

## MEMORANDUM OF SUPPORT FOR RESIDENTIAL FACIAL RECOGNITION BAN

S.2478 Hoylman-Sigal/A.322 Walker

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### **Amnesty International supports the Residential Facial Recognition Ban (S.2478/A.322) and urges the legislature to pass, and the Governor to sign, this bill.**

Amnesty International is committed to protecting and defending human rights globally, we mobilize research and action focused on preventing and ending grave abuses of these rights. Our human rights priorities include freedom of expression and association, the right to peaceful assembly for all, & equality and non-discrimination. Facial recognition technologies threaten each of these priorities. They are being used to stifle protest and harass minority communities. These systems violate the right to privacy, threaten the rights to freedom of peaceful assembly & expression, and to equality and non-discrimination.

Our New York Technology & Human Rights task force has over 100 members calling for the end of discriminatory surveillance. We are New Yorkers who feel the effects of surveillance every day and are deeply concerned about facial recognition technology entering our homes through landlord use. More than two-thirds (69%) of NYC households in 2021 were renters<sup>1</sup>, we need codified tenant protections as tenets against harassment, privacy invasions, and discrimination.

This bill would prohibit any landlord from obtaining, retaining, accessing, or using, on any residential premises, any facial recognition system or information obtained from or by the use of such a system. The bill includes a provision establishing Attorney General enforcement and a private right of action for those unlawfully subjected to facial recognition.

Facial recognition has no place in our homes. This technology opens tenants and their guests to harassment and discriminatory eviction or exclusion, and it compromises their privacy. Facial recognition systems discriminate against BIPOC, Muslim, immigrant, and LGBTQ+ New Yorkers. Facial recognition algorithms are up to 100-times more error-prone when attempting to identify young Black women compared to middle-aged white males.<sup>2</sup> Facial recognition also typically assigns each face it scans with one of only two labels—male or female—rendering transgender and non-binary individuals invisible to the algorithm and making them susceptible to misidentification and exclusion.<sup>3</sup>

The racial bias of facial recognition will inevitably impede residents from accessing their homes, locking them out due to mismatches, and may even put them in danger by eliciting an unwarranted

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<sup>2</sup> 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 Accuracy Disparities in Commercial Gender Classification*, 81 *Proceedings in Machine Learning Research* 1, Conference on Fairness, Accountability and Transparency (2018), <https://dam-prod.media.mit.edu/x/2018/02/06/Gender%20Shades%20Intersectional%20Accuracy%20Disparities.pdf>

<sup>3</sup> 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>.

law enforcement response. 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.

Landlords will abuse this technology to justify evicting tenants from rent-stabilized units because the facial recognition system determines they were not at home often enough.<sup>4</sup> In fact, vendors have already begun to advertise this technology for such purposes.<sup>5</sup> In public housing, its use has led to residents being evicted for minor violations of policy.<sup>6</sup> 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.<sup>7</sup>

Black, brown, and low-income New Yorkers and neighborhoods more prone to discriminatory stop-and-frisk practices, are more exposed to facial recognition capable cameras, which are placed in disproportionately higher quantities in their neighborhoods.<sup>8</sup> An analysis by Amnesty International found that the higher the proportion of non-white residents, the higher the concentration of facial recognition compatible CCTV cameras.<sup>9</sup> The fact that these technologies—which continue to demonstrate adverse human rights consequences for the most marginalized—are not currently banned from usage in residential contexts is deeply concerning, and is a threat to the many diverse communities housed in the state.

Allowing landlords to collect biometric information endangers everyone. In New York City, landlords have been accused of sharing tenants' most sensitive information—phone numbers, photos, and even Social Security numbers—with immigration officials.<sup>10</sup> To protect immigrant communities in our city, we cannot let landlords have access to residents' biometric data. Biometric identifiers are frequently used for access to important public services like ID verification and allocating public benefits.<sup>11</sup> This legislation is necessary to protect residents from hacking and identity theft, as landlords cannot be trusted to implement sufficient protocol to store such sensitive data securely.<sup>12</sup> Unlike other personal identifiers like a social security number, biometric identifiers are static and almost impossible to

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<sup>4</sup> *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,she%20can%20begin%20eviction%20proceedings>.

<sup>5</sup> Maggie Harrison, *Facial Recognition Used to Evict Single Mother for Taking Night Classes*, FUTURISM, May 17, 2023, <https://futurism.com/facial-recognition-housing-projects>.

<sup>6</sup> Douglas MacMillan, *Eyes on the Poor: Cameras, Facial Recognition Watch Over Public Housing*, WASH. POST, May 16, 2023, <https://www.washingtonpost.com/business/2023/05/16/surveillance-cameras-public-housing>.

<sup>7</sup> *Id.*

<sup>8</sup> Eleni Manis et al., *Scan City: A Decade of NYPD Facial Recognition Abuse* (Surveillance Technology Oversight Project, July 8, 2018).

<sup>9</sup> *Inside the NYPD's Surveillance Machine*, AMNESTY INTERNATIONAL, <https://banthescan.amnesty.org/decode>.

<sup>10</sup> See, e.g., 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>.

<sup>11</sup> *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>.

<sup>12</sup> A. 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>.

change.<sup>13</sup> When a hacker acquires another person's biometric data, it puts them at risk for identity theft for the rest of their lives.<sup>14</sup>

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 (S.2478/A.322).

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<sup>13</sup> 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/>.

<sup>14</sup> *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>.