



MEMORANDUM OF SUPPORT

Date: November 17, 2025

To: All Assembly Members, New York State Assembly; All Senators, New York State Senate; Governor Kathy Hochul

From: The Center on Race, Inequality, and the Law at NYU School of Law

Re: Memorandum in Support of Residential Facial Recognition Ban (S.8223 Kavanaugh/A.6363 Walker)

The Center on Race, Inequality, and the Law at NYU School of Law supports the Residential Facial Recognition Ban (S.8223/A.6363) and urges the legislature to pass, and the Governor to sign, this bill.

The Center on Race, Inequality, and the Law at NYU School of Law confronts the laws, policies, and practices that lead to the oppression and marginalization of people of color. We believe that the racism that permeates our present day legal system has deep roots. By documenting the history of racism in America, elevating the stories of those affected by race-based inequality, and vigorously applying a racial lens to analyze unremitting disparities, we identify actionable, forward-looking solutions to address the injustices caused by racism and then take action. This bill is a critical piece of legislation needed to address the threat of discriminatory surveillance resulting in the infringement of residents' data privacy and housing security.

The Center on Race, Inequality, and the Law uses research, advocacy, litigation, and public education to advance racial and social justice for all. In keeping with this mission, we emphatically support the Residential Facial Recognition Ban (S.8223/A.6363). Because of its documented biases and its replication of historically flawed police practices, facial recognition is not suitable for residential use.

Facial recognition should never have a place in our homes. The technology opens tenants and their guests to harassment and discriminatory eviction or exclusion, and it violates their sense of privacy and autonomy in what is supposed to be an intimate refuge. Facial recognition systems also discriminate against BIPOC, Muslim, immigrant, and LGBTQ+ New Yorkers. Facial recognition systems are up to 100-times more error prone when attempting to identify young Black women compared to middle-aged white males.¹ Facial recognition also primarily functions by assigning each

¹ Mei Wang and Weihong Deng, *Deep Face Recognition: A Survey*, 215 *Neurocomputing* 429 (March 14, 2021), <https://doi.org/10.1016/j.neucom.2020.10.081>; National Institute of Standards and Technology, *NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software* (2019), <https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software>; Joy Buolamwini and Timnit Gebru, *Gender Shades: Intersectional*

face it scans as either male or female, rendering transgender and non-binary individuals invisible to the algorithm and at increased risk of misidentification and exclusion.²

The racial bias of facial recognition will inevitably impede residents from accessing their homes, locking them out due to mismatches. In one case, residents of an apartment complex in New York City regularly reported being unable to enter their homes because the facial recognition system did not recognize them — a problem that was further compounded by everyday conditions such as rainy or sunny days that reduced the already limited efficacy of the system.³ Without legal intervention, collection of biometric data can be forced upon not just all residents, but any guests they have over as well, with Black, brown, Asian, and gender non-conforming guests barred from visiting their friends due to facial recognition mismatches. This may also have the effect of isolating tenants with disabilities from people in their support systems who are likely to be misidentified or may not want to be subject to facial recognition.

The use of facial recognition systems may also put residents in danger by eliciting unwarranted law enforcement intrusion. Unsettling apartment-police surveillance partnerships are already in place and are likely to be even more intrusive and disproportionately target marginalized communities with added facial recognition technology.⁴ This legislation would help ensure that landlords and property managers do not become “one of the arms of the police department.”⁵ Additionally, as the Department of Homeland Security continues to rely on surveillance technologies to target immigrant communities, immigrants live in fear not just while in public, but even in their own homes.⁶ In New York City, landlords have already been accused of sharing tenants’ most sensitive information — phone numbers, photos, and even Social Security numbers — with immigration officials.⁷ Once facial

Accuracy Disparities in Commercial Gender Classification, 81 Proceedings in Machine Learning Research 1, Conference on Fairness, Accountability and Transparency (2018),
<https://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf>.

² Rachel Mentz, *AI Software Defines People as Male or Female. That’s a Problem*, CNN BUSINESS, Nov. 21, 2019,
<https://www.cnn.com/2019/11/21/tech/ai-gender-recognition-problem/index.html>.

³ Elizabeth Kim, *‘We’re Like Guinea Pigs’: How An Affordable Lower East Side Complex Got Facial Recognition*, GOTHAMIST, Sep. 8, 2019, <https://gothamist.com/news/were-guinea-pigs-how-affordable-lower-east-side-complex-got-facial-recognition>.

⁴ Amy Harmon, *As Cameras Track Detroit’s Residents, a Debate Ensues Over Racial Bias*, N.Y. TIMES, Jul. 8, 2019,
<https://www.nytimes.com/2019/07/08/us/detroit-facial-recognition-cameras.html>; Douglas MacMillan, *Eyes on the Poor: Cameras, Facial Recognition Watch Over Public Housing*, WASHINGTON POST, May 16, 2023,
<https://www.washingtonpost.com/business/2023/05/16/surveillance-cameras-public-housing/>.

⁵ MacMillan, *supra* note 4.

⁶ *American Dragnet: Data-Driven Deportation in the 21st Century*, GEORGETOWN LAW CENTER ON PRIVACY & TECHNOLOGY May 10, 2022, <https://americandragnet.org/>; Luis Ferré-Sadurní, *An Immigrant Neighborhood Where Trump Made Inroads Now Fears ICE Raids*, N.Y. TIMES, Mar. 2, 2025, <https://www.nytimes.com/2025/03/02/nyregion/ice-raids-fears-corona-nyc-immigrants.html>; Miriam Jordan et. al, *Immigrant Communities in Hiding: ‘People Think ICE Is Everywhere’*, N.Y. TIMES, Jan. 30, 2025, <https://www.nytimes.com/2025/01/30/us/immigrant-communities-hiding-ice.html>.

⁷ Lauren Cook, *Queens Landlord Gave Tenant Information to ICE After Discrimination Complaint, Commission Says*, N.Y. DAILY NEWS, July 19, 2017, <https://www.amny.com/news/queens-landlord-gave-tenant-information-to-ice-after-discrimination-complaint-commission-says-1.13810387>.

recognition systems collect data in residential settings, it is only a matter of time before that data could end up in the hands of immigration officers. To protect immigrant communities in our state, we cannot let landlords have access to tenants' biometric data.

Landlords will abuse this technology to justify evicting tenants from rent-stabilized units for inconsequential behavior such as not being home enough.⁸ In fact, vendors already proudly advertise this technology for such purposes.⁹ In public housing, its use has led to residents being evicted for trivial violations of building policy. One single mother was targeted after she started night classes and asked her ex-husband to spend more time at her home watching their children, causing her to be flagged for potentially violating the housing authority's visitor policy.¹⁰ Others were evicted for spitting in a hallway and removing a cart from a communal laundry room.¹¹

Compounding these harms, facial recognition entrance systems provide no major benefits and are substantially less secure than traditional security systems such as keys. Because facial recognition systems are inaccurate, in order to decrease the likelihood that an authorized user is locked out, unauthorized users are often deemed "matches" and granted access inappropriately, especially when the unauthorized user is related to an authorized user.¹² Many tenants have very good reason not to want certain relatives to have access to their homes, and facial recognition entrance systems put them in a vulnerable position.

Worse still, allowing landlords to collect biometric information endangers everyone in New York. Biometric identifiers are frequently used to access important public services, like ID verification and allocating public benefits.¹³ This legislation is necessary to protect residents from hacking and identity theft, as landlords cannot be trusted to implement the sufficient protocol to ensure sensitive data is securely stored.¹⁴ Unlike other personal identifiers, biometric identifiers are static and almost

⁸ *Ask Sam: What Are the Rules for Evicting Rent-Stabilized Tenants in NYC?*, HIMMELSTEIN MCCONNELL GRIBBEN & JOSEPH LLP, Dec. 8, 2021, <https://www.brickunderground.com/rent/rules-for-evicting-rent-stabilized-tenant-nyc#:~:text=The%20rent%20stabilization%20code%20requires,sh%20can%20begin%20eviction%20proceedings.>

⁹ Nick Keppler, *Meet the Spy Tech Companies Helping Landlords Evict People*, VICE, Jan. 4, 2023, <https://www.vice.com/en/article/meet-the-spy-tech-companies-helping-landlords-evict-people/>.

¹⁰ MacMillan, *supra* note 4.

¹¹ *Id.*

¹² *Warning: Your Child May Be Able to Unlock Your iPhone Simply by Looking at It*, INC., <https://www.inc.com/joseph-steinberg/warning-your-child-may-be-able-to-unlock-your-iphone-simply-by-looking-at-it.html>

¹³ *US Government Hack Stole Fingerprints of 5.6 Million Federal Employees*, THE GUARDIAN, Sept. 23, 2015, <https://www.theguardian.com/technology/2015/sep/23/us-government-hack-stole-fingerprints>. Dan Rafter, *Biometrics and Biometric Data: What Is It and Is It Secure?*, NORTON, May 6, 2022, <https://us.norton.com/blog/iot/what-is-biometrics>.

¹⁴ Dellinger, *Hackers Defeat Vein Authentication by Making a Fake Hand*, ENGADGET, Dec. 28, 2018, <https://www.engadget.com/2018-12-28-hackers-defeat-vein-authentication-by-making-a-fake-hand.html>.

impossible to change.¹⁵ Therefore, when a hacker acquires another person's biometric data, it puts them at risk for identity theft for the rest of their lives.¹⁶

Banning biometric surveillance in residences is essential to safeguard New Yorkers from losing their homes or their ability to fully enjoy their rights as tenants. We urge the legislature to pass, and the Governor to sign, the Residential Facial Recognition Ban (A.6363/S.8223).

¹⁵ Anthony Ortega, *Do Biometrics Protect Your Data or Put Your Identity at Risk?*, SPICEWORKS, Oct. 8, 2018, <https://www.spiceworks.com/it-security/data-security/articles/do-biometrics-protect-your-data-or-put-your-identity-at-risk/>.

¹⁶ *Is Your Identity at Risk from Biometric Data Collection?*, BEYONDTRUST (last accessed Oct. 6, 2022), <https://www.beyondtrust.com/blog/entry/is-your-identity-at-risk-from-biometric-data-collection>.