STATEMENT OF
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BEFORE THE
COMMITTEE ON TECHNOLOGY
NEW YORK CITY COUNCIL

FOR A HEARING CONCERNING,
FOLLOW UP ON LOCAL LAW 49 OF 2018 IN RELATION TO AUTOMATED
DECISION SYSTEMS USED BY AGENCIES, INTRO 1447, AND INTRO 1806

PRESENTED
JANUARY 22, 2020
Good morning, my name is Liz O’Sullivan and I am the Technology Director for the Surveillance Technology Oversight Project (“S.T.O.P.”). S.T.O.P. fights to end discriminatory surveillance and challenges both individual misconduct and broader systemic failures. I am here today in support of Intro 1806 and greater transparency about Automated Decision Systems (“ADS”) in New York City.

ADS have direct and substantial effects on our lives. From what advertisements are displayed on an individual’s computer screen, where students are sent to school, to how long judges’ sentence someone to jail, ADS impact us every day. It is impossible to know if ADS are engaging in discriminatory or deceptive practices without information about how ADS make their decisions. Algorithmic transparency is a vital component of avoiding unaccountable biased decisions.

Here, in New York City, the ADS Task Force did not provide needed recommendations on how to regulate government use of ADS. Transparency about government ADS was instrumental to the task force being able to accomplish their goal. Yet, the Mayor’s office would not provide a list of current ADS to the task force, capping their ability to create meaningful recommendations about ADS regulations. Advances in technology and its growing use continue to outpace the willingness of the government to regulate ADS. The use of ADS will continue to grow but without vital oversight.

ADS opacity undermines public trust. I urge you to question why an agency would not want the public, or even a Memorally-appointed task force, to know what ADS it currently uses. Reporting every ADS used by city agencies is a reasonable ask. Intro 1806 does not require protected information such as its source code to be shared.

The impact and outcomes of ADS decisions cannot be researched without algorithmic transparency. Beyond assessment of the demographic outcomes of ADS, without transparency, we cannot assess how ADS usage under real-world conditions can introduce or augment bias. Interacting with ADS can alter, in unintended ways, how an individual makes a decision through misguided trust of ADS. Individual deference to ADS creates an automation bias, blinding them to when these systems are wrong. Automation bias is the tendency for people to trust ADS even with contradicting information. Advanced technology does not always lead to greater and better outcomes. Algorithms may amplify bias, not dismantle them.

Examples of ADS errors are both numerous and heartbreaking. Houston school district used an opaque ADS claiming to determine teacher impact on student’s academic growth.¹ The ADS backfired. It gave teacher’s a score that would impact their evaluation, and the possibility of being fired.² Teachers’ jobs were on the line and those with high-achieving students were unduly put at risk of losing their job.³ The school district did not how to interpret the ADS outcomes and faced a lawsuit from the teacher’s union.⁴

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² Id.
³ Id.
⁴ Id.
Virginia and 28 other states use ADS in sentencing decisions.\(^5\) ADS claim to predict the future, scoring defendants on their ‘chances of reoffending’.\(^6\) It missed the mark. The ADS generated scores that would have made racial and age disparities in sentencing worse.\(^7\) Wrongfully leading some young defendants and black defendants to being sentenced longer than pre ADS sentencing.\(^8\) It wasn’t just bad data being input that produced this outcome, it was also how the judges interacted with the score by increasing the sentence based on the ADS suggestion.\(^9\)

Chicago Department of Children and Family Services adopted an ADS to determine which children were at high risk of injury or death.\(^10\) It failed miserably. Overwhelming caseworkers with thousands of high risk children to prioritize, yet child deaths continued to happen without ADS prediction.\(^11\) ADS was not predicting any of the worst cases, instead, it diverted caseworker attention to others falsely deemed highest-risk.\(^12\) How the ADS was coming to its decision was secret, so caseworkers did not know what would give a child a high-risk score.\(^13\) Poor training on how workers should interact and interpret the data was at the crux of the problem.

The goal is greater ADS transparency to ensure that bias and discrimination are not being amplified by the ADS or its users. The more we know about the data input into the creation of the ADS the better the training for the employees using the ADS can be. Greater transparency can also reduce the tendency for humans to rely on ADS even with inconsistent information.

It’s impossible to evaluate or prevent ADS discrimination without ADS transparency. Government agencies should not be allowed to hide behind the fallacy of math-washing, where ADS are given a dangerous illusion of objectivity. Algorithms have the capability to be and are biased. It is time for government use of ADS to come out of the black box. We need transparency to ensure we have the necessary checks and balances to keep communities safe from algorithmic bias. It is critical that we have public oversight of how our city government uses these forms of technology. Today, I urge you to pass Intro 1806.

\(^5\) Andrew Van Dam, *Algorithms Were Supposed to Make Virginia Judges Fairer. What happened was far more complicated.*, THE WASHINGTON POST, Nov. 19, 2019, https://www.washingtonpost.com/business/2019/11/19/algorithms-were-supposed-make-virginia-judges-more-fair-what-actually-happened-was-far-more-complicated/

\(^6\) Id.

\(^7\) Id.

\(^8\) Id.

\(^9\) Id.


\(^11\) Id.

\(^12\) Id.

\(^13\) Id.