningful
5 public feedback. Lastly, the NYPD should not sign
6 vendor contracts that restrict auditing of ADS or
7 prevent public disclosure of basic information
8 regarding how the systems work. In addition, we urge
9 the city council to pass the post act which would
10 require the NYPD disclose basic information about the
11 surveillance tools it uses, and existing safeguards
12 to protect the privacy and civil liberties of New
13 Yorkers. The Post Act is a valuable companion to
14 today's bills because it requires more complete
15 reporting on the NYPD's use of surveillance
16 technologies including ADS. Transparency and
17 oversight are essential features of a strong
18 democracy and the Brennan Center commends the council
19 for addressing these critical and timely issues.
20 Thank you for the opportunity to testify and I'm
21 happy to answer any questions.

22 DANIEL SCHWARZ: My name is Daniel Schwarz
23 I'm testifying on behalf of the New York Civil
24 Liberties Union. We thank the chairman and the
25

1 Council for holding the hearing and for the
2 opportunity to provide testimony today. To date,
3 automated decision systems are mostly deployed
4 lacking any regulation or transparency. Many studies
5 have challenged our opaque, or black box operation
6 and provide evidence of harmful discriminatory sexist
7 and racist outcomes. In our written testimony, we
8 call for urgently needed regulation, transparency,
9 impact assessments and independent audits. We provide
10 examples of cases where only through extensive
11 litigation and subsequent disclosure of the system
12 source code, the inaccuracy was revealed as in a
13 Medicaid ADS and Arkansas, that had failed to assess
14 care needs of patients and remove the service, or
15 here in New York City where an independent review of
16 the source code of a DNA analysis tool raised serious
17 questions about its validity including whether the
18 code may have been intentionally skewed to create
19 more matches. ADS are only as good as their data. If
20 an ADS utilizes false or bias data, its outputs will
21 repeat this pattern and in turn, result in false and
22 bias decision making. Researchers recently discovered
23 that a widely used healthcare algorithm used to
24 identify patients health risks failed to identify
25

1 many black patients making them less likely to be
2 enrolled for medical treatment, and where the systems
3 operate in secret, people may not even realize that
4 they're suffering at the hands of a flawed AI. One
5 ADS in Indiana blocked hundreds of thousands of
6 people from receiving vital support services and
7 left, left them struggling to challenge these
8 decisions. Much of what we know about ADS used in New
9 York City is pieced together from disparate sources
10 such as public records request litigation,
11 procurement data, employee information, and press
12 statements. It is safe to assume that ADS are used by
13 virtually all city agencies. In November 2018 the
14 City joined the City's Coalition for Digital Rights
15 and signed its declaration, which explicitly states,
16 and I quote, everyone should have access to
17 understandable and accurate information about the
18 technological, algorithmic, and artificial
19 intelligence systems that impact their lives, and the
20 ability to question and change unfair bias or
21 discriminatory systems. We urge the council to uphold
22 this promise by enacting legislation that will serve
23 our democratic values and create the regulatory
24 mechanisms necessary to protect against harmful and
25

1
2 discriminatory algorithms. The NYCLU supports into
3 1806 as a first step toward closing the overwhelming
4 information gap around the use of ADS. New Yorkers
5 currently like even the most basic information about
6 what the systems are and how agencies are using them.
7 A disclosure requirement will help the public and
8 policymakers alike understand the current terrain
9 craft better and more targeted oversight mechanisms,
10 aid people in finding help when they feel they're
11 unfairly impacted by decision, and drive public
12 education opportunities. However, the proposed
13 legislation defines ADS very broadly, this over
14 inclusivity could make the disclosure requirement
15 unworkable for agencies to compile and tedious for
16 the public to review, would therefore recommend a
17 very narrow carveout that would exclude certain
18 tools; for example, routine software tools for
19 internal cyber security procedures such as outdated
20 scheduled antivirus and network security or routine
21 software tools for data backups retention and
22 deletion. Without giving the public tools to know
23 that these systems even exist and to provide them
24 with the information needed to assess their
25 usefulness and impact we are in grave danger of

1
2 outsourcing government decision making to ever more
3 opaque tools that could automate bias and strip us of
4 our most fundamental rights. Thank you.

5 CHAIRPERSON HOLDEN: Thank you for your...
6 Thank you for the reports. How many were involved in
7 the shadow report here?

8 RASHIDA RICHARDSON: Around 30 groups and
9 compiling the recommendations, and then we got
10 endorsements from individual and organizational
11 groups.

12 CHAIRPERSON HOLDEN: You heard the
13 administration's testimony about the AMPO, the
14 officer that's going to oversee that, what do you
15 think about that?

16 RASHIDA RICHARDSON: It's a little
17 concerning because it doesn't seem like that officer
18 is given much authority to get access to information
19 and it doesn't seem like a person in that position
20 would be able to make concrete recommendations on
21 guidelines, or even procedures to address a lot of
22 the concerns that we have with ADS without actually
23 knowing the... how these systems are operationalized
24 within agencies. So even with some of the
25 recommendations that we provide in the shadow report

1
2 that's based on empirical research on these uses but
3 they would have to be applied in a manner that's
4 conforming to the way that they're used within city
5 agencies.

6 CHAIRPERSON HOLDEN: So you think an
7 independent office should be created to oversee ADS
8 or the use of ADS?

9 RASHIDA RICHARDSON: I think that would be
10 more beneficial since the executive order would be
11 administrative administration dependent and not the
12 next mayor this office could not exist and then
13 therefore the efforts of the task force and in the
14 city could have to restart again.

15 CHAIRPERSON HOLDEN: So... so I think you
16 all are disappointed that individual agencies weren't
17 examined, and we have no idea, we still have no idea
18 what's going on. Would you say that? Because I'm kind
19 of disappointed in it. Alright.

20 RASHIDA RICHARDSON: Yes. But, can I add
21 one thing? I think part of the disappointment too is
22 that you had participation from agencies that are in
23 the process of either designing and implementing ADS
24 with MOCJ and ACS being two that you mentioned, and
25 there's actual concerns about the design of those ADS

1
2 right now. Like whether the MOCJ new pre-trial risk
3 assessment tool complies with the new bail reform and
4 other concerns and it just seems like a missed
5 opportunity to have not discussed, both the systems
6 and design and those that are currently being used.

7 CHAIRPERSON HOLDEN: Anybody else?

8 DANIEL SCHWARZ: What's also so clear from
9 all these examples that have showcased flawed,
10 discriminatory, or racist ADS that it's so crucial to
11 open it up to public and independent review. And if
12 that is not done, not done properly, and just stays
13 in the hands of one entity we can't believe that its
14 due diligence, its due diligence has been done.

15 LAURA HECHT-FELLA: Yeah, and I think that
16 there's a feeling that there was a lack of progress
17 that was made with the task force and they had a lot
18 of resources and a lot of experts who were part of
19 the discussion process including these agencies and
20 it would have been great if they had been able to
21 dive in a little bit more, and actually look at what
22 algorithms are being used and developed some more
23 resources, moving forward.

24 CHAIRPERSON HOLDEN: But you all agree
25 that there was a lot to do in a task force a, they

1
2 had a tremendous responsibility but a lot of work
3 ahead of them and maybe they could have, you know, go
4 back and like they said it might evolve. But their
5 recommendation was an officer to handling this which
6 that might not be enough, right. Do you all agree
7 that you said you kind of agree on that.

8 LAURA HECHT-FELLA: Yeah and one thing I
9 think that we're also concerned about is that a lot
10 of the responsibilities that were given to the task
11 force are now being transitioned to this officer and
12 it's unclear what resources they're going to have,
13 and what their ability is going to be to tackle a lot
14 of these issues.

15 CHAIRPERSON HOLDEN: Right. Yeah.

16 RASHIDA RICHARDSON: And I'll add I, I've
17 constantly admitted that the scope of the task force
18 was quite large and I think all of us would agree
19 with them that it was a broad and complex issue
20 they're dealing with, but I don't think it was
21 insurmountable as they try to suggest because I think
22 the shadow report our community event we did last
23 month, in Riverside Church shows that you can
24 actually come up with something. We wrote the shadow
25 report within like two months so a shorter timeline

1
2 than the city had. We put together a community event
3 that had over 100, community members present for over
4 five hours.

5 CHAIRPERSON HOLDEN: It was a larger
6 report actually then the administration...

7 RASHIDA RICHARDSON: Yeah.

8 CHAIRPERSON HOLDEN: So it's kind of...

9 RASHIDA RICHARDSON: So I don't think it's
10 fair to say that just because it was a large scope
11 and you're dealing with complex issues that the sort
12 of minimal recommendations and minimal public
13 engagement that came out of that process was
14 sufficient.

15 CHAIRPERSON HOLDEN: Right but sometimes...
16 I mean I, in my experience in life, that if you get
17 17 people. It's a daunting task I'd rather keep any
18 committee smaller. So, but that's another problem
19 you're not including, so it's, you know, you try,
20 you're sometimes stuck between a rock and a hard
21 place on this, but it was it was... again it was a
22 daunting task. I think we had some competent people,
23 but I think we all agree that maybe in examining the
24 agencies how they're using it now and how they're
25 misusing it would, would, would be nice to know I

1 think we have to know this. So, any other. Any other
2 comments or...

3
4 LAURA HECHT-FELLA: I would just like to
5 add... I know I did a lot of, it's a my written
6 testimony, but there, I think there is a lot of
7 urgency on this issue, and especially and I wanted to
8 emphasize the point I made about what's happening on
9 the federal level and that the primary mitigation
10 mechanism we have right now is litigation and many of
11 the cases that you cited and we cited are the result
12 of years of a very expensive and long and litigation.
13 But even in those cases, they're not finding full
14 redress or not seeing the full structural change
15 within agencies and I don't think that approach to
16 both understanding government use of these issues or
17 addressing them is going to be sufficient moving
18 forward. So, I think, in addition to, we need to know
19 what is happening in the city there needs to be more
20 urgency and how we can effectively address these
21 issues because I don't think current administrative
22 challenges which is the primary mechanism of
23 challenging ADS use right now is sufficient and I
24 would point to the case in Brooklyn with that
25 Atlantic Tower resident, where they did a State

1
2 Administrative appeal and DHCR in fact was not really
3 prepared for that challenge and ultimately it
4 resulted in the landlord, taking back the fact that
5 they were going to do modification, but I think that
6 case demonstrates that administrative appeals in our
7 agencies are not very prepared for dealing with these
8 challenges as the chair suggested.

9 CHAIRPERSON HOLDEN: Thank you very much
10 and thank you for the report it was very useful.
11 Somebody yeah you have a question for this panel?

12 COUNCIL MEMBER: Thank you, Mr. Chairman.
13 This this... I have a question for Miss Hecht-Felella.
14 For purposes of devising and implementing automated
15 decision systems, do you believe that the police
16 department is say the functional equivalent of the
17 Sanitation Department or the Buildings Department or
18 the Department of Education or any other departments
19 in the city?

20 LAURA HECHT-FELLA: Are you talking about
21 in the level of complexity of the algorithm..
22 [crosstalk]

23 COUNCIL MEMBER: I'm talking about in the
24 level of make it public what they do and how they do
25 it.

1
2 LAURA HECHT-FELLA: So, if you're
3 addressing concerns about public safety.

4 COUNCIL MEMBER: I'm asking you; do you
5 believe that... well let me rephrase it in another way.
6 You referred to a report that you received that was a
7 heavily redacted document that failed to shed light
8 on a number of key issues. Do you believe that the
9 police department may have a legitimate reason for
10 not putting certain information out in the public
11 domain?

12 LAURA HECHT-FELLA: I think that in
13 certain cases, yes, there could be a legitimate
14 reason for not releasing information. However, and in
15 this situation, we weren't asking for specific
16 information about particular cases or things like
17 that. I think it's important that transparency
18 applies not only to other agencies like DOB or a
19 Department of Sanitation, but also to the NYPD
20 because it has real implications for fundamental
21 rights for New Yorkers for... [crosstalk]

22 COUNCIL MEMBER: Okay. So now that I
23 framed it and now that you've answered that question
24 let me go back to my first question. Do you believe
25 that for purposes of disclosing the methodology that

1
2 by which an agency devises how it designs and
3 implements an automated decision system is the police
4 department the functional equivalent of the
5 sanitation department?

6 LAURA HECHT-FELLA: I don't know if I
7 would say they are functional equivalent, but I do
8 think they should be subjected to the same kind of
9 transparency measures as any other agency.

10 COUNCIL MEMBER: Okay so good. We're in
11 the same place. Let me ask you a different question.
12 Well we're not in the same place in agreement, but at
13 least I finally got the answer, ask you another
14 question. On the last page of your testimony you
15 refer to the Post Act which has 34 sponsors here in
16 the city council. Do you know of anybody in the city
17 council who's an expert on public safety?

18 LAURA HECHT-FELLA: There's a public
19 safety committee and..

20 COUNCIL MEMBER: Do you know of any member
21 of this council who's an expert on public safety
22 who's, who ought to be devising the method by which
23 the police department protect New Yorkers?

24 LAURA HECHT-FELLA: I know that the post
25 act was drafted by Council Member Vanessa Gibson in

1
2 conjunction with other council members and other
3 agencies, and also concerned groups like my own. And
4 I believe that the bill is carefully drafted in a way
5 that will both protect public safety, but also ensure
6 of greater transparency.

7 COUNCIL MEMBER: Do you believe your
8 organization is an expert in public safety?

9 LAURA HECHT-FELLA: I don't know how you
10 would define an expert on public safety...

11 COUNCIL MEMBER: An expert in protecting
12 New Yorkers from danger.

13 LAURA HECHT-FELLA: But I do know that...
14 Well, one thing that we advocate for is to ensure
15 that greater oversight of the NYPD is possible
16 because it's important that it's not a zero sum game
17 between public safety and transparency, they can work
18 hand in hand. Improving transparency improves trust
19 in the NYPD and accountability which are really
20 important.

21 COUNCIL MEMBER: Do you trust the New York
22 City Police Department.

23 LAURA HECHT-FELLA: I don't know how to
24 answer that question.
25

1
2 COUNCIL MEMBER: Okay. I have another
3 question and this will be my last question, Mr.
4 Chairman. Thank you. Your prepared testimony was
5 slightly different than your delivered testimony on
6 page three, I know it looks like I don't pay
7 attention, but I actually do. It, you, in the second
8 paragraph in the middle of the page you refer to if
9 biased historic crime data is being input into this
10 into the NYPD ADS. And in your delivered testimony
11 you refer to flawed and discriminatory historic crime
12 data which may be different sides of the same coin.
13 Do you have any evidence that... you mean... I recognize
14 that you put the word 'if' in front of it so I'm not,
15 not being accusatory here but you have any evidence
16 that biased or flawed, or discriminatory historic
17 crime data is being inputted into the NYPD systems. I
18 recognize that your answer may include the notion
19 that well we haven't seen, so therefore we can't
20 answer but if that's the case that's fine, but do you
21 have any evidence, other than that you haven't seen
22 it so you don't know.

23 LAURA HECHT-FELLA: Well there's I think
24 two things to talk about there. The first is that
25 that paragraph is talking about three years of

1
2 Freedom of Information Act litigation, that my
3 organization was involved in to try to get more
4 information about the NYPD's predictive policing
5 model, and as a result of that litigation after three
6 years, and a federal court order we were able to get
7 very redacted information that didn't provide a lot
8 of information about what inputs or outputs they're
9 using, but I was referring... [crosstalk]

10 COUNCIL MEMBER: Can I ask... can I ask you
11 just... I'm sorry I don't mean to interrupt but could I
12 ask you just on the, on the heavily redacted
13 information that was released following a court
14 order... the heavily redacted information that was
15 released meet the requirements of the order to
16 release information? In other words, is the police
17 department in compliance with the order with respect
18 to releasing information?

19 LAURA HECHT-FELLA: I know that my
20 organization, did not continue to pursue the case,
21 but I'm not 100% comfortable...

22 COUNCIL MEMBER: Was the Police Department
23 found in contempt of court to your knowledge?

24 LAURA HECHT-FELLA: My knowledge they
25 were... Actually I've not reviewed the case enough to...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNCIL MEMBER: Okay.

LAURA HECHT-FELLA: ...feel comfortable talking about that.

COUNCIL MEMBER: You said... you testified that your agency... that your organization stopped pursuing the case after the release of the quote heavily redacted documents, is, can we take from there that your agency, your organization was satisfied with what it received and or determined that as a matter of law it had no further matter with which to pursue in the federal court on that particular case because what the police department had released was sufficient to meet the requirements of the court?

LAURA HECHT-FELLA: Not at all. I don't think that those are fair assumptions to make. I was not personally with my organization at that time, but I imagine after three years of very expensive litigation. I'm sure that had something to do with it. I just also wanted to point out that when I was talking about flawed or bias historic crime data I was an in particular referring to stop and frisk. In which case, there were thousands of New Yorkers who were stopped and frisked and that data that has been

1
2 put into the ADS technology, it has the potential for
3 creating kind of a perpetual cycle where the
4 resulting outcomes, also contains some of those
5 prejudices. And I don't know if Rashida has something
6 she'd like to add as well.

7 RASHIDA RICHARDSON: So I wanted to add,
8 because I actually did research that in this and if
9 you look at my testimony I think on the second page I
10 reference a law review that I wrote and in the law
11 review, you can see a full chart and citations to
12 this. But I looked at New York City data specifically
13 from the Floyd litigation and other documents from
14 DOJ investigations. And we did find that stop and
15 frisk data and other data that shows a racial bias
16 and police practices could have been used in some of
17 the ADS used by the NYPD. The reason I say could have
18 is because we don't have transparency about what is
19 actually used, but what I did review is contracts
20 that NYPD had which specific police predictive
21 policing vendors, including Hunch Lab, that's the
22 contract I saw, but they had three different
23 contracts with three different predictive policing
24 vendors and I looked at the factors and types of data
25 that those types of systems use, and it showed that

1
2 there's a great likelihood that the bias data from
3 Floyd and other litigation that's challenging
4 racially biased practices by the NYPD were used in
5 those systems if we could, and if we had more
6 information about what the NYPD actually used and
7 whether they did it design or implemented any other
8 internal systems, then we would be able to say with
9 greater certainty, whether there is a direct
10 connection between bias data and what's used by the
11 agency.

12 COUNCIL MEMBER: Do you have no concern
13 whatsoever with the information being released to say
14 you versus being provided to the city council. In
15 other words, giving it to you puts it in the public
16 domain, the bad guy gets the information. You put it
17 on your website, the criminal decides they take a
18 look at your website they devise something to work
19 around what the police department has devised.

20 LARUA: So what you're referring to is
21 what's commonly known as gaming and I don't think
22 that's necessarily a concern if you're referring to
23 the disclosure requirements of 1806 or even the Post
24 Act because none of those bills require properly
25 operationalize details and you would need to know

1
2 exactly how the agency was using a specific system in
3 order to gain with specific certainty and you'd also
4 need very advanced computer science skills and other
5 skill sets to try to do that, but based on these
6 laws, I don't think there is a concern if I had that
7 information if the city council had that type of
8 information, because some of the comments that I'm
9 making is just based on doing research of specific
10 ADS, but when you actually look at research around
11 the use of the systems, it varies in great detail
12 when used by different agencies and different people
13 because of the humans interacting with the systems
14 relate to the outcomes there. So no.

15

16 COUNCIL MEMBER: Okay.

17 LAURA HECHT-FELLA: In short.

18 COUNCIL MEMBER: Alright, thank you very
19 much, Mr. Chairman.

20 CHAIRPERSON HOLDEN: Thank you. Thank you
21 for, so much for the panel's testimony and, and the
22 questions that you answered thanks so much. Panel
23 three; Christopher W. Boyle, New York County Defender
24 Services, Lisa Freeman, Legal Aid Society and William

25

1
2 Van Der Mei? Van Der May? Sorry. Is it Willham or
3 Villhem? Willem, okay. Okay whoever wants to start.

4 LISA FREEMAN: Hi, I'm Lisa Freeman I'm
5 from the Legal Aid Society's Juvenile Rights
6 Practice. I'm here on behalf of the entire Legal Aid
7 Society we represent some 300,000 clients in legal
8 matters in New York City every year. Our practice
9 includes our civil practice which represents people
10 in benefits proceedings housing proceedings, medical
11 matters, immigration proceedings. Our juvenile
12 practice represents kids who are, whose parents are
13 charged with abuse and neglect or who are charged as
14 juvenile delinquents. And our criminal practice
15 represents people who are charged with crimes in New
16 York City adult court. So we, our clients face the
17 full wrath of automated decision making, systems in
18 New York City, really. And they are really among the
19 most vulnerable because their freedom and their,
20 their benefits are at issue. I will not read from my
21 testimony. I'll ask you to look at it but I will just
22 summarize it briefly. Essentially we testified in
23 2017 with regard to these matters and laid out a
24 whole host of concerns, and I would again refer you
25 to that testimony to kind of address some of the

1
2 specific areas in which we have seen problems with
3 automated decision making systems, including some of
4 which were mentioned earlier, examples of site, of
5 our, our practice finding unsound as algorithm based
6 DNA, interpretation software being used by the Office
7 of the Chief Medical Examiner, among other things. We
8 are deeply concerned about the use of these systems
9 and about the inability to get the information that
10 we need in order to challenge their use. And we, we
11 support Council Member Koo's proposal to increase
12 reporting. We, we think that transparency however is
13 necessary. We think that's a first good, a first step
14 but we don't think it goes far enough, and we are
15 concerned that, that essentially as more and more
16 technology comes into use including facial
17 recognition software and other, and other
18 technological oversight of the populace that we, that
19 New York City, New Yorkers and particularly members
20 of, of our low income communities are placed at risk.
21 So we call on the city council to increase its
22 oversight and ask that you move forward with even
23 more stringent legislation. Thank you.

24 CHAIRPERSON HOLDEN: Thank you. Thank you
25 very much.

1
2 CHRISTOPHER BOYLE: Good morning council
3 members and Chairperson Holden. Thank you for having
4 us all here today. My name is Christopher Boyle I'm
5 the Director of Data Research and Policy at New York
6 County Defender Services. We're a public defense
7 office that represents New Yorkers in thousands of
8 cases in Manhattan's criminal Supreme Courts every
9 year. I have been in New York City Public Defender
10 for more than 20 years. And we are familiar with the
11 use of some of the automated decision systems and
12 algorithms that some of the city agencies have used.
13 We support the passage of 1447 2019 at a bare
14 minimum, as this law provides, prescribes, the public
15 should know what kind of data is being collected and
16 stored by the city agencies. However, this bill only
17 requires that this information be reported to the
18 mayor and speaker of the Council. We urge that this
19 information be made publicly available on the Mayor's
20 Office of Data Analytics website, or at the very
21 least that the Office of Data Analytics create a
22 process for members of the public to access this
23 information by request. We also urge that the mayor's
24 office of data analytics be required to offer annual
25 recommendations to the council about the future of

1 data analytics in New York City and steps that the
2 council can take to improve public accountability. We
3 also support 1806. We similarly support that passage.
4 In sense that it goes further than 1447 in requiring
5 reporting by city agencies about the automated
6 decision systems, ADS. Primarily this bill defines
7 ADS and thus lays out the parameters what types of
8 ADS agencies would be required to report on. However,
9 we believe that the information that this bill
10 requires reporting on is insufficient to ensure
11 public accountability. For example this criminal
12 justice agency release assessment was developed over
13 the past several years to better provide courts with
14 additional information about an accused persons
15 likelihood to return to court. CJA has released
16 significant underlying information about the
17 algorithm on their website. This is the kind of
18 information that we believe should be released for
19 every ADS used in the criminal legal system, as well
20 as other city agencies, but we believe that even more
21 as needed as we noted, about the validity of a risk
22 assessment instrument, depends on its ability to be
23 validated and replicated by others. Thus we recommend
24 that agencies be required to provide the underlying
25

1 data and algorithms to the office of data analytics
2 so that interested third parties, particularly
3 universities' think tanks, can successfully replicate
4 the validation studies and publish the results to the
5 public, the National Institutes of Health has a good
6 model for this whereby they maintain private health
7 data set but allow that scientists access to the data
8 sets for future research, the Office of Data
9 Analytics should develop a similar process, informed
10 by existing models and medical and scientific
11 research to allow for third party validation and
12 study of city data and algorithms. The data
13 formatting for ADS should also be dictated by the
14 Office of Data Analytics to ensure that researchers
15 can easily use the data. Finally, the council should
16 ban city agencies from contracting with companies to
17 purchase or adopt proprietary algorithms that cannot
18 be reviewed by the public. Willem here from my
19 office, he's a data scientist. He knows a lot and can
20 probably answer some questions on the math side of
21 some of this. I would just add that I do think the
22 most important part of this is that the city not hire
23 agencies that have proprietary interest in the
24 algorithms, as they'll never allow us to see the
25

1
2 underlying math of what they're doing. I don't think
3 that we have to know individual cases such as some of
4 the questions that were asked about the prior people
5 that were up here. But I think it's important to know
6 that the algorithms are doing what they're supposed
7 to do, and that they're being validated by other
8 agencies. Thank you for your time.

9 CHAIRPERSON HOLDEN: Thank you for your
10 testimony and suggestions which are very good Thank
11 you.

12 CHRISTOPHER BOYLE: He doesn't have a
13 statement right now. We're just here for questions.

14 CHAIRPERSON HOLDEN: I really like the,
15 especially on... if there's no review of the software
16 allowed any algorithms that we should... You're right,
17 which is a very very good point. So, you mentioned
18 the individual in your office, we should contact?

19 CHRISTOPHER BOYLE: Williams here.

20 CHAIRPERSON HOLDEN: Okay, Williams, I'm
21 sorry. Sorry.

22 CHRISTOPHER BOYLE: ...can answer some
23 questions on some...

24 CHAIRPERSON HOLDEN: I'm sorry I...
25

1
2 CHRISTOPHER BOYLE: ...of the math... That's
3 okay.

4 CHAIRPERSON HOLDEN: Thank you. So... if we
5 can get your contact information we probably have it
6 already.

7 CHRISTOPHER BOYLE: My contact
8 information's on there. You can contact me and..

9 CHAIRPERSON HOLDEN: Because there, there
10 are some questions that we..

11 CHRISTOPHER BOYLE: Absolutely.

12 CHAIRPERSON HOLDEN: ...may want to..

13 CHRISTOPHER BOYLE: Answer any of them.

14 CHAIRPERSON HOLDEN: ...you know address in
15 future hearings and..

16 CHRISTOPHER BOYLE: Sure.

17 CHAIRPERSON HOLDEN: ...which are very, very
18 important. Do you have any? Thank you. Thank you so
19 much. Very Very good, thank you. Panel for Emmanuel
20 Midy, it looks like, RadicalExchange [dot] org,
21 Lindsay Graviat, Grayaviel? Greyerbiehl? I'm sorry.
22 Representing STOP, Surveillance Technology Oversight
23 Project, and Marc Canellas is from the AI Policy
24 Committee. Whoever wants to start, yes, thanks.

1
2 EMMANUEL MIDY: To the members of the
3 Committee on Technology, thank you for having me. My
4 name is Emmanuel Midy. I am a leader in the Radical
5 Exchange Movement which is a global community of
6 technologists, artists, activists, and academics
7 dedicated to reexamining the basic institutions of
8 capitalism and democracy in order to build a more
9 collaborative society. While this may sound abstract
10 our ideas and research or not. We believe for example
11 that fairly straightforward redesigns of ballots and
12 voting systems will result in a more accurate
13 aggregation of group preferences that redesigned
14 public matching funds systems could revolutionize
15 problems such as participatory budgeting and campaign
16 finance. I'm here however to talk about data. The
17 question of who gets to control and profit from data
18 may tend to turn out to be the single most important
19 battleground in the political economy of the 21st
20 century, and the course we said now could have
21 resounding implications. Others have observed that
22 the introductions, 1446 and 1806, may serve as
23 safeguards against unconstitutional and
24 discriminatory uses of data, or they may force
25 agencies to take inventory of their own practices.

1
2 These are important consequences. But there is
3 another dimension of this analysis that has received
4 less attention today. Specifically, I'm thinking
5 about the possibility for individuals and communities
6 to control and collectively bargain over the
7 downstream uses of their data. Data is an unusual
8 asset that has no exact parallel and economic
9 history, among other peculiarities data is very
10 rarely truly personal and always almost always
11 inextricably interpersonal information about my
12 behavior is also information about my friends
13 behavior. My genetic information also contains
14 information on my family members, its value is
15 extraordinarily opaque, often its value increases
16 with scale because information from different people
17 complement each other forming an exponentially more
18 accurate picture, but it is impossible for ordinary
19 people to know when these increasing return processes
20 are occurring, its uses are unforeseeable, and may be
21 combined with other data to achieve purposes that
22 could not have been imagined... This adds up to a
23 gigantic market failure, which is playing an
24 increasingly important role in the concentration of
25 wealth and the disillusionment of millions of

1 participants in the economy. In order to gain
2 traction on this urgent problem radical exchange
3 Foundation has published a proposal we call the Data
4 Freedom Act, which sketches a regulatory framework
5 that would enable collective bargaining over the
6 value and uses of data through entities. You can
7 think of these as data coops, data trusts, or data
8 unions. Their goal will be to restore balance to a
9 distorted market by consolidating bargaining power
10 concerning the value and uses of data, as I have
11 noted the problem of understanding downstream uses of
12 data and bargaining over them is a matter of enormous
13 complexity, the collective bargaining architecture we
14 envision is likely to be a necessary step towards a
15 fair data economy, but it will not thrive without the
16 support of policymakers, asking data users to
17 credibly articulate and disclose the purpose for
18 which they are using data is a reasonable way of
19 reducing the complexity of the problem. It is a
20 precedent that could well pave the way for a much
21 broader wave of innovation concerning dignified fair
22 and responsible use of data. I thank you for your
23 time it would be delighted to answer your questions
24 or speak to any of you further.
25

1
2 LINDSAY GREYERBIEHL: Good morning, my
3 name is Lindsay Greyerbiehl, and I'm a civil rights
4 legal intern for the Surveillance Technology
5 Oversight Project. Today I'll be reading excerpts of
6 the written testimony being submitted on behalf of
7 technology director, Liz O'Sullivan. Stop fights to
8 end discriminatory surveillance and challenges both
9 individual misconduct and broader systemic failures.
10 I'm here today in support of intro 1806, and greater
11 transparency about automated decision systems in New
12 York City ADS have direct and substantial effects on
13 our lives from our advertisements are displayed on an
14 individual's computer screen, where students are sent
15 to school, to how long judges sentence someone to
16 jail, ADS impact us every day. It is impossible to
17 know if ADS are engaging and discriminatory or
18 deceptive practices, without information about how
19 they make their decisions. Algorithmic transparency
20 is a vital component of avoiding unaccountable bias
21 decisions. Here in New York City, the ADS Task Force
22 did not provide needed recommendations on how to
23 regulate government use of ADS. Transparency about
24 government ADS was instrumental to the task force
25 being able to accomplish their goal. Yet, the mayor's

1 office would not provide a list of current ADS to the
2 task force capping their ability to create meaningful
3 recommendations about ADS regulation. Advances in
4 technology and its growing use continue to outpace
5 the willingness of the government to regulate ADS.
6 ADS opacity undermines public trust. I urge you to
7 question why an agency would not want the public, or
8 even have a morally appointed task force to know what
9 ADS it currently uses. Reporting every ADS used by
10 city agencies is a reasonable ask. Intro 1806 does
11 not require protected information such as its source
12 code to be shared. The impact and outcomes of a
13 decisions cannot be research without algorithms,
14 without algorithmic transparency. Without
15 transparency, we can't assess how ADS usage under
16 real world conditions can introduce or augment bias.
17 Interacting with ADS can alter in unintended [sic]
18 ways how an individual makes a decision through
19 misguided trust of ADS. Advanced technology does not
20 always lead to greater and better outcomes and
21 algorithms may amplify biases, not dismantle them.
22 Examples of ADS errors are both numerous and
23 heartbreaking. Virginia and 28 other states use ADS
24 in sentencing decisions ADS claimed to predict the
25

1
2 future, scoring defendants on their chances of
3 reoffending. It missed the mark. The ADS generated
4 scores that would have made racial and age
5 disparities in sentencing worse. [inaudible 1:43:00]
6 leading some young defendants and black defendants to
7 being sentenced longer than pre ADS sentencing. It
8 wasn't just bad data being input that produced this
9 outcome. It was also how the judges interacted with
10 the score by increasing the sentence based on the ADS
11 suggestion. Chicago Department of Children and Family
12 Services adopted an ADS to determine which children
13 were at high risk of injury or death. It failed
14 miserably overwhelming caseworkers with thousands of
15 high risk children to prioritize yet child deaths
16 continued to happen without ADS prediction. ADS was
17 not predicting any of the worst cases. Instead, it
18 diverted caseworker intention to others falsely
19 deemed the highest risk, how the ADS was coming to
20 its decisions was secret. So caseworkers did not, did
21 not know what would give a child a high risk score.
22 Poor training on how caseworkers should interact and
23 interpret the data was at the crux of the problem.
24 The goal is greater ADS transparency to ensure that
25 bias and discrimination are not amplified by ADS, or

1
2 its users, government agencies should not be allowed
3 to hide behind the fallacy of math washing, where ADS
4 are given a dangerous illusion of objectivity. It is
5 time for government use of ADS to come out of the
6 black box. We need transparency to ensure we have the
7 necessary checks and balances to keep community safe
8 from algorithmic bias. It is critical that we have
9 public oversight of how our city government uses
10 these forms of technology. Today I urge you to pass
11 intro 1806. Thank you.

12 CHAIRPERSON HOLDEN: Thank you.

13 MARC CANELLAS: I think it's... is it still
14 Morning? Good afternoon? Good morning, Chairman
15 Holden, Member Yeger and other members of the
16 Committee on Technology. My name is Marc Canellas and
17 I serve as the vice chair of the Artificial
18 Intelligence and Autonomous Systems Policy Committee
19 of the IEEE; the largest association of technical
20 professionals in the world, with over 419,000 members
21 in 160 countries. I hold a PhD in aerospace
22 engineering from the Georgia Institute of Technology,
23 where my ADS design research was funded by the
24 Department of Defense and the National Science
25 Foundation. I previously served as an IEEE fellow in

1 the US House of Representatives, and I'm now a law
2 student at NYU, and a current intern with the Federal
3 Defenders of New York. The specific conclusions of
4 this testimony are my own, and I apologize, as my
5 written testimony was left at home, but it's on its
6 way. No easy answers. That was the conclusion of the
7 ADS Task Force chairs, when faced with the challenges
8 of governing artificial intelligence and ADS. As an
9 ADS researcher I must respectfully disagree. There
10 are easy answers, answers embedded in numerous
11 ethical governments ethical AI principles and
12 professional design standards. The easy answer is to
13 require good design and ask, does it work. Any
14 designer should be able to answer the following
15 before their ADS has ever deployed. What are its
16 capabilities and limitations, how will it affect
17 users organizations and target populations, and has
18 it been verified and validated. The power of does it
19 work is that it is a factual question, it does not
20 require new knowledge from designers, and it is
21 easily added to the two bills under consideration
22 today, requiring good design will not stop all of the
23 inequitable and accountable and opaque ADS, but it
24 will stop much of the tragic experimentation of
25

1
2 pseudo-scientific techno-solutionist ADS that is used
3 on New Yorkers who need protection the most. Consider
4 the medical examiner's forensic science tool or FST,
5 which was developed here in New York City to assist
6 with DNA identification. While DNA is the standard
7 bearer of forensic the gold standard of forensic
8 evidence FST is the standard bearer of bad design, so
9 much so that the architect of the FBI's DNA database
10 testified that FST was not defensible, and courts
11 have declared that there is no scientific consensus
12 in favor of its legitimacy. Now cases using FST
13 evidence are being reviewed across New York and FST
14 has been abandoned. But this is little consolation to
15 the over 1300 defendants who have their liberties and
16 freedoms taken away by an illegitimate ADS. Compare
17 this to the aviation community where I was trained,
18 where we are deeply aware of the fact that we are
19 responsible for the safety of millions, look no
20 further than the Boeing Max 8 which had two fatal
21 accidents before it's bad design was acknowledged,
22 and the aircraft was grounded. Within a year Boeing
23 CEO was fired, Boeing and the FAA have lost
24 international credibility, and Congress demanded
25 public testimony, not reacting would have been

1
2 unthinkable to our community. But that is exactly
3 what has happened in New York. FST did not work, but
4 it was used and then abandoned without any
5 repercussions or oversight. Perhaps those in power
6 react to massive accidents, because it was easy to
7 imagine that they themselves are victims of an
8 accident. But too many when they learned at the
9 city's numerous ADS do not empathize, they cannot
10 imagine being affected by the criminal justice
11 system, Child Services, or the Housing Authority. But
12 the suffering of those affected here in New York are
13 every bit as real as those who suffered due to the
14 Max 8, and not reacting to the badly designed ADS in
15 this city as just as unthinkable. Thank you for the
16 opportunity to testify and I'm happy to answer any
17 questions.

18 CHAIRPERSON HOLDEN: Thank you. Mr. Midy
19 Do you have a... you say you published a... your
20 organization data freedom act? Do you have a... how do
21 we get a copy of that?

22 MARC CANELLAS: I think I gave one copy, I
23 have an extra one here but, yeah, I have copies that
24 I think I put up front.

25

1
2 CHAIRPERSON HOLDEN: Okay. Did you all
3 read the report from the task force? Did... And any
4 opinions on... I know you mentioned some in your
5 testimony, but any other glaring omissions in there
6 that you found other than what you testified?
7 Anybody?

8 EMMANUAL: I think it's been voiced
9 before. I think transparency, more transparency, I
10 think...

11 CHAIRPERSON HOLDEN: Well that seems to be
12 like the problem that most people find. And that's
13 what's needed in this, in this area. But yes but do
14 you all agree that it was getting 17 to 20 people in
15 a room and at different times is difficult, and under
16 time constraints? But... I said I would have liked some
17 individual agencies examined. Do you all agree with
18 that? That we should have some kind of transparency
19 on the agencies that are using this? Sorry.

20 MARC CANELLAS: If I may, just to do
21 just to deal with the, the factor was... It was
22 discussed that this was a very complex subject and
23 it's very hard to do. I agree that it's complex, but
24 that doesn't mean there's not anything for the task
25 force to do beyond just recommendations or just

1
2 establishing an office. In my written testimony I
3 discuss how in the same two years that this task
4 force existed the Department of Defense established
5 AI principles, The White House just released AI
6 principles, the Council of Europe is responsible for
7 human rights across the you established principles,
8 the Data Ethics Commission of Germany established
9 principles. And it's hard, it's hard for me to see
10 how any more difficult it was for those bodies, than
11 it was for these because they were relying as the
12 chatter report was able to write itself so quickly,
13 was because this has been talked about a lot for many
14 years. And it seems like they could have... the New
15 York City was on the cutting edge, and now it's
16 honestly behind the wheel.

17 CHAIRPERSON HOLDEN: Okay well... So when
18 your testimony comes in, we'll look at that and if
19 there's more to it obviously that we have to discuss...
20 Well we're interested in talking to some more but all
21 of you thank you so much. Thanks for your testimony.
22 This is fifth panel, Tom Speaker Reinvent Albany, and
23 Noah, Noah Hidalgo from Beta NYC. Is there anybody
24 else that would like to sign up or just to... anybody

1
2 else? Okay. Oh, Eric Ulrich, Council Member Ulrich
3 just arrived. Great timing.

4
5 TOM SPEAKER: Okay. Good morning Chair
6 Holden and members of the New York City Council
7 Technology Committee. My name is Tom speaker I'm a
8 Policy Analyst for Reinvent Albany and Reinvent
9 Albany advocates for transparent and accountable
10 government in New York State. We were instrumental in
11 the passage of New York City's 2012 Open Data Law and
12 subsequent amendments. Before testifying on
13 introduction number 1447, Reinvent Albany reiterates
14 its request to this committee to hold a hearing on
15 the 2019 Open Data progress report. The Council
16 Technology Committee has held a hearing annually for
17 years but did not in 2019. Council oversight is
18 critical to ensure a city agency has continued to
19 make progress in identifying and releasing data sets
20 to the public as required under local law 251 of
21 2017. Regarding introduction number 1447 Reinvent
22 Albany supports the intent of this bill to inventory
23 the city agencies' data. However, we believe the bill
24 should be reworked to reflect the experience with
25 agency compliance with the Open Data law and the Open

1 Data examination process. Unfortunately, city
2 agencies have failed in the past to inventory data
3 despite various requirements in state law, the city
4 charter, and the Administrative Code, we believe,
5 another law requiring the creation of agency data
6 directories will be largely ignored. Our take is that
7 the fundamental question here is how do we get
8 agencies to comply. We believe the answer is to
9 expand and accelerate the Open Data examination
10 process, led by MODA, which has already created data
11 directories for nine of the city's biggest agencies.
12 There are several existing laws regarding
13 inventorying of agency data, the city is required to
14 follow. The New York State Freedom of Information Law
15 requires that each agency shall maintain a reasonably
16 detailed current list by subject matter of all
17 records in the possession of the agency, whether or
18 not available under this article, meaning FOIL, it
19 further requires that each agency shall update its
20 subject matter list annually, and the date of the
21 most recent update shall be conspicuously indicated
22 on the list that is to be posted on the agency's
23 website, and the New York State, on the New York
24 State Committee on Open Government's website, the MTA
25

1 is one agency that does provide a comprehensive list
2 of the subject matter of its records. So, under the
3 city charter, the Commission on Public Information
4 and Communication CoPIC is required to annually
5 publish a public data directory of city agency data.
6 However, CoPIC has rarely published a data directory
7 in the last three decades that open data law, it's
8 local law 11 of 2012 required agencies inventory data
9 by 2018, to identify data sets to put it into the
10 city's open data portal. Yet agencies did not meet
11 the deadline despite having six years to do so. Local
12 8 of 2016 required MODA to work with nine agencies
13 over three years to identify data sets for
14 publication and as part of that process develop a
15 list of all public data sets that such mayoral
16 agencies did not make available on the city's open
17 data portal which is effectively a data inventory.
18 Local Law 8 expired but MODA tells us creating a data
19 inventory as part of implementing that law was useful
20 in fulfilling the requirements of local law 251 of
21 2017. Under local law to 51 MODA has worked with
22 agencies to annually identify data sets city agencies
23 possess that they can release in the next year in the
24 city's open data portal. Reinvent Albany therefore
25

1
2 recommends amending the speaker's bill to integrate
3 the expired examination procedure in Local Law 8 into
4 the current process of data publication MODA is
5 implementing with agencies under Local Law 251 of
6 2017. Specifically we recommend the following and
7 I'll try to go through this faster for the second
8 time, require that MODA design a plan for 10 agencies
9 a year to inventory their data. The next one is
10 require MODA execute the plan with a dozen agencies
11 and provide the data inventory to the Mayor's Office
12 the Council Speaker, and the public. MODA has already
13 completed the inventories with nine agencies. Next is
14 prioritize the data inventory of the biggest agencies
15 first. After that is require agencies update their
16 data set, inventory annually after they've been
17 inventory with MODA's help. Require all requested
18 information in the bill, about the data sets in the
19 inventory be shared with the Mayor's Office and
20 Council, including data sets protected from public
21 release because of concerns over cyber security,
22 public safety, or individual privacy. And finally,
23 require disclosure of all agency public data
24 directories in the open data portal exempting
25 datasets shared with the mayor's office and council

1
2 and when the public does not have a legal right to
3 know whether they exist or not. Thank you for the
4 opportunity to testify today.

5 CHAIRPERSON HOLDEN: Thank you. Thank you
6 very much.

7 NOEL HIDALGO: Hello, my name is Nole or
8 Noel. It's a pleasure to be here. I'm the Executive
9 Director of Beta NYC. You do not have my written
10 testimony because I submitted it digitally, so Irene
11 it's in your inbox. It's also on our website Beta
12 [dot]NYC so that's a cheap plug to go to our website
13 and get some data from you. So Happy New Year. We're
14 glad to see the Chairman's enthusiasm for using
15 technology for good. It has been kind of difficult to
16 keep up with all of the hearings that you're having
17 and I love that. But I want to really focus on the
18 aspect of 1447, but before getting to 1447 I want to
19 just specifically amplify the great testimony of
20 other members of the shadow report. The only thing
21 that we have to add as from Beta NYC is that we would
22 love to see 1806 adopt the shadow Task Force
23 definition of ADS. It's very clean and simple. And
24 you should read the shadow report to hear the
25 definition. I will focus now the rest of my testimony

1
2 exclusively on 1447. We echo, many of the concerns
3 and statements that Reinvent Albany has stated, we've
4 been longtime allies, since the Open Data law was
5 passed. Fundamentally, we think that this bill's
6 framework needs to align with existing MODA reporting
7 requirements. First and foremost, you haven't had an
8 open data hearing, we would love to have an open data
9 hearing, it's really important that council brings
10 MODA in front, and essentially asks them. So we would
11 like to have this particular bill, essentially fall
12 in line with that same reporting requirement, date,
13 which is towards September, if I'm not mistaken. The
14 other concern that we have is around scaling of this
15 particular bill. The way that it's currently written
16 is pretty much you have all mayoral agencies have to
17 respond according to the deadline, and we feel that
18 that actually creates some difficulty through the
19 experience of the E&V process, the examinations
20 verifications. There was actually a learning process
21 that MODA went through, and we would love to see how
22 since this is going to be going deeper into every
23 single agency, how is it scaled in such a way,
24 echoing Reinvent Albany's statement around starting
25 off with 10 agencies, figuring out how to go deeper,

1 and then applying that practice universally. Thank
2 goodness we have such a great agency called NYC
3 Emergency Management which already does continuity of
4 operations planning. So they already have a list of
5 technology systems that need to be duplicated in two
6 different locations and seeing how those are the most
7 important data systems and technology systems that
8 our city has maybe we should start off with that
9 particular list. Our friends in John Hopkins at GovX
10 Labs, also has a very clear, kind of outline on how
11 to marry data inventories with priorities and goals.
12 The biggest concern in... well, outside of figuring out
13 how to strategically set up the this revamped E&V
14 process is fundamentally around accountability. We
15 have had a great relationship with MODA, but we have
16 been in this room, several times where MODA is
17 essentially bearing the brunt of responding for
18 mayoral agencies and poor leadership at several
19 agencies. As part of the examination, the most recent
20 examination and verifications report the Department
21 of Transportation indicated that it would post an
22 additional 85 data sets on or before the 31st of
23 December 2019, and as of yesterday only 45% of those
24 data sets so 39 data sets were actually posted. So
25

1 that means over a majority of do to data sets that
2 they say that they were going to post. We're not on
3 the open data portal, and they're one of the most
4 data focused department agencies. They're also one of
5 the few agencies that has openly thrown open their
6 doors and said, Hey, open data community tell us what
7 data you want us to publish. And if we have it and if
8 we can sanitize it will publish it. So, we would
9 really love for this bill to give a framework to
10 actually pull agency leaders into this room so that
11 way you can hold them accountable. The second part
12 around accountability is or essentially around
13 reviving the city's data directory, 27 years since
14 its first publication, none of the open data and open
15 government bills that have passed by city council
16 ever gets us to where we were in 1993. And what was
17 interesting in the 1993 data directory is that we had
18 agency contact information. Public Liaison contact
19 information, agency mission statement, and then we
20 also have something that's very unique, which is
21 essentially an application name, a year that that
22 application was started, an application description,
23 and then the database contents. This bill, this piece
24 of legislation that is essentially let.. and sat
25

1
2 dormant in our city charter needs to be revived and I
3 think that this particular piece of legislation is
4 the best way to get there. It will fundamentally get
5 us to the point where we can hold agencies
6 accountable based upon what technology systems they
7 have the data that is underlying all of those
8 different systems. And this bill, these two bills,
9 only take care of... well they're two of three bills
10 that should be discussed. The third bill is
11 fundamentally around transparency of code, software
12 code, we don't have at this time period of clear
13 understanding of what is the software in, or that our
14 city produces. So if we say in code we trust, we
15 should be able to see what that code looks like, and
16 whether it's long, or our software or algorithms we
17 fundamentally need to have digital government
18 transparency. And I think that this particular bill
19 can help us get there.

20 CHAIRPERSON HOLDEN: Well, thank you,
21 thank you both for your suggestions. They're going to
22 be very valuable. I just want to know... I just want to
23 say that we are scheduling an open data hearing.
24 You'll be... we just put in a request so we hope to get
25 in the next couple of hearings that we will have will

1
2 be one, at least one will be on the open data and
3 Reinvent Albany at this time I want to thank you for
4 some suggestions here that we're going to bring back
5 to the bill sponsors, which are, I think, definite
6 improvements, so I just want to thank you again for
7 the testimony. Anything else? Or... Okay, Thanks so
8 much. Anybody? Anybody else? Nobody else, no other
9 speakers? And no other panel? We're adjourned. Thank
10 you.

11 [gavel

12 CHAIRPERSON HOLDEN: Ope, sorry, okay
13 alright. Thank you. Hearing's closed.

14

15

16

17

18

19

20

21

22

23

24

25

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 January 31, 2020