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Commission on Facial Recognition

Senator Jamie Eldridge and Representative Michael S. Day, Co-Chairs

Public Comment

Government Use of Facial Recognition Technology

Testimony on Face Surveillance Bills (H. 135 and S. 47)

Submitted by the Boston Teachers Union, Local 66, AFTMA, AFT, AFL-CIO
Erik Berg, Executive Vice President

Dear Senator Eldridge, Representative Day, and Members of the Committee:

I'd like to begin by thanking Rep. Day and Sen. Eldridge, and all the committee members and staff who are here today about this important issue. I am Erik Berg, currently the Executive Vice President of the Boston Teachers Union, and before I came into this role I taught first and second grade for 25 years in the public schools. I am also the dad of two young adults who attended school throughout their career in the Boston Public Schools.

I'm here today to respectfully ask that the Commission recommend that the legislature strengthen existing facial recognition law to ensure Massachusetts schoolchildren, their families, and our educators are not subject to harmful surveillance.

In December 2020, Governor Baker signed into law police reform legislation, which does contain several provisions pertaining to government agencies' use of facial recognition technology. While the Boston Teachers Union supports those



provisions, including the creation of this Commission, the regulations governing police use of facial recognition fall far short of what we need.

In particular, the law does not regulate or prohibit the use of facial recognition or other biometric surveillance technology in our schools and other public spaces. This is a critical missing piece. Our schools serve a wide variety of students, and bring together a broad range of people. Public schools, at their best, are one of the few places in the nation where people from all backgrounds, races, economic classes, and beliefs come together for a common purpose. Schools are often a safe harbor in troubled communities, a trusted place where people work together on behalf of our children.

Our schools are places where parents or students who don't feel comfortable with the immigration system and the criminal justice system, do engage with teachers, administrators, counselors, etc. on behalf of their kids, or on behalf of their own education. Installing facial or other biometric recognition software in schools runs counter to that purpose, and could keep parents and students away from the very institutions that can do more than any other to help them. I would also like to point out that you have heard and will hear much about the pernicious biases in all existing facial recognition technologies. They consistently misidentify faces of black and brown people at higher rates, and that is an important flaw. However, even if these systems were perfected so that they showed no bias, there would still be absolutely no place for such systems in schools, where our members work hard to build trust with students and families.

The issue rose to our attention in part because of a series of events a few years ago. Our members working in the summer program for students with disabilities began contacting the union to let us know that they were being asked to sign in using a facial recognition app called Tanda. When I contacted the BPS central office, they didn't know about this program, and to this day, we don't know how it came about. While the district stopped using the photo portion of this app and told us that all photos have been deleted, this incident is indicative of how easy it is for private security or HR companies to sell a technology to a well-intentioned principal or superintendent, who does not have expertise in the tech field. Security and efficiency are ever-present and growing concerns in schools and this legislation would prevent overworked and

well-meaning administrators from being sold a bill of goods by a private company that violates the civil rights of students, parents and employees.

Thankfully, lawmakers have addressed these concerns in legislation filed this session. H.135, An Act To Regulate Face Surveillance, sponsored by Representatives Rogers and Ramos, and S.47, sponsored by Senator Creem, provide for some useful policy solutions to the ones outlined above.

H.135 and S.47 prohibit the use of facial recognition for surveillance of any public spaces. As a result, government agencies, including schools, would be forbidden from using our biometric characteristics to track our activities and locations in schools. The only agencies allowed to use and possess this technology are the Registrar of Motor Vehicles and the State Police, subject to strict limitations and civil rights protections.

I encourage you to consider bills H.135 and S.47 when you decide on further regulations of the use of biometric surveillance technology by government entities. We need strong regulations to ensure it doesn't infringe on our civil rights and civil liberties, and this legislation provides an excellent model. We need to ensure that our public schools remain safe and trusted institutions for the students we serve and their families, as well as our educators.

Thank you for your attention and consideration.