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June 5, 2020

Boston City Council

**Testimony in Support of**

**Ordinance Banning Facial Recognition Technology in Boston**

Dear City Councilors,

As a recent graduate of Northeastern University School of Law with a concentration in Data Privacy and as a Certified Information Privacy Professional in Europe, I am writing in strong support of the ordinance banning facial recognition technology in Boston presented by Councilors Wu and Arroyo.

If we’ve learned anything as a country these past two weeks, it’s that our African American community is suffering at the hands of systemic racism. While I can never understand the pain and suffering these individuals have experienced, I believe that it is responsibility to use the privilege and education that I have to advocate and protect these individuals’ rights. As they currently exist, these facial recognition technologies are biased and only serve to perpetuate discrimination. Facial recognition systems have a significant error rate when detecting African Americans, and have the hardest time identifying black women. With such significant rates of error, it would be irresponsible to allow the police to rely or even use such information. Even with human oversight these systems are still too dangerous to employ, as research has shown that humans are prone to place far too much trust in machines to mitigate any machine bias.

The privacy concerns of facial recognition extend beyond systemic racism, as it also poses severe threats to individuals’ constitutionally protected rights of freedom of speech and freedom of expression. The intrusive nature of police action that causes an individual’s face to be perpetually surveilled raises distinct privacy concerns. Unregulated government use of facial recognition technology poses, in effect, a trespass and even further, stalking—an individual cannot go anywhere in society without being seen. There is no privacy. From the moment an individual walks out the door to their house to the moment they get to work to the moment they go back home after a long day, they are watched. As the Supreme Judicial Court of Massachusetts put it in the 2019 decision, *Commonwealth v. Almonor*, “This extraordinarily powerful surveillance tool finds no analog in the traditional surveillance methods of law enforcement and therefore grants police unfettered access ‘to a category of information otherwise unknowable.’” Further, whenever the police obtain an individual’s real-time location via a video surveillance system, regardless of whatever they do to track one particular individual or the public at large, they invade an individual’s subjective expectation of privacy. The government’s ability to compel an individual to reveal their location is generated as a direct result of the government’s unregulated use of facial recognition technology.

Critically, this year alone, we have seen many offensive intrusions of facial recognition technology. For example, we started the year off in January with the *New York Times* piece on Clearview AI, a facial recognition company that scraped social media websites, against those websites’ terms and conditions, and have been employed by many of our nations police departments to find and target individuals. Currently, we have been seeing how facial recognition can be used to stifle individual freedom of speech in the protests for Black Lives Matter and George Floyd.

I hope that the City Council does not take this decision lightly, and understands the real threat that facial recognition poses to citizens of Boston. I encourage you to press pause on the use of face surveillance by government entities in the City of Boston by supporting and passing this crucial ban. We cannot allow Boston to adopt authoritarian, unregulated, biased surveillance technology.

Thank you for your attention and consideration.

Sincerely,

Christie Dougherty, CIPP/E, J.D.